



ALSA NEWSLETTER

Vol. XIII



ALSA LOCAL CHAPTER UNIVERSITAS SRIWIJAYA

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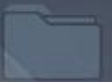
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Welcoming Speech

Assalamu'alaikum Warahmatullahi Wabarakatuh,
Shalom,
Om Swastiastu,
Namo Buddhaya,

Praise be to God Almighty for His blessings and divine guidance that have enabled the successful completion of the ALSA US Newsletter Vol. XIII, which now stands as a concrete testament to the diligent academic commitment and legal interest upheld by the students of our Faculty. The presence of this publication reflects the commitment of students to continuously enhance intellectual literacy, sharpen analytical skills, and provide a profound academic contribution toward the development of legal studies in Indonesia.

My deepest appreciation goes to the entire working committee of the ALSA US Newsletter Vol. XIII, as well as ALSA Local Chapter Universitas Sriwijaya, for their dedication, hard work, and consistency in presenting this volume, which connects educational substance with contemporary legal matters influencing the society. The examination within this release regarding the dynamics of Indonesian land law presents a highly relevant selection. Agrarian matters extend beyond mere administrative functions and proprietary rights, as they are directly connected to statutory reliability, the protection of rights, national development, and social justice. This complexity calls for a comprehensive understanding of the legal framework, institutional practices, and the challenges arising from their implementation.

Through the discussions presented herein, readers are guided toward a more comprehensive understanding of the various dimensions of land law, ranging from the legal framework and the land registration system to certificates as conclusive evidence of rights and analyses of high-profile land disputes. The discussions presented throughout this newsletter are further expected to foster constructive academic discourse on the evolving landscape of agrarian law in Indonesia.

It is my sincere hope that the ALSA US Newsletter Volume XIII will serve not only as a forum for students to publish their academic work, but also as a valuable resource for the academic community, legal practitioners, and society at large. May the spirit of writing, research, and contribution through publications such as this continue to take root within the academic culture of the Faculty of Law at Universitas Sriwijaya.

Prof. Dr. H. Joni Emirzon, S.H., M.Hum.
Dean of the Faculty of Law Universitas Sriwijaya



Welcoming Speech

Assalamualaikum Wr. Wb.,
Shallom,
Namo Buddhaya,
Om Swastiastu,
Salam Kebajikan,
Salam Sejahtera Untuk Kita Semua!

We continually offer our praise and gratitude to the One True God for His grace and guidance, which direct every step of our service. Under the auspices of the Asian Law Students' Association (ALSA) National Chapter Indonesia, we continue to nurture this organization to enhance the academic knowledge, integrity, and social awareness of young legal professionals across 15 Local Chapters throughout the country.

I would like to express my deep appreciation to the ALSA Local Chapter at Sriwijaya University for its academic commitment in publishing the ALSA US Newsletter, Vol. XIII. The theme, "The Polemics of Land Certificates in Indonesia's Agrarian Law and Land Administration System," reflects intellectual sensitivity to a fundamental issue that continues to loom over our legal system. Agrarian issues and orderly land administration have always been central to ensuring legal certainty for business and justice for the public. Through an in-depth examination of the evidentiary weight of land certificates and an analysis of real-world disputes—such as the dynamics surrounding the dispute over the Hotel Sultan Jakarta site—this publication presents a sharp and substantive scholarly discourse.

The ALSA US Newsletter, Vol. XIII, demonstrates the dedication of the ALSA LC Unsri to fostering critical thinking among law students so they can respond to the complexities of land law practice in an objective and progressive manner.

As President of ALSA Indonesia, I fully support the publication of this volume. I hope the studies presented here will broaden academic horizons, spark constructive dialogue among readers, and make a tangible contribution to the reform of agrarian law in Indonesia.

Wassalamualaikum Wr. Wb.,
Shallom,
Namo Buddhaya,
Om Shanti, Shanti, Shanti Om!
May ALSA, Always be One!



Timothy Yoga Langi Soedharsono
President of ALSA National Chapter Indonesia

Welcoming Speech

Assalamu'alaikum Warahmatullahi Wabarakatuh,
Shalom,
Om Swastiastu,
Namo Buddhaya,
Greetings of Virtue to all of us.

We express our deepest gratitude to Allah SWT for His endless blessings and grace, which have enabled us to carry out our activities and continue pursuing meaningful initiatives. The Asian Law Students' Association Local Chapter Universitas Sriwijaya (ALSA LC Unsri), established on 21 March 2001, is one of the 15 Local Chapters of ALSA Indonesia. Guided by its four core pillars which are Internationally Minded, Socially Responsible, Academically Committed, and Legally Skilled, ALSA LC Unsri is committed to fostering academic excellence, leadership, and professional development among its members. ALSA LC Unsri envisions becoming a family-oriented academic law organization that upholds professionalism, education, creativity, and competitiveness while making meaningful contributions to society. To realize this vision, ALSA LC Unsri continuously organizes various programs that aim to strengthen legal knowledge, encourage personal and professional growth, foster strong relationships among members and external stakeholders, and create a positive and lasting impact on the community. One of these initiatives is the US Newsletter Vol. XIII.

US Newsletter Vol. XIII explores the landscape of Indonesian land law by examining recent regulatory developments, the national land rights system, and the legal challenges surrounding land disputes. It also discusses the role of land certificates in ensuring legal certainty and presents an analysis of a prominent land dispute to illustrate how land law is applied in practice. Through concise yet comprehensive discussions, this edition seeks to provide readers with a broader understanding of Indonesia's agrarian legal framework while serving as a valuable reference for those interested in contemporary land law issues.

Finally, we are proud to present US Newsletter Vol. XIII and sincerely hope that everyone involved in its publication, as well as our readers, will find this edition insightful, beneficial, and inspiring. We hope it contributes to a deeper appreciation of Indonesian land law and encourages continued learning and discussion on legal issues that shape our society.

Last but not least,
Show your contribution,
develop your skills,
and connect to others.

ALSA. Always Be One!

Muhammad Fadhlurrahman Wijaya
Director of ALSA LC Universitas Sriwijaya



Welcoming Speech

Assalamu'alaikum Warahmatullahi Wabarakatuh,
Shalom,
Om Swastiastu,
Namo Buddhaya,
Greetings to us all.

With profound gratitude to Almighty God for His boundless grace, blessings, and guidance, we are pleased to present the ALSA US Newsletter Vol. XIII. More than a publication, it stands as a reflection of the commitment of ALSA Local Chapter Universitas Sriwijaya (ALSA LC UNSRI) to producing publications that seek to broaden legal understanding while fostering critical, constructive, and meaningful discussions on the evolving field of land law in Indonesia. Our gratitude for the completion of this work would be complete without acknowledging ALSA Local Chapter Universitas Sriwijaya (ALSA LC UNSRI), which has always served as a home where every member is encouraged to grow, develop, and contribute. Special appreciation is also due to the entire Committee of the ALSA US Newsletter Vol. XIII for their dedication, time, efforts, and thoughtful contributions at every stage of its preparation, all of which have played an indispensable role throughout this journey. Behind every page of this publication lies the trust and support of many, and to each of them, I owe my sincere thanks. Finally, but most importantly, to ALSA National Chapter Indonesia for its role in enabling every Local Chapter to mature within the organization, and to all readers who have devoted their time to exploring the insights this volume has to offer.

The XIII edition of the US Newsletter centers on the complexities of Indonesian land law. It offers a comprehensive review of the national land system, ranging from land rights regulations and the legal certainty of land certificates, to a legal analysis of high-profile land litigation, highlighted through a case study of the Sultan Hotel in Jakarta. This focus is crucial, as property issues remain an inherently complex, multidimensional challenge that carries broad societal impacts. In this edition, the discussion is systematically structured to align with regulatory shifts and practical legal dynamics in Indonesia. It dissects the historical and legal foundations of agrarian law, registration mechanisms, the legal standing of certificates as evidentiary instruments, and property-related lawsuits. By providing this holistic overview, this publication is expected to broaden perspectives and serve as a valuable reference for readers seeking to understand the dynamics of agrarian law in Indonesia. With these closing remarks, I genuinely aspire for this ALSA US Newsletter Vol. XIII to serve as a meaningful medium to elevate understanding of various agrarian hurdles, cultivate an acute awareness of statutory certainty in agrarian administration, and inspire a comprehensive outlook on our perpetually evolving legal dynamics.

We sincerely appreciate your time and attention. Happy reading!
ALSA, Always Be One!



Athirah Zahra Alfirda
Project Officer of ALSA US Newsletter Vol. XIII

WHAT IS ALSA US Newsletter



ALSA US Newsletter Vol. XIII is an official law magazine publication, presented as a work program under the supervision of the Creative Design Division's Manager, within the Information, Communication, and Technology Affairs of ALSA Local Chapter Universitas Sriwijaya. Entering this thirteenth volume, our publication delivers a themed discourse on "The Polemics of Land Certificates in Indonesia's Agrarian Law and Land Administration System." In alignment with the "US" pillar that forms the essence of the program, this topic serves as an educational medium intended for readers to explore the essentials and complexities of agrarian law and land administration implemented in Indonesia, centering primarily on the reliability of land certificate issuance.

Throughout the compilation process, objectivity is prioritized in analyzing current legal developments to dissect the fundamental issues concerning land rights, subsequently reinforced by a critical case study of a prominent legal phenomenon to substantiate the main theme within the national legal framework of 2026.

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THE CONCEPT OF LAND IN THE NATIONAL

Legal SYSTEM



A. CONSTITUTIONAL BASIS

The control and rights over land in Indonesia are based on the 1945 Constitution of the Republic of Indonesia, as stated in Article 33 paragraph (3):

"The earth, water, and natural resources contained therein shall be controlled by the State and used for the greatest prosperity of the people." The meaning of "controlled by the State" indicates the state's authority to regulate the use of land for the greatest prosperity of the people, not as its owner.

This constitutional basis serves as the main foundation for the implementation of the land system in Indonesia, thereby forming Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) along with its implementing regulations. Through Article 33 paragraph (3) of the 1945 Constitution, the state possesses a legal basis to regulate the registration, measurement, and management of land rights fairly. In addition, this provision serves as a normative framework in the issuance of land certificates and the settlement of disputes to guarantee legal certainty for the public.

In addition to regulating state authority, individual rights over land are also established in Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia:

"Every person shall have the right to personal property ownership and such property right shall not be taken over arbitrarily by anyone."

The right of every citizen to land is guaranteed by the constitution as a basis for protecting ownership and assessing the validity of certificates in dispute resolution. The state, through the regulation and supervision of land use, acts to maintain a balance between individual rights and the public interest to ensure that legal certainty is preserved throughout the entire land management process.

B. DEFINITION OF LAND

According to the Great Dictionary of the Indonesian Language (KBBI), land is defined as the surface of the earth or the uppermost layer of the earth. This is in line with Article 4 paragraph (1) of the UUPA, which states that the state regulates various rights over the surface of the earth that can be owned by individuals as well as legal entities. Therefore, it can be concluded that land is the surface of the earth controlled by the state, but its use is guaranteed by law for the public.

C. SOCIAL FUNCTION of LAND

Article 6 of the UUPA states:

"All rights to land have a social function."

This means that land ownership is not absolute; rather, personal rights must be adjusted to the public interest.

Landholders in Indonesia are obligated to consider the interests of the community in using their land in accordance with legal provisions (namely responsible use for the public interest, environmental protection, and compliance with regulations governing the rights and obligations of rights holders) so that personal rights are exercised with due regard to the social function of land.

A Simple implementation of this principle includes:

1.

Balance of interest:

Namely, the obligation of the landowner to adjust their personal rights to the social interests of the community and the surrounding environment.

Example: If the land is used for business, the owner must still ensure that its use does not block public access, damage public facilities, or cause disturbances that reduce community welfare.

2.

Condition and nature of land rights: Namely, rights to land are exercised based on valid land certificates and official permits according to laws and regulations.

Landowners are not permitted to use their land for activities that may harm the public interest or other parties.

Example: Land must not be used for dumping materials that block public roads or other activities that endanger the safety and comfort of the community.

3.

Prohibition on neglecting land: Namely, the obligation of the landowner to cultivate, maintain, and protect the land so that it remains productive, safe, and beneficial for the community.

Example: Land must be maintained to prevent negative impacts such as pollution, landslides, or floods, thereby allowing the land to continue supporting public welfare in accordance with its social function.



CERTAINTY OF RIGHTS TO LAND

Certainty of rights to land is the core of the national land system, guaranteed through the land registration mechanism with a legal basis for the recognition of the rights of individuals and legal entities to land.

a. Article 19 of the UUPA: States that every parcel of land must be officially recorded by the state. The purpose is to ensure clarity regarding who the owner is (subject), where the location is (object), and what the status of the right is.

b. Government Regulation Number 24 of 1997 concerning Land Registration: Serves as the implementing regulation requiring the government to conduct land registration technically in the field, in order to provide legal protection for the owner.

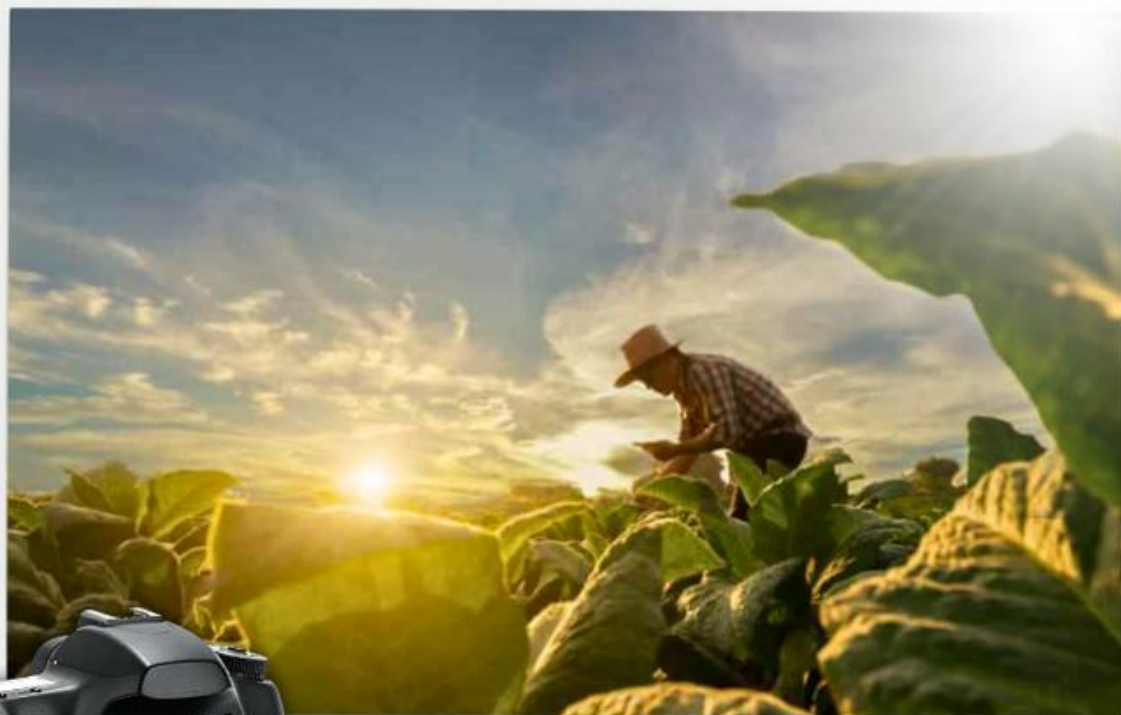


1. Certificate as Valid Proof of Ownership:

- a. Function of Land Certificate:** Pursuant to Article 32 paragraph (1) of PP No. 24/1997, a certificate serves as strong evidence because the physical data and legal data contained within it possess legal certainty as long as they match the land book.
- b. Time Limit for Challenging a Certificate (Statute of Limitations):** Pursuant to Article 32 paragraph (2) of PP No. 24/1997, another party can no longer file a legal lawsuit if the land title certificate has been legally issued and held in actual possession in good faith for 5 (five) years. However, in judicial practice, judges retain the authority to re-examine the case if fundamental violations of the law are discovered.

2. Efforts to Ensure Certainty of Rights and Prevent Disputes:

- a. **Verification of Land History and Physicality:** Verifying the validity of the certificate as well as the status of the land in the official BPN data before carrying out a transaction.
- b. **Participation in the Complete Systematic Land Registration Program (PTSL):** To obtain an official certificate while simultaneously ensuring the land is legally registered to establish certainty of ownership status.
- c. **Utilization of BPN Electronic Information Services:** Using BPN's official digital information system to validate land data and check administrative history.
- d. **Consultation with Land Law Professionals:** In complex disputes, owners can consult advocates or legal consultants specializing in agrarian law to obtain legal certainty and protection of rights.



THE HISTORICAL EVOLUTION OF LAND LAW IN INDONESIA

A. Etymology and Terminology of Agrarian

Etymologically, the term agraria originates from the Latin language, namely ager, which means land or field, and agrarius, which means dry-field farming, wet-rice farming, or agriculture. Over time, this term has expanded in meaning so that it not only refers to agricultural activities, but also encompasses various aspects related to land in a broad sense, including the social, economic, and political dimensions inherent in the control and utilization of land.

B. Historical History of Agrarian Law in Indonesia

1. Historical Transition of Land Tenure in Indonesia

The development of agrarian law in Indonesia is a reflection of the political dynamics of land tenure, which transformed with changes in the regimes. Broadly speaking, the history of land tenure in Indonesia can be divided into three main phases that reflect a paradigm shift from a dualistic colonial system toward the formation of national agrarian law during the independence era and thereafter:

In the context of jurisprudence, agrarian law is a set of legal norms regulating the Land, water, airspace, and the natural resources contained therein. Regarding this matter, Prof. Boedi Harsono in his work *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi, dan Pelaksanaannya* emphasizes that agrarian law is not a single standalone field of law, but rather a group of various fields of law. Rather, it is an umbrella term for various legal fields, each regulating control rights over specific natural resources. This distinction is crucial for differentiating the narrow concept of agrarian law, which pertains strictly to land (particularly agricultural land), from the broader concept, which encompasses all agrarian resources as adopted in the Indonesian national legal system



a. Pre-Colonial Phase: During this period, the land system in Indonesia was regulated based on customary law (hukum adat), which evolved differently across region. The most defining characteristic of this system was that land was collectively owned and managed by indigenous communities under the authority of tribal chiefs and customary leaders as representations of the community. Land at that time was utilized to support agricultural activities and settlements, while the transfer of rights to parties outside the customary community was restricted to maintain local community sovereignty.

b. Colonial Phase (Dutch East Indies): The land system shifted into a dualistic and exploitative one for the benefit of foreign capital, divided into several eras:

Agrarian Politics during the Vereenigde Oostindische Compagnie (VOC) Era (1602–1799)

VOC implemented exploitative and oppressive trade monopoly practices through the following actions:

- a. **Contingenten:** an obligation for farmers in VOC-controlled territories to hand over a portion of their agricultural produce as a land tax, without any compensation.
- b. **Verplichte leverantie:** an obligation for residents in allied kingdom territories to sell specific agricultural produce exclusively to the VOC at fixed, non-negotiable prices, stripping farmers of control over their goods.
- c. **Heerendiensten:** a system of forced labor imposed on residents, particularly landless individuals, to construct infrastructure or facilities for the company's interest.

Cultivation System (Cultuurstelsel)

In 1830, Van den Bosch enacted the Cultuurstelsel, forcing farmers to allocate a portion of their land to cultivate export commodities in high demand on the international market. Landless individuals were required to perform manual labor in lieu of taxes. The Dutch government subsequently restricted private entrepreneurs by prohibiting them from renting land directly from local populations, allowing them only to lease state-owned domain land. Consequently, indigenous land rights were completely eroded, as absolute control rested entirely with the colonial state.

Domein Verklaring

Article 1 of the Agrarische Besluit (S.1870-118) declared that all land without proof of private ownership (eigendom) belonged to the state. This legal framework clearly served economic exploitation and profit accumulation for private corporations, rather than the public interest. In practice, the policy divided land in the Dutch East Indies into two main categories:

- a. **Vrijlands Domein (free state domain):** Land free from customary (adat) rights, allowing the colonial government to freely grant long-term titles to private enterprise under Western law, such as eigendom, opstal, and erfpacht.
- b. **Onvrijlands Domein (non-free state land):** Land subject to indigenous or customary rights, where community control was systematically restricted to serve colonial economic interests.

Agrarian Policies in the Daendels and Raffles Eras

The transition of power from the VOC to the Dutch colonial government brought changes in the land administration system, making it more structured and bureaucratic:

- a. **Governor-General H.W. Daendels Period:** Defined by the sale of state land to private parties (European, Chinese, and Arab) to resolve a financial crisis, which gave rise of private estates (particuliere landerijen). Landlords (landheer) ruled like "little kings" through memorial right (landheerlijke rechten), granting them feudal authority to collect taxes, levy road tolls, and impose forced labor (heerendiensten) on local residents.
- b. **Governor-General Thomas Stamford Raffles Period:** Raffles introduced the land-rent policy (landelijk stelsel) by unilaterally declaring all land in Java as state property. This policy severely exploited local farmers, demoting them to mere tenants forced to pay rent on their own land. Furthermore, it disrupted traditional customary law (adat) by turning village heads into tax collectors empowered to dictate the size of farmers' cultivated lands.



Post-Independence Phase and the Birth of UUPA 1960

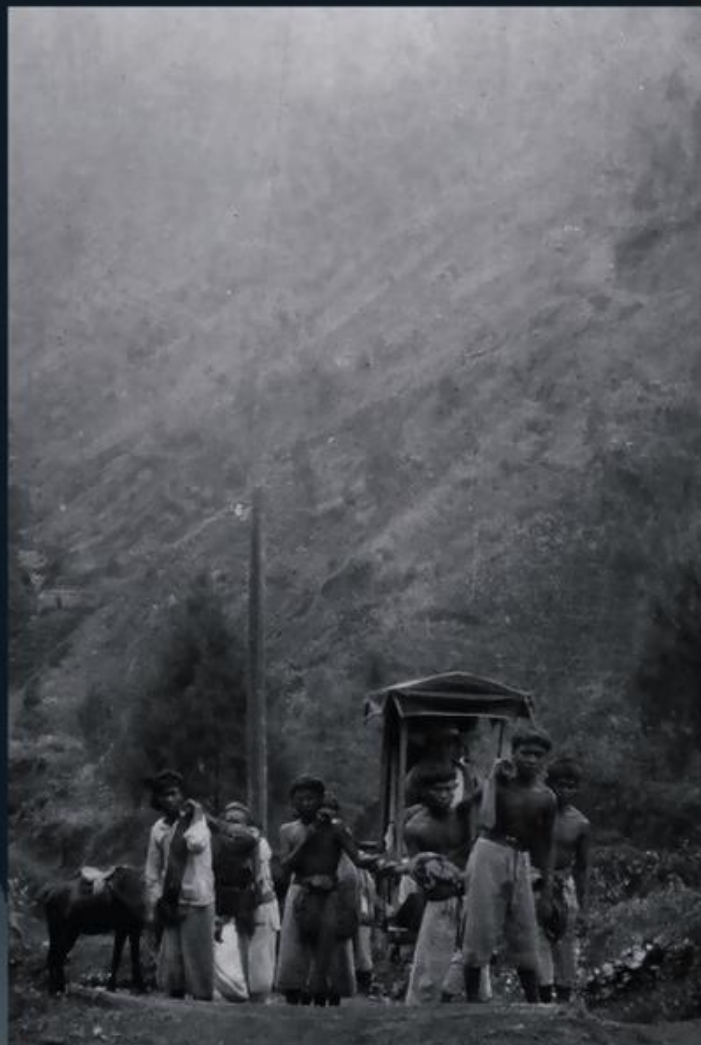
a. Historical Background in the Need for Legal Unification

Post-independence, Indonesia faced agrarian law dualism, where customary law coexisted with discriminatory colonial regulations. This created legal uncertainty that hindered efforts to promote public welfare, making legal unification urgent to dismantle colonial legal structures.

b. Moment of Proclamation and the Drafting Process

The formulation of this law was the culmination of a long legal effort to establish national land sovereignty through the following stages:

1. Beginning in 1948, the government established successive agrarian committees amid political and legal dynamics to draft a national agrarian framework replacing the colonial system;
2. The draft was finalized as the Sadjarwo Draft (1959–1960) following the 1959 Presidential Decree. It synthesized customary law (adat) concepts with national legal requirements through intensive debates in the Mutual Cooperation People's Representative Council (DPR-GR), gaining cabinet approval on August 1, 1960;
3. These discussions culminated in the DPR-GR plenary session on September 24th 1960, which officially enacted Law No. 5 of 1960 on Basic Regulations on Agrarian Principles (UUPA) into positive law in Indonesia





c. Objectives of the Enactment of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles

1. Decolonization and Legal Unification

Eliminating discriminatory dualism and creating a national agrarian law based on customary law as one of its forming elements.

2. Abolition of Feudal Rights

Abolishing feudal and capitalist land rights that restricted the people from managing their own land.

3. Landownership Limitations

Regulating maximum and minimum landownership limits to prevent land monopolies.

4. Application of Social Function

Establishing that land rights have a social function so that their use must provide benefits for the welfare of the broader community.

5. Equitable Land Redistribution

Facilitating popular economic equity through fair land distribution so that farmers and landless communities gain access to cultivation.

6. Certainty of Customary Rights

Providing certainty of rights for customary law communities through the recognition and

7. respect of *hak ulayat* (customary land rights).

Control by the State

Ensuring that all natural resources contained within the earth, water, and space are controlled by the state.

8. Public Prosperity

Ensuring that the management of all agrarian resources is utilized for the greatest possible prosperity of the Indonesian people in accordance with the mandate of Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.



Agrarian Reform in Indonesia

Basic Concept of Agrarian Reform

Agrarian reform is a fundamental effort to correct the inequality in the structure of control, ownership, use, and utilization of land to make it more equitable, as emphasized in Presidential Regulation Number 86 of 2018 concerning Agrarian Reform as a refinement of the ideals of the UUPA. Operationally, this process includes:

Objectives of Agrarian Reform

The implementation of agrarian reform in Indonesia is based on Pancasila, particularly the Fifth Precept, and Article 33 Paragraph (3) of the 1945 Constitution, with the following objectives:

- a. **Realizing Agrarian Justice:** Reducing inequality in land control by promoting the principle of land for the tillers, where land is no longer used as a target for excessive personal gain or an instrument to exploit tenant farmers.
- b. **Certainty of Land Rights:** Providing land rights legalization (tenurial) for the community to enhance economic access and legal certainty.
- c. **Improving Welfare:** Encouraging intensive and sustainable agricultural productivity as a source of public prosperity and national food sovereignty.
- Dispute Resolution:** Systematically addressing land issues to prevent neglect of inequalities that spark social division.

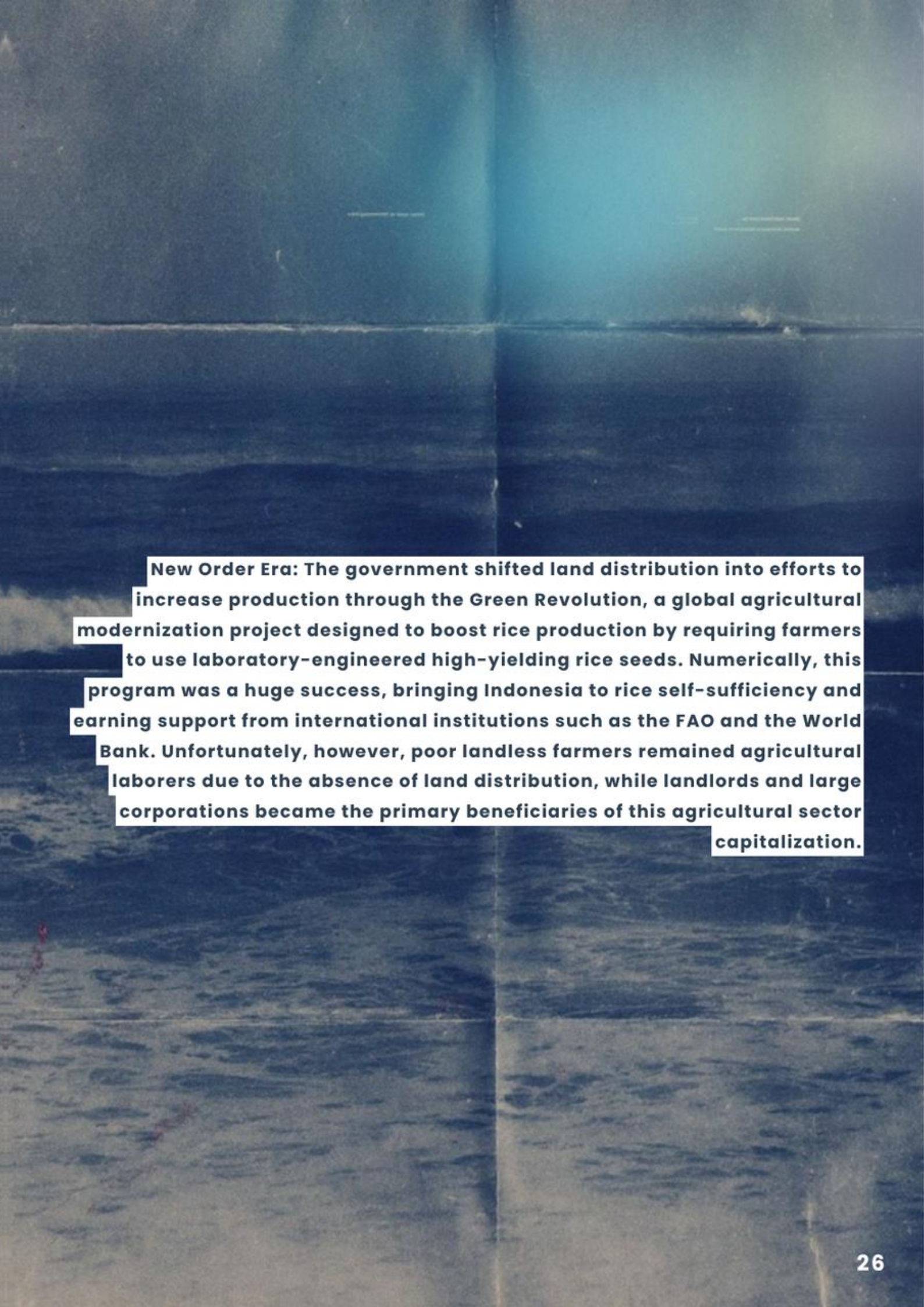
- a. **Asset Restructuring (Penataan Aset):** Overhauling the structure of land control and ownership through land redistribution to eliminate large-scale land control exceeding allowable limits (groot grondbezit) that harms the public interest.
- b. **Access Restructuring (Penataan Akses):** Re-establishing the land use planning system so that every inch of land provides prosperity for the people, particularly tenant farmers.
- c. **Legal Decolonization:** Eliminating the remnants of colonial agrarian law and replacing them with a national agrarian law rooted in land sovereignty for the people.

UP & DOWNS

in the Development of Agrarian Reform Implementation

Old Order Era: The primary focus was land redistribution through Law Number 56/Prp/1960 concerning the Determination of Agricultural Land Area and the prohibition of absentee land ownership as a manifestation of the struggle to break the chain of feudalism.

Reform Era: Initiated by MPR Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. This policy was subsequently reinforced through Presidential Regulation Number 86 of 2018 concerning Agrarian Reform. This regulation serves as a tangible guideline for the government in restructuring Agrarian Reform Object Land (*Tanah Objek Reforma Agraria / TORA*) through the integration of asset restructuring and access restructuring.



New Order Era: The government shifted land distribution into efforts to increase production through the Green Revolution, a global agricultural modernization project designed to boost rice production by requiring farmers to use laboratory-engineered high-yielding rice seeds. Numerically, this program was a huge success, bringing Indonesia to rice self-sufficiency and earning support from international institutions such as the FAO and the World Bank. Unfortunately, however, poor landless farmers remained agricultural laborers due to the absence of land distribution, while landlords and large corporations became the primary beneficiaries of this agricultural sector capitalization.



THE LEGAL FRAMEWORK OF LAND RIGHTS IN INDONESIA

A. Conceptual Basis of Land Rights

Land rights in Indonesian agrarian law represent legal authority granted by the state to legal subjects, both individuals and legal entities, to control and utilize the land surface, subsoil, water, and airspace. Referring to Article 4 of the UUPA, granting these rights does not transfer absolute ownership power, but rather an operational authority limited by the function of the land's utility for the rights holder. Consequently, all state-issued land rights remain bound by law, requiring land use to serve not only private interests but also national development and public welfare.

B. Existence of Customary Land Rights (Hak Ulayat) of Customary Law Communities

The concept of hak ulayat, defined as the collective authority of customary communities to manage and utilize their ancestral territories, is explicitly recognized under Article 3 of Law No. 5 of 1960 on Basic Regulations on Agrarian Principles (UUPA).

In its development, the legal status of customary land (tanah ulayat) may undergo transformation through the following mechanisms:

1. Conditions of Existence and Transfer Limitations:

The recognition of hak ulayat is conditional upon the actual existence of the customary law community and the active leadership of its traditional leaders. Consequently, as long as the customary community exists, customary land cannot be converted into individual private ownership (hak milik) because it retains its communal status.

2. Transformation into State Land:

Customary land can be converted into individually private property only if its status has become "state land" or "former customary land." This occurs when the relevant customary law community no longer factually controls or maintains customary ties to the land, thereby automatically transitioning into land directly controlled by the state.

3. Rights Registration Mechanism:

Converting former customary land that has reverted to state control into individual freehold property (hak milik) requires a formal administrative procedure. Under Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency No. 9 of 1999, written applications for hak milik over state land must be submitted to the Minister through the local Land Office with jurisdiction over the property

C. Primary Land Rights

Primary land rights are rights granted directly by the state to legal subjects as the primary title in the control and utilization of land, as regulated under Article 16 Paragraph (1) of the UUPA. The characteristics of each right are detailed as follows:

Aspect	Ownership Right (Hak Milik)	Right to Cultivate (HGU)	Right to Build (HGB)	Right to Use (Hak Pakai)	Right to Lease (Hak Sewa)	Right to Clear Land (Hak Membuka Tanah)	Right to Collect Forest Products (Hak Memungut Hasil Hutan)	Other Rights and Temporary Rights (Hak-Hak Lain dan Hak yang Sifatnya Sementara)
Definition	Hereditary, strongest, and fullest right that can be held by a person over land	Right to cultivate land directly controlled by the state for agricultural, plantation, fishery, or livestock enterprises on a large scale	Right to construct and own buildings on land that is not one's own property for a specified period	Right to use and/or collect produce from land directly controlled by the state or land owned by another person	Right of a person or legal entity to use another party's freehold land for building purposes by paying a certain amount of rent money to its owner	Right to clear or cultivate land that previously had no owner to be made into business land	Right to legally harvest natural yield existing on land in the form of forest products	Rights established by law as well as temporary rights (pledge/mortgage, sharecropping/profit-sharing, lodging/squatting, lease of agricultural land) regulated under Article 53 of the UUPA

Subjects of Rights Holders	Indonesian Citizens and legal entities specified by the Government	Indonesian Citizens and legal entities established under Indonesian law and domiciled in Indonesia	Indonesian Citizens and legal entities established under Indonesian law and domiciled in Indonesia	Indonesian Citizens, foreign individuals domiciled in Indonesia, Indonesian legal entities, and foreign legal entities having a representative office in Indonesia	Indonesian Citizens, foreign individuals, and Indonesian or foreign legal entities	Only Indonesian Citizens	Only Indonesian Citizens	In accordance with the provisions of the regulating laws
Object	Surface of the earth (Land)	Land directly controlled by the State (for agriculture, fisheries, livestock farming)	State Land, Management Right Land (HPL), or Freehold Land (Tanah Hak Milik)	State Land, Management Right Land (HPL), or Freehold Land (Tanah Hak Milik)	Land owned by another party (buildings)	Forest land/land with no existing rights	Forest products on state land/not under private ownership	Pledge/Mortgage Right, Sharecropping/Profit-Sharing, Lodging/Squatting, Lease of Agricultural Land
Duration	Unlimited	Maximum 25 years. For enterprises requiring a longer period, a maximum of 35 years is granted	Maximum 30 years and can be extended for a maximum period of 20 years	For a specified time period or for as long as the land is used for a specific purpose	In accordance with the lease agreement agreed upon with the landowner	Granted during the land-clearing period until the land is ready for cultivation	In accordance with the permit granted by the authorized official	Limited according to its nature and underlying regulations

D. Rights over Water and Space

As regulated in Article 16 Paragraph (2) of the UUPA, the state provides a regulatory framework for the utilization of water and space elements to ensure the usage of these resources remains under state control for the greatest prosperity of the people, structured as follows:

Aspects	Right to Use Water	Right to Breed and Catch Fish	Right to Use Space
Definition	The right to obtain water for specific purposes and/or to channel such water through another party's land.	The right to cultivate, breed, and catch fish in waters controlled by the state or other public waters.	The right to utilize powers and elements in space for business and development purposes.
Subject of Rights Holders	Individuals, legal entities, or institutions requiring access to water utilization for household, agricultural, or industrial needs.	Fisherman communities, fishery business groups, or legal entities operating in the fishery sector.	Legal subjects possessing the technical and legal qualifications to conduct activities in space.
Duration	Granted for the required period of utilization or in accordance with the established permit.	Lasts for the validity period of the catching or breeding permit in accordance with marine authority regulations.	Determined based on operational needs and space availability pursuant to laws and regulations.
Example of Use	Regional Water Utility Company (PDAM) drawing river water through a Water Withdrawal and Utilization Permit (SIPPA).	Corporate fishing vessel operations in the Fishery Management Area of the Republic of Indonesia (WPP-RI).	Position placement of telecommunication satellite orbits or installation of high-voltage overhead power lines (SUTET).

E. Temporary Land Rights

Based on Article 53 Paragraph (1) of the UUPA, temporary land rights must be sought to be abolished within a short period because they are considered contrary to this law itself. However, the fact remains that up to the present time, 2026, various such rights continue to be practiced within society. These rights are as follows:

Aspect	Right of Land Pledge	Right to Sharecropping	Right of Lodging	Right to Lease Agricultural Land
Definition	Physical handover of land control by the owner to another party upon receiving a certain amount of money with the right to redeem it back.	Cooperation agreement for land cultivation in which the landowner and the cultivator divide the production yield based on a certain agreement.	The right of a person to erect and occupy a house on land owned by another party with the landowner's permission.	The use of another party's agricultural land by another party by paying a certain amount of lease money.
Subject of Rights Holders	The landowner party and the pledge recipient who enter into an agreement.	Landowner and cultivator farmer.	Individuals requiring a place of residence on land owned by another party.	Owner of agricultural land and tenant (farmer).
Duration	Temporary in nature and limited by timeframe for the returning redemption money.	Lasts for the duration of the agreed sharecropping agreement.	In accordance with the permission granted by the landowner.	In accordance with the time period regulated in the agricultural land lease agreement.

F. Right of Management (HPL)

The legal basis regarding Management Rights refers to Article 2 of the UUPA, which is subsequently regulated more specifically in Article 4 through Article 15 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Condominium Units, and Land Registration, as well as Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021 concerning Procedures for the Determination of Management Rights and Land Rights. The description of the characteristics of these rights is as follows:

Aspect	Right of Management
Definition	State's right of control whose execution authority is partially delegated to the rights holder for the planning, use, and utilization of land.
Subject of Rights Holders	Central Government Agencies, Regional Governments, State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), Land Bank Agency, or other state/regionally owned legal entities appointed by the Central Government.
Duration	Unlimited in time, valid for as long as the land is used and utilized in accordance with the purpose of granting the right.



THE LAND REGISTRATION SYSTEM IN INDONESIA

A. Legal Basis, Objectives, and Implementing Agencies

Definition and Objectives of Land Registration

Under Article 1, Paragraph 1 of Government Regulation No. 24 of 1997 on Land Registration (GR No. 24/1997), land registration is a continuous process of collecting physical and legal data to issue certificates that serve as strong evidence of land rights. Its primary objective is to guarantee legal certainty and protection for rights holders.

Hierarchically, land registration is grounded in Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) and elaborated through the following provisions:

- Government Regulation No. 24 of 1997 on Land Registration.
- Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Apartment Units, and Land Registration.
- Implementing Agencies.
- The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) serves as the highest policy-making authority in the field of land affairs.
- Land Offices at the regency or city level serve as the operational implementers of land registration in the field.

B. Initial Land Registration

First-time land registration applies to previously unregistered land, as regulated under Article 9 of GR No. 24/1997. This process provides official legal recognition through two distinct methods:

1. Registration Implementation Methods

a. Systematic Registration : Initiated by the government through the Complete Systematic Land Registration (Pendaftaran Tanah Sistematis Lengkap or PTSL) program, this method is conducted simultaneously across an entire village or subdistrict to accelerate data collection under Article 10 of GR No. 24/1997. Specific procedures are detailed in the Minister of Agrarian Affairs and Spatial Planning/Head of BPN Regulation No. 6 of 2018.

b. Sporadic Registration : Initiated by individual property owners on a case-by-case basis, this method proceeds individually depending on the specific legal needs of the rights holder under Article 11 of GR No. 24/1997.

2. Collection and Determination of Physical Data

This activity supports land registration as stipulated in Article 14(1) of Government Regulation No. 24/1997.

The scope of the activity includes:

- a. Preparation of a base map for registration;
- b. Establishment of land parcel boundaries;
- c. Surveying and mapping of land parcels and the preparation of registration maps;
- d. Preparation of land registers and survey certificates;
- e. Issuance of survey certificates.

3. Verification of Rights and Registration Mechanism

This process involves the examination of legal data regarding evidence of title acquisition to ensure the validity of claims before the land is recorded in the land registry.



1. Registration of Transfers and Encumbrances of Rights

This process records changes in land rights ownership resulting from transactions such as sales, gifts, exchanges, or inheritances to ensure the continuous accuracy and legal validity of land records.

2. Registration of Other Data Changes

This process involves updating physical or legal data without a transfer of ownership rights, such as land parcel subdivision, land consolidation, or adjustments following a court ruling.



C. Maintenance of Land Registration Data

Maintenance of land registration data refers to updating physical and legal records in public registers after initial registration, as regulated under Article 1, Point 12 of GR No. 24/1997. These activities include:

D. Land Registration Administrative Products

Land registration administrative products are legal instruments produced as the final outcome of the land registration process. These products include:

1. Registration Maps and Land Registers

- a. Registration Maps
- b. Land Registers

2. Technical and Supporting Documents

- a. Survey Reports
- b. List of Names
- c. List of Decisions

3. Land Registers and Certificates

- a. Land Registers
- b. Land Title Certificates



THE

Evidentiary

STRENGTH OF LAND CERTIFICATES

A. Land Registration Publication Systems

1. Differences Between Positive and Negative Publication Systems In land registration practice, there are two publication systems adopted by various countries:

a. Negative Publication System (France, the Netherlands, the United Kingdom):

The state does not provide an absolute guarantee of the accuracy of the data in the certificate, so the certificate can be revoked if there is evidence of another, more valid claim of ownership in court (relative).

b. Positive Publication System (Australia, Singapore, Malaysia):

The state fully guarantees the accuracy of the physical and legal data listed in the certificate, so that the owner's name listed therein is legally unchallengeable (absolute).

2. Indonesia Adopts a Negative Publication System with Positive Tendencies

This framework establishes that Indonesian land certificates serve as strong evidence rather than absolute proof. Article 32, Paragraph 2 of GR No. 24/1997 provides the legal foundation for this approach, balancing the following two key principles:

a. Negative System Element: The state does not guarantee the absolute accuracy of certificate data, meaning ownership records can still be challenged or invalidated if proven to contain administrative errors or legal defects.



b. Positive Presumption Element:

The registered titleholder is presumed to be the lawful owner and receives legal protection unless a final court ruling proves otherwise. This principle protects good-faith certificate holders while preserving access to justice for true owners seeking redress for administrative mistakes.

B. Certificates as Evidence

Land title certificates serve as strong evidence of ownership for rights holders. Within the civil procedure framework, certificates constitute authentic written evidence with full probative value under Article 19 of the UUPA. The term "strong" implies that the certificate's validity stands unless rebutted by counter-evidence establishing otherwise through a final court ruling.



With the advancement of information technology, certificates now come in two forms that hold equal legal standing:

1. Physical Certificate:

A conventional document in the form of a paper sheet issued as proof of ownership of land rights.

2. Electronic Certificate:

A valid digital proof of ownership, equipped with an electronic signature and a QR code that is directly integrated with the database system of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency to minimize the risk of forgery.



C. Legal Certainty of Land Rights

1. **Formal (Static) Legal Certainty:** Ensures that every parcel of land is legally registered in the land registry so that the administrative status of the land has formal legal validity recognized by the state.
2. **Substantive (Dynamic) Legal Certainty:** Provides assurance that the party listed as the rights holder on the certificate is the legal entity rightfully entitled to the land, thereby minimizing the risk of ownership disputes.



D. Revocation of Land Title Certificates

1. Definition of Revocation of Land Title Certificates

Under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 on Land Case Handling and Resolution, the definition of title cancellation is as follows:

a. Article 1, Point 14:

Cancellation is an administrative decree that voids a land right or title due to legal or administrative defects in its issuance, or to execute a final and binding court judgment.

b. Article 29, Paragraph (1):

A land title certificate may be cancelled if administrative or legal defects are identified in its issuance process.

2. Conditions for the Revocation of Land Title Certificates

Article 35 outlines various conditions that may serve as grounds for the revocation of a land title certificate due to administrative or legal defects, namely:

- a. Errors in the process or procedures for issuing land rights, registering rights, and maintaining land registration data;**
- b. Errors in the surveying process or procedures;**
- c. Errors in the process or procedures for issuing replacement certificates;**
- d. Errors in the process or procedures for issuing Mortgage Certificates;**
- e. Errors in the application of laws and regulations;**
- f. Errors regarding the subject of the right;**
- g. Errors regarding the object of the right;**
- h. Errors regarding the type of right;**
- i. Overlapping land rights;**
- j. Overlapping with forest areas;**
- k. Errors in the determination of land consolidation;**
- l. Errors in the confirmation of land subject to land reform;**
- m. Errors in the granting of a transfer of rights;**
- n. Errors in the process of issuing a Decision Letter of Revocation;**
- o. The existence of a final and binding criminal court judgment proving the commission of criminal acts of forgery, fraud, embezzlement, and/or other criminal offenses;**
- p. The existence of documents or data used in the certificate issuance process that are not products of the competent authority, as evidenced by a statement from the relevant agency; and**
- q. The existence of a court decision which, in its legal reasoning, establishes that there were defects in the issuance of legal instruments by the Ministry and/or defects in the legal act of the transfer of rights, even if this is not explicitly stated in the operative part of the decision.**

THE PHENOMENA

LAND CASES IN INDONESIA

A. Definitions and Typology of Land Cases

Under Article 1(1) of Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020 on the Handling and Resolution of Land Cases, a land case is defined as an issue submitted to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, a Regional Office of the National Land Agency, or a Land Office within their respective authorities to be handled and resolved in accordance with relevant laws and regulations. Land cases are classified according to the following typologies:

1. Land Disputes

Disputes involving specific parties with a limited scope, typically between two entities, such as between individuals, an individual and a legal entity, or a government agency and a legal entity. Complaints in this category are referred to the Director of Land Dispute Resolution. Common examples of such cases include:

- a. Inheritance disputes within a family; and
- b. Disputes between neighbors due to shifted boundary markers or a house wall encroaching on another person's yard.

2. Land Conflicts

Disputes involving groups or communities that tend to have far-reaching impacts. Complaints in this category are referred to the Director of Land Conflict Resolution. Common examples include:

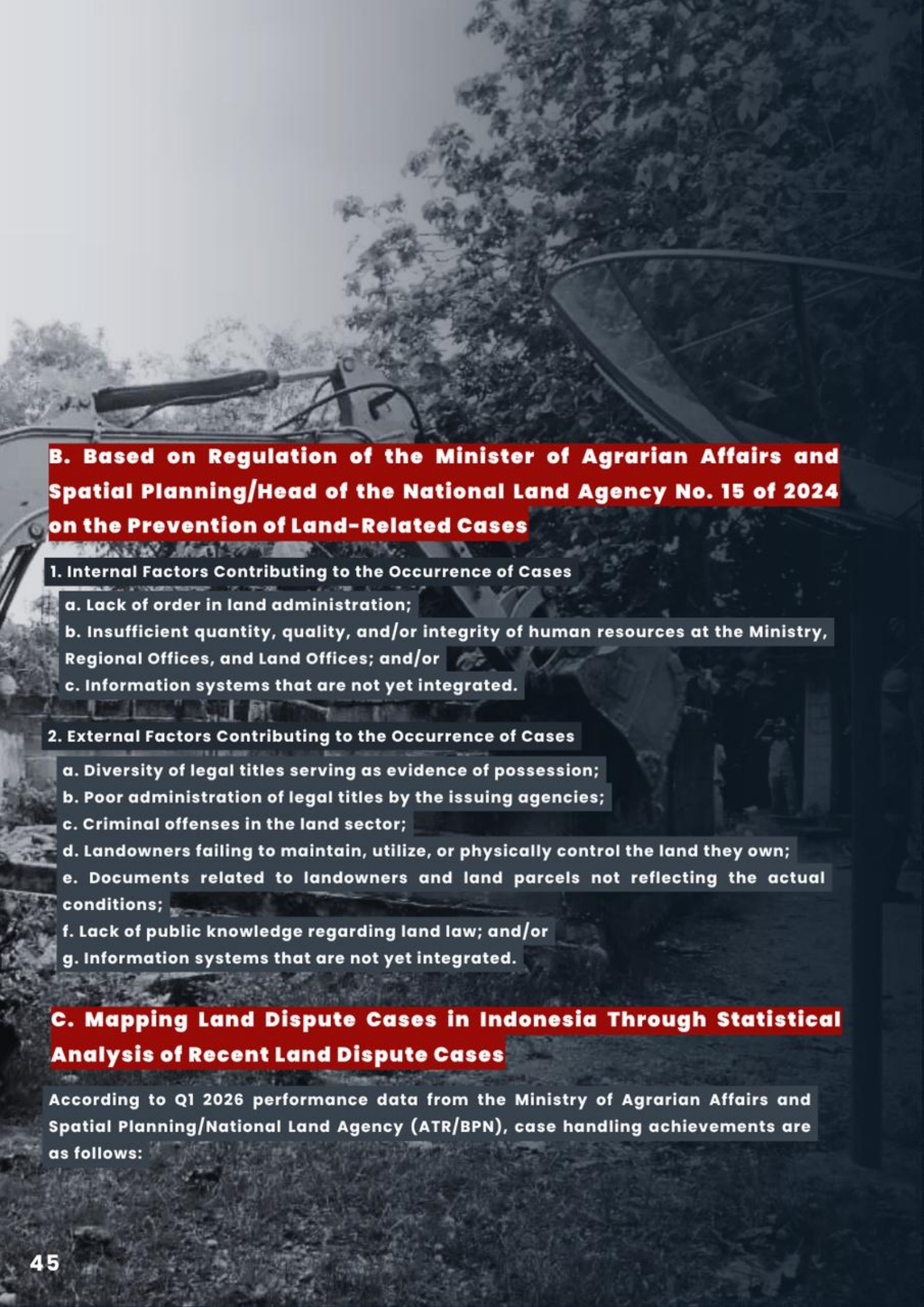
- a. Conflicts over control of oil palm plantation land between large corporations and local indigenous communities; and
- b. Disputes over claims for the relinquishment of rights to large-scale customary lands.

3. Land Cases

Disputes that are currently undergoing or have undergone judicial proceedings. The administrative aspects of these cases are handled by the Director of Land Case Management. Common examples include:

- Lawsuits seeking the annulment of land title certificates in the Administrative Court (PTUN) due to indications of duplicate certificates;
- Tort claims related to fictitious land sales and purchases in the District Court; and
- Criminal proceedings to prove the forgery of title documents by land mafias currently being heard in criminal court.





B. Based on Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 15 of 2024 on the Prevention of Land-Related Cases

1. Internal Factors Contributing to the Occurrence of Cases

- a. Lack of order in land administration;
- b. Insufficient quantity, quality, and/or integrity of human resources at the Ministry, Regional Offices, and Land Offices; and/or
- c. Information systems that are not yet integrated.

2. External Factors Contributing to the Occurrence of Cases

- a. Diversity of legal titles serving as evidence of possession;
- b. Poor administration of legal titles by the issuing agencies;
- c. Criminal offenses in the land sector;
- d. Landowners failing to maintain, utilize, or physically control the land they own;
- e. Documents related to landowners and land parcels not reflecting the actual conditions;
- f. Lack of public knowledge regarding land law; and/or
- g. Information systems that are not yet integrated.

C. Mapping Land Dispute Cases in Indonesia Through Statistical Analysis of Recent Land Dispute Cases

According to Q1 2026 performance data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), case handling achievements are as follows:

Table 6.1 Achievements in the Handling of Land Cases (January–March 2026)

Cases Category	New Cases	Closed Cases
Matters	247	155
Disputes	119	39
Conflicts	191	25
Total	557	219

Source: Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (2026).

A comparative analysis shows that the highest level of effectiveness is found in the case category with a resolution rate of 62.8%. In contrast, the dispute (32.8%) and conflict (13.1%) categories recorded significantly lower ratios. This indicates that disputes and conflicts involve substantive complexities that require greater attention and a longer resolution process, with the cumulative resolution rate for all cases at 39.3%.

D. IMPACT OF LAND DISPUTES

1. On the Certainty of Land Rights

- a. A decline in the probative value of certificates as evidence of rights;
- b. Legal uncertainty for legitimate land rights holders;
- c. Obstacles in the process of transferring and encumbering land rights;
- d. Delays in updating data in land registers and registration maps; and
- e. The emergence of protracted disputes due to administrative flaws in the issuance of land rights.

2. On Socio-Economic Conditions and Social Stability

- a. Financial losses resulting from the halt in land productivity;
- b. Escalation of horizontal conflicts and social tensions within the community;
- c. A decline in public trust in the integrity of land authorities;
- d. The risk of criminalization for parties involved in disputes;
- e. Delays in the realization of investment and infrastructure development on disputed land; and
- f. Psychological strain and high litigation costs for communities involved in disputes.

**THE AUTHORITY AND
RESPONSIBILITIES OF THE
MINISTRY OF AGRARIAN
AFFAIRS AND SPATIAL
PLANNING OR
NATIONAL LAND AGENCY**

The Role of the ATR/BPN in the Structure of the National Government

ATR/BPN is the government agency responsible for managing matters related to agrarian affairs, land, and spatial planning.

a. The Ministry of Agrarian Affairs and Spatial Planning reports directly to the President (Presidential Regulation No. 176/2024 on the Ministry of Agrarian Affairs and Spatial Planning).

b. The National Land Agency is accountable to the President through the Minister (Perpres No. 177/2024 on the National Land Agency).

The Strategic Role of ATR/BPN in the Early Prevention of Potential Cases

The Ministry of Agrarian Affairs and Spatial Planning (ATR/BPN) carries out preventive functions under Ministry of Agrarian Affairs and Spatial Planning Regulation No. 15/2024 on the Prevention of Land-Related Cases through:

a. Strategic Objectives for Case Prevention

To instill ethics and professionalism in human resources and enhance understanding of regulations and service standard operating procedures (Art. 17, para. 2 of ATR/BPN Ministerial Regulation No. 15 of 2024).

b. Strategy Implementation Mechanisms

1. Improving the quality of human resources through supervision and strengthening integrity.
2. Improving information systems through the synchronization and digitization of land-related products.
3. Periodic review of statutory provisions.
4. Outreach through educational sessions for the public and PPAT.
5. Cross-sectoral coordination and cooperation with stakeholders.

The Authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) to Facilitate Mediation in Land Disputes

a. Initiation and Participation of the Parties

Mediation may be initiated internally or at the request of the disputing parties, provided that the disputing parties are present in person.

b. Mediation Agreement Procedures and Outcomes

1. The peace agreement is set forth in a legally binding peace treaty.
2. Administrative follow-up is carried out based on the decision document and the settlement agreement.
3. If no agreement is reached, the matter will be resolved through further legal proceedings.

The Authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) in Addressing Structural Conflicts

a. Identification and Inventory of Conflicts

The identification process was carried out through an assessment of potential and field research to identify the root causes of the problem (ATR/BPN Ministerial Regulation No. 15/2024).

b. Conflict Resolution Mechanisms

1. **Legal and Physical Verification:** Legal auditing and on-site inspections of properties to determine their legal status.
2. **Cross-Sectoral Coordination:** Data synchronization through the GTRA framework (Perpres No. 62/2023 on Accelerating the Implementation of Agrarian Reform) and the resolution of land overlaps (PP No. 43/2021 on the Resolution of Inconsistencies in Spatial Planning, Forest Areas, Permits, and/or Land Rights).

The Authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) to Follow Up on Court Decisions or Cases

a. Distribution of Authority to Repeal Legal Instruments

Under Article 30 of ATR/BPN Regulation No. 21 of 2020 on the Handling and Resolution of Land Cases, the enforcement of a final and binding judgment is carried out through:

1. **Ministerial Authority:** To revoke legal instruments issued by ministries or regional offices.
2. **Authority of the Regional Office Head:** To revoke legal instruments issued by the Land Office.
3. **Ministerial Discretion:** Repealing legal instruments in the interest of legal certainty.



Procedures for Filing a Tiered Enforcement Action

- A request for cancellation is filed through the Head of the Land Office.
- The Head of the Land Office reviews the matter and proposes revocation to the Minister or the Head of the Regional Office.
- Delivery of the decision letter regarding the revocation to the rights holder after it has been issued.

Exceptions and Obstacles to Administrative Enforcement

The provisions of Articles 31 and 32 of ATR/BPN Regulation No. 21 of 2020 stipulate that a cancellation cannot be made if any of the following conditions exist:

- **Third-Party Protection:** The rights have been transferred to a third party acting in good faith.
- **Law Enforcement Block:** The property is currently under seizure or subject to an ongoing dispute.
- **Physical Execution Errors:** Conflicting rulings (NO), unclear location, or discrepancies in area/boundaries on the ground.

THE MECHANISM AND PRINCIPLES

A. Resolution Through Litigation

1. General Courts (Property Disputes)

a. Object: To examine civil rights, establish proof of ownership, and determine which party has the greatest claim to the land.

b. Legal Basic: HIR/RBg

c. Decision: It is final and binding on the disputing parties regarding the ownership status.

2. Administrative Court / PTUN (Administrative Disputes)

a. Scope/Purpose: Examining the legality of land title certificates as concrete, individual, and final administrative legal instruments.

b. Legal Basic: Law No. 5 of 1986 on Administrative Courts, as amended by Law No. 9 of 2004 and Law No. 51 of 2009, alongside the General Principles of Good Governance (AAUPB).

c. Decision: Declare a certificate valid or invalid. If declared invalid, the issuing agency (BPN) is required to revoke the certificate.





OF LAND CASE

Resolution

B. Resolution Through Non-Litigation Channels

1. Administrative Resolution Through the Land Office (Institutional Resolution)

a. The Essence: The mechanism for resolving land disputes handled internally by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) through administrative oversight.

b. Procedure: Includes handling complaints, conducting case investigations, performing legal reviews, holding case hearings, and issuing Certificate Revocation Decisions under Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020.

2. Alternative Dispute Resolution (ADR) for Land Disputes

a. Scope and Modalities: Consensual out-of-court dispute resolution under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution includes consultation, negotiation, conciliation, expert assessment, and mediation.

b. Non-Litigation Mediation: Institutional facilitation by the Regional Office of the National Land Agency (BPN)/Land Office (Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 21 of 2020) resulting in a Settlement Deed.

c. Litigation Mediation: A mandatory stage in court proceedings under Supreme Court Regulation No. 1 of 2016, in which a party's failure to appear (lack of good faith) may result in the lawsuit being declared inadmissible (*Niet Ontvankelijke Verklaard*).

3. Particular Mechanism Through the Anti-Land Mafia Task Force

a. The Essence: Collaborative law enforcement cooperation (Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, Indonesian National Police, Attorney General's Office) to combat organized crime.

b. Output: Criminal prosecution of perpetrators of forgery or fraud, followed by administrative corrective action in the form of certificate revocation by the National Land Agency (BPN).



A. Background of the Dispute Involving The Sultan Hotel in Jakarta

1 | History of Land Ownership in them Gelora Bung Karno Area

The existence of the Gelora Bung Karno (GBK) complex as a state asset is inextricably linked to national strategic spatial planning. Management rights over the land in the Senayan area are officially held by the Ministry of the State Secretariat, a status reinforced by the issuance of Management Rights Certificate (HPL) No. 1/Gelora by the National Land Agency (BPN) in 1989. This right grants the government full authority to regulate the zoning, use, and utilization of the entire Block 15 area under the control of the Gelora Bung Karno Complex Management Center (PPKGBK).

The Juridical Analysis **of The Land Case of Hotel The Sultan Jakarta**

2 | Developments in the Legal Status of the Land on Which The Sultan Hotel Is Located

The legal status of the land began to change in 1971 when then-Governor of DKI Jakarta, Ali Sadikin, granted a land-use permit to PT Indobuildco to build a hotel. Under that permit, the National Land Agency (BPN) issued Building Use Rights (HGB) Nos. 26/Gelora and 27/Gelora, valid for 30 years and set to expire in 2003. The issue arose when PT Indobuildco obtained a 20-year extension of the HGB. The Ministry of the State Secretariat deemed this HGB extension procedurally flawed because it was issued without written permission from the Ministry, as the holder of the management rights.

3 | Chronology of the Dispute's Origins

- a. March 2003: The validity period of the first batch of Building Use Rights (HGB) certificates held by PT Indobuildco officially expired.
- b. 2006: The escalating conflict culminated in a court dispute. The Ministry of the State Secretariat, together with PPKGBK and PT Indobuildco, filed cross-lawsuits regarding the validity of the overlap between state Management Rights (HPL) claims and the extension of private Building Use Rights (HGB) titles.

c. 2011-2022: The Supreme Court has consistently rejected, on four separate occasions, the petitions for judicial review (PK) filed by PT Indobuildco through various clusters of lawsuits. These rulings reaffirm that the legal status of HPL No. 1/Gelora, issued in the name of the state, is valid and binding.

d. March 2023: PT Indobuildco's HGB extension period has expired, and full legal control of the land has reverted to the state.

e. December 2025: The Panel of Judges at the Central Jakarta District Court granted the lawsuit filed by the Ministry of the State Secretariat and the Gelora Bung Karno Complex Management Center (PPKGBK) in Case No. 208/Pdt.G/2025/Jkt.Pst. The court ruled that PT Indobuildco was in breach of contract for failing to pay land-use royalties and ordered the company to pay arrears totaling \$45.35 million.

f. June 18th, 2026: The Central Jakarta District Court carried out a forced eviction of the former Hotel Sultan site after a private entity refused to voluntarily surrender the assets. All physical and legal management of Block 15 Senayan has been fully returned to the state.

B. Legal Framework for Land Ownership of The Sultan Hotel

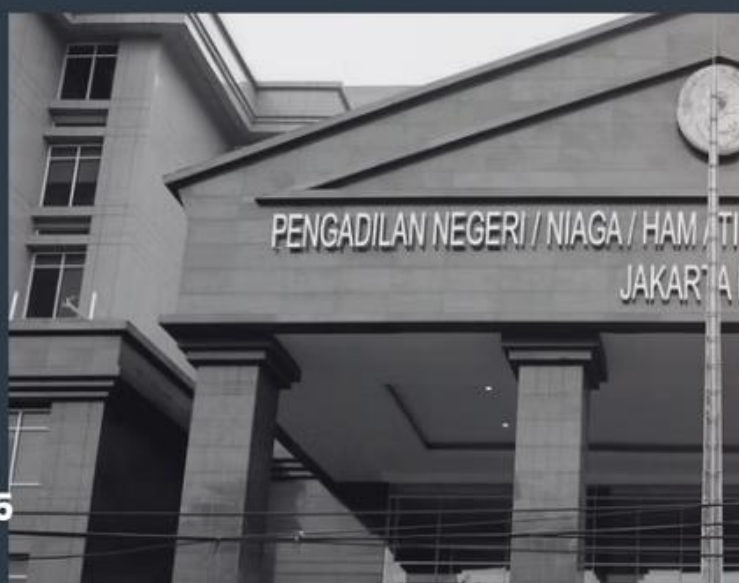
1 | HPL and HGB Construction

a. Status of Management Rights (HPL)

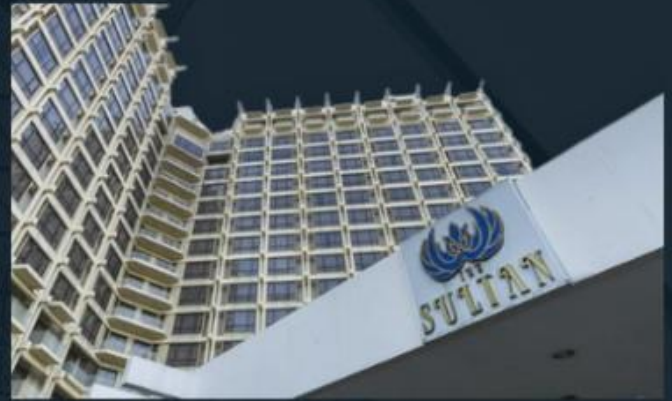
Management Rights (HPL) are the embodiment of the State's Right to Control, whereby part of the authority to exercise this right is delegated to government agencies as rights holders under Article 1(3) of Government Regulation No. 18 of 2021. HPL is not an absolute right of ownership over land, but rather the State's right to control, regulate land use, and grant land rights thereunder. In this case, HPL No. 1/Gelora is legally registered in the name of the Ministry of the State Secretariat, which affirms the government's position as the holder of legal control over the entire State-Owned Property area in Block 15 Senayan. This HPL remains in effect as long as the land is used for official purposes, thus serving as the primary legal basis governing other rights arising on that land.

b. The Status of Building Use Rights (HGB)

On this state-owned land, the legal relationship with private parties is governed by Building Use Rights (Hak Guna Bangunan, or HGB) under Article 35(1) of Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA), namely the right to erect buildings on land owned by another party. In this context, HGB No. 26/Gelora and HGB No. 27/Gelora owned by PT Indobuildco are classified as conditional usufruct rights, whereby the continuation of these rights is entirely dependent on written permission and approval from the Ministry of the State Secretariat as the holder of the underlying Management Rights (HPL).



Since both HGBs officially expired in March and April 2023 without an extension, all of PT Indobuildco's civil rights have legally ceased to exist. Based on the final and binding court ruling, physical control over the land and buildings has automatically and fully reverted to the state.



2| Legal Relationship Between HPL Holders and HGB Holders

The relationship between the Ministry of the State Secretariat, as the holder of Management Rights (HPL), and PT Indobuildco, as the holder of Building Use Rights (HGB), is based on a land-use agreement that establishes rights and obligations for both parties. One of the primary obligations for extending an HGB on HPL land is obtaining prior approval from the HPL holder, which serves as the prerequisite for issuing a decision to grant or extend the right. In addition, under the agreement, PT Indobuildco is obligated to pay contributions or royalties to the state periodically in exchange for using the HPL land.



In this case, PT Indobuildco applied for an extension of its HGB without obtaining approval from the Ministry of the State Secretariat, as the holder of the HPL, and has failed to pay royalties since 2007. The failure to fulfill these obligations resulted in PT Indobuildco losing the legal basis to continue controlling and utilizing the land in dispute. Furthermore, after the HGB term expired, PT Indobuildco continued to occupy and use the land without legal authority. Such actions constitute a violation of the law, meaning that PT Indobuildco no longer has any civil basis to occupy Block 15 Senayan. On that basis, the court was authorized to declare the termination of PT Indobuildco's rights over the disputed property and to order the eviction/vacating of the premises.

3| Legal Consequences of the Termination of a Right to Use a Building

Under Article 35 of Law No. 5 of 1960 on Basic Agrarian Regulations, in conjunction with Article 37 of Government Regulation No. 18 of 2021, a Building Use Right (HGB) is granted for a specified period. Once that period expires and is not extended or renewed in accordance with applicable laws and regulations, the HGB is automatically extinguished by operation of law. Upon the extinguishment of the HGB, all rights attached to the titleholder also terminate.

Under Article 37(3) and Article 46 of Government Regulation No. 18 of 2021, the expiration of an HGB gives rise to the following legal consequences:

1

Termination of Land Rights

Upon the extinguishment of the HGB, PT Indobuildco lost the right to possess, use, and develop the land previously granted under the Building Use Right.

2

The land is once again under the control of the HPL holder.

Because the HGB is situated on land subject to Management Rights (HPL), once the HGB expires, control over the land reverts to the HPL holder—namely, the Ministry of the State Secretariat—without requiring the former HGB holder to formally relinquish their rights.

3

The status of the building complies with applicable laws and regulations.

Under the principle of horizontal separation (*asas pemisahan horizontal*) in Indonesian land law, ownership of a building does not automatically follow the legal status of the land. Therefore, the disposition of buildings and structures situated on the land is determined based on an agreement between the parties or a final and binding court decision.



C. The Role of the Government and the Systemic Implications of Dispute Resolution

1| Administrative Interventions by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) and the Ministry of State Secretariat (Kemendagri)

The resolution of the legal dispute over Block 15 of the Gelora Bung Karno (GBK) Complex is a clear example of synergy in the accountable enforcement of administrative law. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) took a firm stance by rejecting the application to renew the Building Use Right (HGB) submitted by PT Indobuildco after its term expired in 2023.

These institutional actions are grounded in compliance with the substantive requirements of national land law. Under agrarian law doctrine, secondary rights established on state-owned Management Rights (HPL) land cannot be extended or renewed without the prior approval or recommendation of the HPL holder, namely the Ministry of the State Secretariat. Through the issuance of this administrative decision (*beschikking*)—which is concrete, individual, and final—the government successfully closed a legal loophole long exploited to privatize public assets for commercial interest.

2| Judicial Enforcement and Its Implications for Land Administration

The actual execution of the forced eviction by the bailiff of the Central Jakarta District Court on June 18, 2026, marked the formal conclusion of this civil dispute. The eviction was carried out to enforce the judgment of the Central Jakarta District Court in Case No. 208/Pdt.G/2025/PN Jkt.Pst., in conjunction with Eviction Order No. 01/Pdt.Eks/2026/PN Jkt.Pst. The immediately executable nature (*uitvoerbaar bij voorraad*) of this ruling confirms that the land eviction remains legally valid and binding, notwithstanding any ongoing appeals or cassation proceedings filed by the defendant.



Through this ruling, the Panel of Judges explicitly determined that PT Indobuildco had committed an unlawful act (perbuatan melawan hukum), officially declaring that Management Rights (HPL) No. 1/Gelora belong to the state under the control of the Ministry of the State Secretariat, specifically the PPKGBK. Consequently, the court ordered PT Indobuildco to vacate and return the land formerly covered by HGB No. 26/Gelora and HGB No. 27/Gelora to the state, based on the judgment's provisional enforceability (uitvoerbaar bij voorraad).

The direct implications of such judicial enforcement on the national land administration system encompass three aspects:

a. Removal of Rights (Roya) from the Land Register

Building Use Rights (HGB) Certificates No. 26/Gelora and No. 27/Gelora have been permanently canceled and expunged from the land registry at the local Land Office, as they have lost their underlying legal basis.

b. Restoration of Full Control

All physical and tangible assets, including the structure of the former Sultan Hotel, have been re-registered in the state inventory database as State-Owned Property (BMN) and are fully integrated under Management Rights Certificate (HPL) No. 1/Gelora.

c. Enforcement of Cumulative Financial Sanctions

The obligation to pay overdue land-use royalty arrears resulting from a breach of contract for the period from 2007 through 2023, totaling USD 45,356,473—to be converted into Indonesian rupiah based on the exchange rate in effect at the time of payment—establishes a significant legal precedent. This ruling affirms that the failure to fulfill financial obligations regarding State-Owned Property gives rise to corporate civil liability for damages.



3| Impact on Macro-Level Investment and Legal Certainty in Agrarian Matters

The resolution of the dispute over this megaproject offers key lessons for land administration and the management of state assets, namely:

a. Legal Certainty for the State

This case reaffirms that Management Rights (HPL) held by government agencies carry an absolute public law dimension. This legal status cannot be delegated, negotiated, or undermined by the financial power of private corporations.

b. Accountable Partnerships

This ruling is not intended to create disincentives for the business community, but rather to provide fundamental sociological and legal education. This case also serves as a crucial turning point in redefining the limits of the influence of major economic powers (oligarchies) over the state's public assets by establishing a clear boundary: the use of state land by corporate partners—including arrangements stemming from special privileges granted in the past—must be transformed and grounded in the principles of good faith, compliance with reciprocal contracts, orderly fulfillment of financial obligations or royalties, and absolute respect for the principle of the expiration of rights as agreed upon from the outset.



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① Show Your Contribution

② Develop Your Skill, ③ and Connect to Other



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