
The Dynamics of Land Ownership Within the Framework of Agrarian Regulation Asynchrony and its Implications for Land Conflicts and Social Injustice in Indonesia

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ABSTRACT

Land ownership and agrarian governance in Indonesia remain complex due to historical legacies, regulatory fragmentation, and sectoral law conflicts, resulting in recurrent land disputes and social inequities. Despite constitutional mandates emphasizing state control and the social function of land, inconsistencies between the Basic Agrarian Law (UUPA) and various sectoral regulations create legal uncertainty, overlapping authority, and unequal land distribution. This study aims to analyze the dynamics of land ownership within the framework of asynchronous agrarian regulations and to propose a harmonized model for sustainable and socially just land governance. The research employed a normative juridical approach, combining legislative and conceptual analyses of relevant laws, regulations, and academic literature. Data are collected from constitutional provisions, statutory laws, sectoral regulations, and scholarly studies, followed by thematic coding and content analysis to identify regulatory gaps, conflicts, and socio-legal implications. Triangulation ensures validity, and repeated document verification maintains reliability. Findings indicate that regulatory disharmony has contributed to structural inequality, marginalization of communities, and recurrent land conflicts, highlighting gaps in legal synchronization and enforcement of social functions of land. The study's novelty lies in integrating vertical and horizontal regulatory analyses with prescriptive recommendations for agrarian policy reconstruction, providing a comprehensive framework to achieve legal certainty, equitable land distribution, and social justice. This research offers a theoretical and practical contribution to agrarian legal reform in Indonesia.

INTRODUCTION

Land control and management in Indonesia are philosophically and constitutionally rooted in the mandate of The Republic of Indonesia's Article 33 paragraph (3) of the 1945 Constitution states that the state is in charge of the land, water, and natural resources there uses them to maximize the prosperity of the populace (Permadi, 2023). This formulation is not merely a declarative norm, but rather an ideological foundation that positions land as a public resource that has social, economic, and political dimensions at the same time. The concept of "controlled by the state" is defined in the fourth paragraph of the Preamble to the 1945 Constitution as a constitutional obligation to control, manage, and oversee the distribution and allocation of land in order to promote social justice rather than as private ownership by the state

(Maulana & Hutagalung, 2025). This principle was then concretized in Article 2 paragraphs (1) and (2) of Law Number 5 of 1960 concerning Basic Agrarian Regulations, which upholds the State's Right to Control as a public authority to govern the distribution, utilization, provision, and upkeep of land, water, and airspace. According to the same paradigm, land ownership cannot be divorced from social responsibility and the public interest since Article 6 of the UUPA states that all property rights have a social role (Oktavia & Sitabuana, 2023).

However, the historical dynamics of land ownership and control demonstrate that the configuration of national agrarian law did not arise in a vacuum. The colonial legacy, through the dualism of land law between Western law and customary law, has created a structurally unequal structure of land control. Colonial agrarian policy, through the *Agrarische Wet* 1870, opened up extensive concessions for plantation interests and foreign capital, which in practice marginalized the rights of indigenous communities (Pamungkas, 2021). The 1960 UUPA (Badan Agrarian Law) was enacted as an instrument for the unification and nationalization of land law, attempting to eliminate this dualism and establish a national agrarian legal foundation based on customary law aligned with national interests, as stipulated in Article 5 of the UUPA. However, over time, various sectoral laws, such as those on forestry, mining, and investment, were enacted, often not fully aligned with the spirit and principles of the UUPA, thus reintroducing fragmented agrarian regulations in practice (Rahmadani & Saraan, 2022).

This fragmentation is increasingly evident in the lack of regulatory synchronization, both vertically and horizontally, within the legal system. Vertically, there are issues of harmonization between constitutional norms, laws, and implementing regulations, which often give rise to differing interpretations of the concept of State Control Rights (Bahari, 2024). Horizontally, the overlapping authority between agrarian regulations and sectoral regulations, such as forestry, the environment, and spatial planning, demonstrates the weak integration of national land policy. In practice, the provisions of Article 14 of the Basic Agrarian Law (UUPA) concerning land use and planning often conflict with sectoral policies granting concessions or area-based business permits. Furthermore, the division of authority between the central and regional governments following decentralization has increased the complexity of land administration, making coordination between institutions problematic and creating legal uncertainty for land rights holders and communities with inherited land ownership (WN, Rini, & Fauzan, 2025).

This lack of regulatory synchronization has significantly contributed to the rise in land conflicts in various regions. Conflicts occur not only between communities and corporations, but also between communities and the state, or between community groups themselves. Normatively, land dispute resolution mechanisms are regulated through general courts, state administrative courts, and alternative dispute resolution mechanisms. However, in practice, these often face obstacles in obtaining evidence, overlapping certificates, and differing interpretations of authority. The legal uncertainty arising from regulatory inconsistencies creates space for contestation over land rights claims, allowing conflicts to develop into recurring structural phenomena. In this context, (Kurniawan, 2025).

Land ownership and agrarian governance are global challenges that intersect social justice, economic development, and environmental sustainability. Worldwide, disputes over land rights have intensified due to competing claims between states, corporations, and indigenous communities, leading to conflicts, social exclusion, and economic inequity. The

Food and Agriculture Organization (FAO, 2021) reports that land tenure insecurity affects over 1.5 billion people globally, undermining livelihoods, agricultural productivity, and equitable resource distribution. This trend illustrates the persistent tension between legal frameworks and societal needs, highlighting the need for integrated land governance systems.

In Indonesia, land control is constitutionally mandated under Article 33 paragraph (3) of the 1945 Constitution, which assigns the state authority over land, water, and natural resources to maximize public prosperity. Despite this normative foundation, historical legacies such as colonial dualism between customary and Western land law have left structural inequalities. The *Agrarische Wet 1870* prioritized plantation concessions and foreign investment, marginalizing indigenous communities. The 1960 Basic Agrarian Law (UUPA) aimed to unify land law and align it with national interests, yet sectoral regulations in forestry, mining, and investment often diverge from UUPA principles, generating regulatory fragmentation and disputes.

Empirical studies underscore the consequences of asynchronous regulations on land conflict. For instance, research by Rahmadani & Saraan (2022) identifies that overlapping norms between constitutional mandates, UUPA provisions, and sectoral laws create legal uncertainty, fueling recurring land disputes. Similarly, Nasrudin, Nursari, & Jamaludin (2025) observe that concentration of land ownership by corporations' contrasts sharply with limited access for smallholder farmers, exacerbating structural poverty and social injustice. These findings demonstrate that land conflicts in Indonesia are not merely administrative issues but reflect broader systemic and distributive challenges.

Previous scholarship has largely addressed either the historical development of land law or individual case studies of land disputes. While studies such as Maulana & Hutagalung (2025) analyze regulatory reform initiatives, they do not systematically integrate vertical and horizontal asynchrony across multiple sectors. The literature also lacks comprehensive frameworks connecting normative legal constructs with socio-economic impacts on marginalized communities. This gap limits the capacity to formulate holistic strategies for agrarian justice and sustainable land governance.

The research gap is evident in the need for a unified analytical model that captures the interplay between state authority, sectoral regulations, and social outcomes. Current studies often focus on discrete conflicts or legal interpretations without assessing the systemic interaction between UUPA, sectoral laws, and regional decentralization policies. Addressing this gap is crucial for understanding how regulatory disharmony contributes to unequal land ownership structures and recurring social injustice.

The urgency of this research is amplified by ongoing pressures from economic development and investment-driven land allocation. As Indonesia pursues infrastructure and extractive sector expansion, conflicting legal regimes risk marginalizing communities and undermining constitutional mandates for social justice (Bimantara, 2025). The increasing frequency of land disputes necessitates timely, evidence-based policy reconstruction to safeguard public welfare and legal certainty.

This study offers novelty by combining normative juridical analysis with conceptual frameworks to evaluate regulatory asynchrony in Indonesia's agrarian system. Unlike previous studies that focus solely on historical, legislative, or case-based approaches, this research examines both vertical and horizontal disharmony, the social function of land, and implications

for vulnerable populations. The research contributes a prescriptive model for regulatory harmonization, integrating legal theory, policy analysis, and social equity principles.

The purpose of the study is to assess how asynchronous agrarian regulations influence land conflicts and social injustice, and to propose a reconstruction of national land policy that aligns UUPA with sectoral and regional laws. By analyzing legislative frameworks, judicial interpretations, and regulatory overlaps, the research aims to identify structural causes of legal uncertainty and socio-economic inequities in land ownership.

This research contributes to both theory and practice. Theoretically, it enriches agrarian legal scholarship by linking state control rights with social justice and distributive equity. Practically, it informs policymakers, government agencies, and civil society organizations on effective mechanisms for synchronizing laws, strengthening inter-institutional coordination, and ensuring equitable land access. Ultimately, the study seeks to foster sustainable, just, and transparent land governance in Indonesia.

The objectives are threefold: first, to map the regulatory landscape and identify normative conflicts between UUPA and sectoral laws; second, to evaluate the socio-economic implications of regulatory asynchrony on land conflicts and marginalized communities; and third, to formulate prescriptive recommendations for harmonized, socially responsible agrarian policy. The anticipated benefits include enhanced legal certainty, reduced disputes, equitable land distribution, and reinforced constitutional mandates for public welfare.

METHOD

This study adopted a normative juridical research design, emphasizing a qualitative approach to examine legal norms and principles governing land ownership and agrarian regulation in Indonesia. The primary focus is on positive legal norms, with data derived from constitutional provisions, statutory laws, sectoral regulations, and secondary literature. The population of the study consists of all relevant legal documents, regulations, and scholarly analyses pertaining to the Basic Agrarian Law (UUPA), forestry, mining, investment, and regional governance laws. A purposive sampling technique is employed to select specific laws and regulatory instruments that are representative of vertical and horizontal regulatory interactions, as well as prior cases demonstrating land conflicts and social injustice.

Data collection involves a documentary and content analysis approach, where legal texts, government regulations, court decisions, and prior academic research are systematically examined. The research instruments include a structured legal data extraction framework that captures normative provisions, legal hierarchies, authority allocations, and instances of regulatory disharmony. To ensure validity, the study applies construct validity by triangulating findings across multiple sources (laws, regulations, and literature), while reliability is established through repeated cross-verification of extracted legal norms and consistent coding of thematic categories. Procedures include mapping the legal hierarchy, identifying normative conflicts, and evaluating alignment with constitutional mandates and social justice principles.

For data processing and analysis, the study uses a legislative and conceptual analytical technique, combining a systematic review of legal documents with doctrinal reasoning. Software tools such as NVivo or ATLAS.ti are utilized to organize and code textual data, facilitating thematic analysis of regulatory asynchrony, overlapping authority, and socio-legal implications. Analytical procedures involve classifying norms by sector and level, assessing

gaps and conflicts, and constructing prescriptive recommendations for harmonizing agrarian regulations. The outcome is a comprehensive framework linking the normative construction of state control, social functions of land, and the implications for legal certainty, land conflicts, and social justice in Indonesia.

RESULTS AND DISCUSSION

Normative Construction of State Control Rights and the Social Function of Land in the National Agrarian Legal System

This phrase highlights that state control has a public dimension that is constitutionally attributable, not as an owner in the private sense, but as a body of authority made up of all those with the authority to control and oversee agricultural resources. In the framework of a democratic state under the rule of law, this concept must be carefully examined in relation to the state's objectives as stated in the Preamble to the 1945 Constitution, particularly in ensuring social justice for all Indonesians. Therefore, a constitutional tool to guarantee that land management is not exclusively dependent on market forces is the State's Right to Control, but is directed towards fair distribution and oriented towards general welfare (Yusran & Koswara, 2022).

The UUPA's Article 2, paragraph (2) highlights this clause by outlining the state's power to control and manage the distribution, use, supply, and upkeep of land as well as to establish and govern the legal connections between people and land and between people and land-related legal acts. Therefore, the regulatory, administrative, and supervisory aspects of the State's Right to Control serve as the normative foundation for the establishment of various policies and legal instruments in the land sector (Apriandini & Soemarwi, 2023).

Article 16, paragraph (1) of the UUPA describes individual rights to land, including ownership, land use, and building use rights, and use rights, are recognized and protected in the interaction between the state and individuals. All land rights are subject to limitations based on the public interest and the land's social role; therefore, this acknowledgment is not unqualified. The UUPA's Article 6 emphasizes that every land right serves a social purpose. According to this idea, land usage must balance individual and collective interests and not conflict with those of the larger community. In certain cases, the state can even revoke land rights for the public interest with appropriate compensation, as stipulated in Article 18 of the UUPA, demonstrating that social interests hold a higher status than purely private interests.

Theoretically, the construction of the State's Right to Control and the social function of land aligns with the welfare state paradigm, which positions the state as an active actor in ensuring the equitable distribution of resources. Within this framework, agrarian regulations aim not only to create administrative order but also to correct structural disparities in the ownership of land. Concrete examples of the distributive justice principle in national agrarian law are found in Article 7 of the Basic Agrarian Law, which forbids excessive land ownership and control that is detrimental to the public interest, and Article 17 of the Basic Agrarian Law, which governs limitations on the maximum and minimum land ownership. The state must use its power to guarantee more equitable access to agricultural resources and to prevent an excessive concentration of land ownership (Nasrudin, Nursari, & Jamaludin, 2025).

In order to prevent arbitrary actions, the state's extensive power in the agricultural sector must be constrained by the principles of legality and human rights protection. Thus, a key

component of the normative formulation of the agrarian legal system is striking a balance between the protection of individual rights and state authority. The state acts not only as a regulator but also as a guarantor of legal certainty for community rights through the land registration system, as stipulated in Article 19 of the UUPA (Wulan, Tjokroaminoto, & Ghrofur, 2022).

Therefore, the national agrarian law system's normative construction of the State's Right to Control and the social function of land reflects an integrative effort between the necessity for legal clarity, the social justice principle, and the constitutional mandate. The lawful foundation for the state's ability to regulate and manage land use for the public good is the State's Right to manage, while the social function of land serves as a normative boundary against the absolutism of individual rights. The balance between these two aspects is a prerequisite for the realization of a just, sustainable, and constitutional agrarian system, as well as serving as a theoretical and normative foundation for analyzing the dynamics of land ownership and the problem of asynchronous agrarian regulations in Indonesia.

Disharmony and Asynchrony of Agrarian Regulations from the Perspective of the Legal Regulatory System

The disharmony and lack of synchronization of agrarian regulations in the national legal system cannot be separated from the position of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) as a *lex generalis* in the land sector, which in practice clashes with various sectoral laws. Normatively, the UUPA was formed as an instrument for the unification of national land law originating from the 1945 Constitution's Article 33 paragraph (3) was meant to serve as the foundation for the creation of laws that would be implemented in the agricultural sector. Nonetheless, the evolution of legislation following UUPA demonstrates the emergence of numerous sectoral regulations that govern the control and exploitation of land space with their own regimes, thus giving rise to fragmented regulations. This lack of synchronization gives rise to systemic problems within the framework of the hierarchy of statutory regulations as regulated in Article 7 paragraph (1) of Law Number 12 of 2011 concerning the Formation of Legislation, which demands harmony between lower and higher norms (Djuniarti, 2023).

Horizontally, normative conflicts are evident in the overlapping regulations between the UUPA and sectoral laws, such as Article 4 paragraph (1) of Law Number 41 of 1999 concerning Forestry declares that the state controls all forests on Republic of Indonesia territory. This formulation is often implemented through the designation of forest areas administratively located on land already or currently controlled by communities based on customary rights or rights recognized by the UUPA. As a result, a dualistic control regime exists: a land regime based on land rights as stipulated in Article 16 paragraph (1) of the UUPA, and an area control regime based on administrative determinations in the forestry sector (Zulfikar, Pujiwati, & Wahjuni, 2022). This situation creates uncertainty regarding the legal status of land and weakens the certainty of rights for communities that have long controlled and utilized the land.

Disharmony is also evident in differences in land control regimes related to business and investment activities. For example, the granting of land use rights under Article 28 of the UUPA often overlaps with mining or plantation business permits granted under sectoral laws, resulting in overlapping claims to the same space. On the other hand, the provisions According

to Law Number 2 of 2012 Governing property Acquisition for Development in the Public Interest, property acquisition for public purposes, particularly Article 9, legitimize land acquisition for strategic projects, which in practice often gives rise to debate regarding the boundaries between public and commercial interests. This difference in normative approaches between protecting individual rights and accelerating development demonstrates a conceptual tension within the agrarian regulatory system (Tuharea, et al., 2024).

Vertically, a lack of synchronicity arises in the relationship between statutory norms and implementing laws at the municipal and national levels of government. In compliance with Law Number 23 of 2014 about Regional Government and Article 18 paragraph (2) of the 1945 Constitution, the decentralization concept gives regions some control over the management of natural resources and spatial planning. However, this authority is often not accompanied by clear boundaries of coordination with national land authorities. As a result, regional policies emerge that are not fully aligned with national land policies, particularly regarding the issuance of location permits, recommendations for spatial use, and recognition of the rights of indigenous communities (Silviana, 2025). This situation complicates land administration and increases the potential for authority disputes between institutions.

The problem of inter-institutional coordination is also related to the division of regulatory, administrative, and supervisory functions in the implementation of the State's Right to Control, as stipulated in Article 2, paragraph (2) of the UUPA. Theoretically, this authority should be exercised in an integrated manner, but in practice, there is a rigid sectoral separation between land, forestry, environmental, and regional government agencies. The lack of integrated land data and information systems exacerbates the situation, allowing for the issuance of rights or permits for the same plot of land. This contradicts the purpose of land registration to ensure legal certainty, as mandated by Article 19 of the UUPA, and directly weakens legal protection for land rights holders (Simamora, 2023).

The root of the structural problem in agrarian regulation lies in the failure to establish an integrative and consistent legal system between the UUPA, the national agrarian legal basis, and the various sectoral regulations that have subsequently developed. This fragmentation not only gives rise to normative conflicts and disputes over authority but also directly impacts legal uncertainty and reduces the effectiveness of defending land rights. This need highlights the critical need to methodically integrate and synchronize agrarian regulations in as stated in Article 1 paragraph (3) of the 1945 Constitution, to promote legal certainty and fairness in a state established on the rule of law, as well as advantages in the management of Indonesia's agricultural resources (Zakaria, 2022).

Implications of Regulatory Asynchrony on Land Conflicts and Social Injustice and the Reconstruction of Agrarian Policy

The lack of synchronization in agrarian regulations stemming from the fragmentation of regulations between the Basic Agrarian Law and various sectoral laws has direct implications for the rise in land conflicts in Indonesia. Casually, land conflicts often stem from overlapping norms and authorities, giving rise to conflicting legal claims over the same land. When one legal regime legitimizes land rights through certificates under Article 19 of the Basic Agrarian Law, while another regime designates certain areas as concessions or forest areas based on sectoral regulations, a dualism of claims arises, potentially triggering disputes. The unclear boundaries of authority in the application of the Basic Agrarian Law's Article 2 paragraph (2)

definition of the State's Right to Control, exacerbate the situation, as the state appears in different forms through various institutions with inconsistent policies.

Land conflicts arising from regulatory inconsistencies are not merely administrative in nature but also develop into social conflicts involving communities, corporations, and the government. In many cases, communities that have long controlled and utilized land must confront the power of capital that obtains permits or concessions based on sectoral regulations. This situation demonstrates an unequal bargaining position that has resulted in the marginalization of community rights, particularly those of vulnerable groups and indigenous communities. In fact, the 1945 Constitution's Article 18B, paragraph (2) normatively ensures the recognition of indigenous communities' rights as long as they remain valid and in line with the Unitary State of the Republic of Indonesia's principles and socioeconomic developments. When these norms are not effectively integrated into sectoral policies, social injustice becomes a difficult consequence.

The uncertainty of norms in the agrarian regulatory system undermines the 1945 Constitution's Article 28D, paragraph (1), which guarantees the concept of legal certainty. When laws and regulations allow for differing or even conflicting interpretations, law enforcement officials and land administration face difficulties in consistently applying the law. It opens up opportunities for abuse of authority, discriminatory practices, and procedural injustice in the licensing and land acquisition processes. In this context, land conflicts are not simply the result of individual rights disputes, but a reflection of structural problems in the design of agrarian regulations that have not been systemically integrated.

Regulatory inconsistencies also contribute to the imbalance in land ownership structures. Policy fragmentation allows for large-scale concentration of land ownership through various licensing and land rights schemes, while efforts to redistribute and restrict ownership, as mandated by Articles 7 and 17 of the Basic Agrarian Law, have not been optimally implemented. When sectoral regulations emphasize resource exploitation for investment and economic growth, the principle of land's social function, as affirmed in Article 6 of the Basic Agrarian Law, is diminished. Consequently, land distribution tends to be unequal, and this inequality contributes to structural poverty and the marginalization of certain groups of people who depend on land for their livelihoods.

This scenario necessitates the reconstruction of agrarian policy based on the concepts of regulatory integration and harmonization within the context of a state founded on the rule of law, as proclaimed in the 1945 Constitution's Article 1 Paragraph 3. The reconstruction is not merely a technical legislative matter, but also touches on the political aspects of agrarian law, which places social justice as its primary orientation, as required by the 1945 Constitution's Article 33 paragraph (3). All sectoral policies pertaining to land ownership and utilization must be harmonized within the basic framework of the UUPA as national agrarian law, thereby eliminating the dualism of conflicting ownership regimes. Furthermore, strengthening the land registration system and integrating data across sectors is crucial to creating more effective legal certainty.

The urgency of agrarian regulatory reconstruction lies in the need to build a more integrative, responsive, and equitable land law system. Every agrarian policy must be developed and implemented using the evaluation criteria of social justice, legal clarity, and benefit. Regulatory harmonization is not merely about simplifying norms, but rather to ensure

that the implementation of the State's Right to Control is really focused on maximizing the prosperity of the populace. With this strategy, it is anticipated that the national agrarian legal system will lessen land disputes and address the disparity in land ownership arrangements, and realize a more just and sustainable agrarian governance in accordance with the nation's constitutional ideals.

CONCLUSION

The general discussion leads to the conclusion that the normative construction Regarding the State's Right to Control, as outlined in Law Number 5 of 1960 concerning Basic Agrarian Principles and mandated by Article 33 paragraph (3) of the 1945 Constitution, is inextricably linked to the dynamics of land ownership in Indonesia. Conceptually, the UUPA has laid a strong foundation through regulations regarding state authority in Article 2 paragraph (2), Article 6 affirms the social role of land and Article 16 paragraph (1) recognizes land rights, all of which are directed at realizing social justice. However, in practice, the birth of various sectoral regulations and derivative policies that are not fully in line with the spirit and principles of the UUPA has given rise to disharmony and a lack of synchronization in the legal regulatory system. This fragmentation has resulted in normative conflicts, overlapping authority, and legal uncertainty, contrary to Article 28D paragraph (1) of the 1945 Constitution, and strengthens the inequality of land ownership structures, which has implications for increasing land conflicts and social injustice. Thus, the national agrarian problem is not merely a technical administrative issue, but rather a structural one in the design and implementation of agrarian legal policy. In this regard, it is recommended that a systematic reconstruction and harmonization of agrarian regulations be implemented, placing the Basic Agrarian Law (UUPA) as the primary foundation for the formation and adjustment of sectoral regulations related to land ownership and utilization. This harmonization must be achieved through vertical and horizontal synchronization of laws and regulations, strengthening inter-institutional coordination, and integrating land administration and data systems to ensure legal certainty and avoid claims that overlap. In addition, the UUPA's Articles 7 and 17 on the social role of land and ownership limits must be regularly enforced as a means of addressing agrarian inequality. In order to fulfil Future agrarian policies must be centered on the values of social justice, benefit, and human rights preservation in order to maximize the prosperity of the populace and end land conflicts in a sustainable way.

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