

The Legal Politics of Land Ownership and Agrarian Conflict in North Sumatra: Between Legal Certainty and Social Justice

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ARTICLE INFO

Keywords:

agrarian conflict;
land law policy;
legal certainty

Article history:

Received 2025-11-20

Revised 2025-12-23

Accepted 2026-01-22

ABSTRACT

Land conflicts in North Sumatra are structural and ongoing agrarian issues, involving the state, corporations, and indigenous and local communities. These conflicts are triggered by unequal land ownership, overlapping land rights, weak recognition of customary land, and land policies oriented toward investment interests. This article aims to analyze the legal politics of land ownership in North Sumatra and its implications for legal certainty and social justice. The research was conducted using normative legal methods through legislative, conceptual, and case-based approaches. The results of the study indicate that land legal politics do not fully reflect the principles of social justice as mandated by the Basic Agrarian Law (UUPA), thus reinforcing the escalation of agrarian conflicts. A reorientation of land policies is needed that prioritizes the protection of community rights.

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1. INTRODUCTION

Land is an element that has strategic significance in the national legal, social, and economic order. Constitutionally, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that control over the earth, water, and natural resources is in the hands of the state and must be directed towards the greatest possible prosperity of the people. This concept of state control was further operationalized through Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which grants authority to the state as a representative of the people's power to regulate, manage, and determine legal relations between legal subjects and land (Harsono, 2008).

In the context of North Sumatra, land is not merely viewed as an economic commodity, but also contains historical, social, and cultural values deeply embedded in the lives of communities, particularly indigenous communities. Among the Batak indigenous community, a land tenure system based on customary law, such as communal land and partuanan land, is recognized, which are managed collectively and passed down through generations as part of the community's identity and sustainability. However, state recognition of these customary rights within the national legal system still faces various obstacles, both at the regulatory and implementation levels (Sumardjono, 2009).

Empirically, the land ownership structure in Indonesia, including in North Sumatra, demonstrates a significant level of inequality. Large-scale productive land tends to be controlled by the state and

corporations through licensing mechanisms, such as Land Use Rights (HGU), particularly in the plantation and forestry sectors. The existence of large plantations, which cover hundreds of thousands of hectares, often overlaps and clashes with the land ownership claims of indigenous and local communities, who have long managed these lands (Fauzi, 2012).

From a theoretical perspective, this reality reflects the tension between formal legal certainty and substantive social justice. Formal legal certainty emphasizes administrative legitimacy in the form of concession certificates or permits, while substantive social justice demands recognition of the history of land ownership and the social conditions of communities dependent on land for their livelihoods. The disharmony between these two principles is a key factor driving structural and recurring agrarian conflicts (Rahardjo, 2009).

Furthermore, the political direction of land law within the framework of modern development tends to favor investment interests, positioning land as a strategic economic resource. The state, through land policy instruments and permits, plays a dominant role in distributing land ownership rights to business actors, while communities are often in a weak position. This situation has implications for the marginalization of indigenous communities, the criminalization of farmers, and reduced community access to agrarian resources (Wiradi, 2000).

Thus, the land conflicts occurring in North Sumatra cannot be reduced to mere individual disputes, but must be understood as a consequence of land tenure legal policies that are not fully aligned with the principles of social justice. Therefore, a comprehensive and critical study of land legal policies is needed to formulate a more just and sustainable direction for agrarian law reform.

2. METHODS

This research is a normative legal research that uses a statute approach, a conceptual approach, and a case approach (Soekanto & Mamudji, 2015). The legal materials used consist of primary legal materials in the form of land regulations, secondary legal materials in the form of textbooks, scientific journals, and relevant research results, and tertiary legal materials in the form of legal dictionaries and legal encyclopedias (Ibrahim, 2006). All legal materials are analyzed qualitatively using descriptive-analytical methods to explain and assess the suitability of legal norms to the problems studied (Hadjon, 2005).

3. FINDINGS AND DISCUSSION

Legal Politics of Land Ownership in North Sumatra

The legal policy of land ownership in Indonesia is rooted in the provisions of Article 33 paragraph (3) of the 1945 Constitution and is further elaborated through Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). UUPA places the state as the holder of public authority over land, not in the capacity of a private owner, but as a representative of the power of all the people who are tasked with regulating, managing, and supervising the use of land so that it is in line with the goal of general prosperity (Harsono, 2008). In agrarian law doctrine, the concept of the right to control by the state is understood as a public legal instrument to guarantee fair distribution, equal access, and the implementation of the social function of land.

However, the implementation of land law in North Sumatra demonstrates a clear gap between the normative ideals of the Basic Agrarian Law (UUPA) and empirical practice on the ground. This province is known as a region dominated by large-scale plantations, particularly oil palm plantations, which control vast tracts of land through the Land Use Rights (HGU) scheme. The policy of granting and extending HGUs on a significant scale has positioned corporations as the primary actors in the land tenure structure, while indigenous peoples and local communities tend to be subordinated and vulnerable (Consortium for Agrarian Reform [KPA], 2023). The resulting agrarian conflicts are

generally triggered by overlapping concession permits and areas historically and in fact managed by communities for generations.

Normatively, the UUPA has actually regulated the principle of the social function of land as stated in Article 6, as well as the recognition of customary rights of indigenous communities in Article 3. The principle of social function emphasizes that land use must consider the interests of the wider community, not solely directed at the interests of rights holders. However, in land practices in North Sumatra, this principle is often reduced by an administrative approach that emphasizes the fulfillment of formal requirements in the form of certificates and permits, without being accompanied by a substantive assessment of the social, historical, and ecological impacts of land ownership (Sumardjono, 2009).

Similar problems are also apparent in the recognition of the rights of indigenous communities. Although Article 18B paragraph (2) of the 1945 Constitution expressly recognizes and respects the existence of indigenous communities and their traditional rights, the process of administrative recognition at the regional level is often slow and incomplete. As a result, many indigenous territories that have not yet received formal recognition are treated as state land or become objects of investment permits, thus opening up the opportunity for recurring structural conflicts, particularly in areas with a strong history of customary control.

Developments in jurisprudence have actually provided a corrective basis for this practice. Constitutional Court Decision No. 35/PUU-X/2012 affirmed that customary forests are part of the territory of indigenous legal communities and not state forests. This decision strengthens the doctrine of recognizing the collective rights of indigenous communities to their territories and should be used as a primary reference in the formulation and implementation of land and forestry policies in the regions, including North Sumatra. Furthermore, the Supreme Court, through Decision No. 34 K/Sip/1960, emphasized that actual physical control of land carried out in good faith is a crucial factor in determining land rights. However, this jurisprudential direction has not been fully internalized in land administration practices, which are still dominated by a formal-positivistic approach.

From a legal theory perspective, the strong positivistic legal paradigm, which defines legal certainty solely as adherence to formal procedures, makes land law less responsive to social realities. Satjipto Rahardjo emphasized that law should be directed toward achieving substantive justice and a commitment to human rights, not merely normative texts and administrative mechanisms (Rahardjo, 2009). In the context of North Sumatra, ignoring the history of land ownership and social relations actually prolongs agrarian conflicts and encourages the criminalization of farmers and indigenous communities.

The investment-oriented direction of national policy exacerbates these problems. Law No. 11 of 2020 concerning Job Creation and its derivative regulations facilitate licensing and provide business certainty, including regarding the extension of HGU (UU Land Title). While this policy is intended to stimulate economic growth, it requires strong countervailing mechanisms to prevent the social function of land and the protection of community rights. Without strict oversight and evaluation, this ease of licensing has the potential to deepen inequality in land ownership structures, particularly in agrarian regions like North Sumatra.

In this context, regulatory reform and a paradigm shift in land tenure are urgently needed. From a regulatory perspective, strengthening the HGU evaluation mechanism, including the revocation of land rights that violate the social function of affirming maximum land tenure limits, is necessary, as is integrating customary territory recognition into the national land administration system.

Implementation of Presidential Regulation No. 86 of 2018 concerning Agrarian Reform needs to focus on conflict-affected and former HGU areas in North Sumatra, with land redistribution and conflict resolution as top priorities.

Paradigmatically, land law policy must move beyond a state-centric and market-centric approach toward a paradigm of social justice and agrarian legal pluralism. Within this framework, the state's role is not merely that of a permit issuer; it must also play a protective role for the constitutional rights of citizens, particularly indigenous communities. Harmonization between state law and customary law is a crucial prerequisite for preventing unilateral domination and ensuring that land control is truly directed towards the greatest possible prosperity of the people.

Factors Causing Agrarian Conflict in North Sumatra

Agrarian conflict in North Sumatra is a multidimensional, structural phenomenon, born from the complex interaction of regulatory factors, legal politics, and customary law dynamics. This conflict is not simply a dispute over individual ownership, but rather a manifestation of land policy design that has not fully accommodated the plurality of land tenure systems, power relations, and socio-economic interests of the community.

1. Regulatory Factors and Normative Disharmony

Agrarian conflicts in North Sumatra are largely determined by the inconsistency between national agrarian legal norms and sectoral regulations, which give rise to legal uncertainty and disputes in the field. Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) affirms that land is controlled by the state to be used as much as possible for the prosperity of the people and emphasizes the principle of the social function of land and the recognition of customary rights of indigenous peoples. (Harsono, 2008). Agrarian legal doctrine states that this principle aims to maintain a balance between the interests of the public, investors, and local communities, so that land does not merely become an instrument of capital accumulation for a handful of parties. (Sumardjono, MSW 2009).

However, practice in North Sumatra shows that sectoral regulations in the plantation, forestry, and spatial planning sectors are often partial, fragmented, and unintegrated, resulting in overlapping rights between Cultivation Rights (HGU), forest areas, and customary lands historically managed by communities. (KPA Agrarian Reform Consortium, 2023) Land administration approaches that emphasize formal legality such as certificates or concession permits often ignore the historical and social aspects of land tenure. Many customary lands that have been managed for generations are categorized as state lands due to the lack of official documents, creating substantive legal uncertainty that increases the potential for conflict when investment interests collide with local community claims.

Furthermore, the practice of administratively extending HGU often ignores the evaluation of the land's social function, even though the Basic Agrarian Law (UUPA) emphasizes that land rights must take into account the interests of the wider community and its social function. This situation marginalizes communities who have long managed the land, weakens their access to agrarian resources, and has the potential to give rise to recurring disputes. The fragmentation of sectoral legal regulations also makes land policies less responsive to local needs and principles of substantive justice. Agrarian law experts emphasize the importance of regulatory harmonization, sectoral legal integration, and substantive evaluation of HGU as efforts to minimize conflict and achieve social justice in the land sector.

2. Political Factors: Dominance of Economic Interests and Power

Agrarian conflicts in North Sumatra are largely influenced by the political dimension of land law, which is pro-investment and emphasizes economic growth. The granting of large-scale Land Use Rights (HGU) to plantation companies, particularly in the palm oil sector, reflects a power relationship that positions the state as a guarantor of capital interests.¹ From a political-legal perspective, land is positioned as a strategic resource for economic accumulation, while the interests of local communities, including indigenous peoples and smallholder farmers, are often seen as obstacles to development.

This inequality is exacerbated by the weak bargaining power of communities in the formulation of land policies. Minimal public participation, low transparency, and a superficially formal consultation mechanism result in policies being developed without consideration of the community's social and historical circumstances.³ The practice of extending HGU (UU Land Title) or concession permits is often carried out solely based on administrative procedures without substantive evaluation of social and environmental impacts, giving rise to chronic structural conflicts.

The political paradigm of land law in Indonesia also emphasizes formal legal certainty, such as the legality of certificates and concession permits, as a measure of legitimate land ownership. According to Satjipto Rahardjo, this approach risks ignoring the principles of substantive justice and the social realities of society, allowing agrarian conflicts to develop into structural inequalities in the distribution of agrarian resources.

Law No. 11 of 2020 concerning Job Creation further strengthens the pro-investment orientation through streamlined licensing and simplified HGU procedures. While aimed at promoting economic growth, this regulation requires a balancing mechanism to ensure the social function of land and the rights of indigenous communities are protected. Without adequate oversight and evaluation, pro-investment policies have the potential to widen land ownership inequality in agrarian regions like North Sumatra.

Thus, political and legal factors are not only the underlying cause of conflict but also reinforce structural patterns that prioritize economic interests over the constitutional rights of the people. Therefore, a reorientation of the political and legal paradigm of land matters is needed, one that favors social justice, the protection of customary rights, and the harmonization of public interests in land policy.

3. Customary Factors: Marginalization of Customary Rights and Unaccommodated Legal Pluralism

Agrarian conflicts in North Sumatra are not only economic and administrative in nature, but also cultural and legal in nature, as they relate to the recognition of customary rights. From a customary law perspective, these conflicts arise from the state's lack of recognition of customary-based land tenure systems, which have existed historically and been passed down through generations. The Batak indigenous community, for example, recognizes various forms of land tenure, such as customary land, partuanan land, and pusaka land, which have social, cultural, and spiritual dimensions. These rights are not simply physical rights to land, but also serve as instruments for regulating social relations, community hierarchy, and collective identity.

Although Article 18B paragraph (2) of the 1945 Constitution affirms that the state recognizes and respects the existence of indigenous communities and their traditional rights, its implementation in the national legal system remains limited and procedural. The national legal system, which is monistic and administrative in nature, tends to prioritize the formal legality of certificates, concession permits, and

administrative recognition, so that the pluralism of agrarian law rooted in customary law has not been fully accommodated. As a result, many customary areas have not yet obtained state legal legitimacy, making customary land vulnerable to being converted into state land or transferred as HGU concessions.

Constitutional Court jurisprudence provides a corrective approach to this problem. Constitutional Court Decision No. 35/PUU-X/2012 affirms that customary forests are not state forests, but rather are located within the territory of customary law communities. Therefore, recognition of customary rights must be a prerequisite for land management and permit issuance. Furthermore, Supreme Court Decision No. 34 K/Sip/1960 emphasizes the importance of actual and good faith physical control as a factor in assessing land rights, which aligns with customary law principles that emphasize hereditary use as the basis for legitimacy.

The failure to accommodate customary law within the national legal system has given rise to structural conflicts between indigenous communities, the state, and corporations, particularly when customary territories are located in locations with high economic potential. Without the integration of agrarian legal pluralism into national land policy, such conflicts tend to recur and become chronic, as the state places greater emphasis on formal legal certainty than on substantive justice. Therefore, the recognition and legal protection of customary rights must be a priority in political land law reform, harmonizing state and customary law, and promoting social justice and agrarian sustainability.

4. CONCLUSION

Land conflicts in North Sumatra reflect a legal policy governing land tenure that does not yet promote social justice, where formal legal certainty for investors often trumps the rights of indigenous communities. Regulatory disharmony, a pro-investment political orientation, and weak recognition of customary law lead to structural and recurring disputes. Therefore, land policy reform is needed that affirms the recognition of indigenous peoples' rights, strengthens agrarian reform, and prioritizes conflict resolution based on social justice, so that land tenure contributes to people's welfare and agrarian sustainability.

REFERENCES

- Arief, Barda Nawawi. (2008). *Problems of Law Enforcement and Legal Policy*. Jakarta: Kencana.
- Arief, Barda Nawawi. (2008). *Problems of Law Enforcement and Legal Policy*. Jakarta: Kencana.
- Hadjon, Philipus M. (2005). *Introduction to Indonesian Administrative Law*. Yogyakarta: Gadjah Mada University Press.
- Harsono, Boedi. (2008). *Indonesian Agrarian Law: History of the Formation of the UUPA, Its Contents and Implementation*. Jakarta: Djambatan.
- Ibrahim, Johnny. (2006). *Theory and Methodology of Normative Legal Research*. Malang: Bayumedia Publishing.
- Agrarian Reform Consortium. (2023). *Year-end notes on agrarian conflicts in Indonesia*. Jakarta: KPA.
- Marzuki, Peter Mahmud. (2017). *Legal Research*. Jakarta: Kencana.
- Supreme Court Decision Number 34 K/Sip/1960.
- Constitutional Court Decision Number 35/PUU-X/2012.
- Rahardjo, S. (2009). *Law and social change*. Yogyakarta: Genta Publishing.
- Soekanto, Soerjono, & Mamudji, Sri. (2015). *Normative Legal Research: A Brief Review*. Jakarta: RajaGrafindo Persada.

Sumardjono, Maria SW (2009). *Land Policy: Between Regulation and Implementation*. Jakarta: Kompas.
Law Number 5 of 1960 concerning Basic Agrarian Regulations.

