



## ARTÍCULOS

UTOPIA Y PRAXIS LATINOAMERICANA. AÑO: 25, n° EXTRA 2, 2020, pp. 255-263  
REVISTA INTERNACIONAL DE FILOSOFÍA Y TEORÍA SOCIAL  
CESA-FCES-UNIVERSIDAD DEL ZULIA. MARACAIBO-VENEZUELA.  
ISSN 1316-5216 / ISSN-e: 2477-9555

# Policies on prevention and eradication of land mafia: Agrarian reform in Indonesia

*Políticas de prevención y erradicación de la mafia terrestre: La reforma agraria en Indonesia*

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Este trabajo está depositado en Zenodo:

DOI: <http://doi.org/10.5281/zenodo.3809387>

### ABSTRACT

One of the main causes of land disputes is due to the actions of the land mafia. The purpose of this research is to analyze and formulate policies on the prevention and eradication of the land mafia in Indonesia. The method used is qualitative research, and this type of research is included in the category of library research, and the research approach is descriptive-analytic. While the data analysis technique in this study uses the Miles and Huberman models, the conclusion from this study is that land dispute resolution cannot be made legally in Anich.

**Keywords:** Agrarian reform, eradication, land mafia, prevention.

### RESUMEN

Una de las principales causas de disputas por la tierra se debe a las acciones de la mafia de la tierra. El objetivo de esta investigación es analizar y formular políticas sobre prevención y erradicación de la mafia terrestre en Indonesia. El método utilizado es la investigación cualitativa y se incluye en la categoría de investigación bibliotecaria y el enfoque es analítico descriptivo. La técnica de análisis de datos utiliza los modelos de Miles y Huberman. La conclusión de este estudio consideró que la resolución de disputas de tierras no se puede hacer legalmente en Anich.

**Palabras clave:** Erradicación, mafia de la tierra, prevención, reforma agraria.

Recibido: 22-03-2020 • Aceptado: 30-04-2020



## INTRODUCTION

The land is a significant asset in encouraging accelerated physical development in Indonesia, because it has economic value that moves quickly to follow financial and technological developments. For infrastructure development, a large amount of land is needed, while for urban and industrial development, the need for the property is getting faster. In contrast, the available area is minimal. The need for land is very significant with the development, especially in developing countries. As a result of this, the dimensions of the area are increasingly growing, which at first were only a few but currently include the legal, economic, political, sociological, religious, cultural, and strategic dimensions of the state (Ginting: 2016).

Departing from the description above, as a result, land prices move quickly to follow the dynamics of development. So that land in urban areas is now scarce, meaning that even if there is a price, it does not make sense. This, on the one hand, has a positive impact on landowners in improving welfare. Still, on the other hand, it has a negative effect because all capital owners are competing to control land assets legally or illegally.

There are several modes of land mafia to control land, among others, buying community land at a low price that is being worked on state land, controlling land rights that are not regulated in the law. For example, the use of girik as a sign of land ownership, falsification of land ownership documents both, thus giving rise to a double certificate, suing land ownership in court with certain maneuvers and giving arguments, so that the court's decision sided with the plaintiff. These modes are usually carried out systematically between financiers, land speculators, land certificate brokers, local government officials, law enforcement officials, and land office personnel who are typically carried out in an organized manner by the land mafia.

Land Mafia according to the Technical Directive of the Directorate of Agrarian Issues in Spatial and Land Utilization, Number 1/Technical Guidelines/DJ-VII/2018, are individuals, groups, or legal entities that commit intentional acts to commit crimes that can cause and cause impeded implementation of the handling land cases. In general, land disputes can occur due to the first, past state policies, secondly, social inequality and thirdly, weak law enforcement, and a large number of neglected lands (Sodiki: 2013).

From these conditions, it can encourage conflicts and land disputes in the community, which in turn can lead to material and immaterial losses for the Indonesian people. Statistically, the number of land disputes continues to increase, while what is very worrying is that land disputes are increasingly complex; for example, in the 2018 conflict numbered 2997, while land disputes numbered 7739 cases. Policies relating to the handling of agrarian conflicts including land have specifically been mandated in the Decree of the People's Consultative Assembly (MPR) Number IX/MPR/2001 Article 5 paragraph (1) letter d which emphasizes that the need for careful attention to resolving resource conflicts agrarian issues that have arisen so far as well as anticipating potential disputes in the future to ensure the implementation of law enforcement by taking into account the principles contained in customary law.

The policy in the field of agrarian resources contains two possibilities, namely, on the one hand, it can resolve conflicts by accommodating the interests of the people who have been marginalized. Still, on the other hand, it can lead to new disputes if not handled comprehensively. One of the manifestations of the implementation of the decree of the Indonesian People's Consultative Assembly is actually to carry out agrarian reform, especially regarding the arrangement of land tenure and ownership, which is very urgent to be noticed by the government.

If this is realized too late, it will cause concern for us because amid society due to land conflicts often lead to acts of violence that can disrupt the stability of economic growth and the rule of law that is just. With the above land dimensions, land issues in Indonesia are no longer a primary problem. Still, according to the author, it has become a fundamental and multicomplex problem, meaning that the solution also requires a comprehensive or interdisciplinary approach.

In line with this, Aditjondro stressed that the resolution of land disputes in Indonesia is multi-dimensional, meaning that the current land dispute resolution cannot be land law (Aditjondro: 1993). In resolving some of

the problems mentioned above, the authors intend to analyze efforts to prevent and eradicate land mafias in Indonesia, which until today has not been able to be overcome, so that it can interfere with the acceleration of agrarian reform whose regulations have been regulated in Presidential Regulation number 86 the Year 2018. This regulation aims to prevent inequality in land tenure and ownership, create economic resources and improve the environment and increase food security and sovereignty as well as enhancing and maintaining the quality of the environment including resolving agrarian conflicts - land disputes, creating jobs, improving community access to agrarian-based sources of prosperity, whose goals all encourage the welfare of the community or farmers. From the problem, the researcher examines why, to this day, the government has not succeeded in preventing and eradicating the land mafia in Indonesia, and what is the solution? With a legislative, economic, and political approach.

## **METHODS**

This research is qualitative research, following the object of study. In this article, this type of research is included in the category of library research. According to Nugrahani and Hum (Nugrahani & Hum 2014), library research is sometimes descriptive and also has historical characteristics, including religious research. Therefore library research will face data sources in the form of books, which are so numerous that they require adequate methods. For that in library research, collecting books must be gradual, because it would be difficult if it were not so by using data from various references, both primary and secondary. Documentation techniques collect the data, namely by reading, studying, studying, and recording literature that is related to the problem discussed in this article (Mustafin et al.: 2019, pp. 260-270).

Then the data analysis technique is performed. The method used in this article is the data analysis technique. In this model, the qualitative analysis activities are carried out interactively and continuously until deemed sufficient. According to Wesoly and Ciosek (Wesoly & Ciosek: 2018, pp. 570-580), there are two stages in the data analysis technique in this library research. First, the analysis at the time of data collection is intended to capture better the essence or essence of the focus of research that will be carried out through sources collected and contained in the verbal formulation of language, this process is carried out aspect by aspect, according to the research map

Second, after the data collection process has been carried out, the analysis will then be re-analyzed after the data collected in the form of raw data must be determined about each other. The data collected is not necessarily entirely answer the problems raised in the study. Therefore it is necessary to re-analyze the data that has been clarified. The data analysis activities of this model include, among others, data reduction, data display, and conclusions or verification (conclusion/drawing/verification) (Wesoly & Ciosek: 2018, pp. 570-580; Solovyev et al.: 2019, pp. 215-227).

## **RESULTS**

### **Land mafia, land conflicts and disputes, agrarian reform**

The term "land mafia" is a term known in land acquisition or substance of conflicts and land disputes. In the Big Indonesian Dictionary, it is stated that the mafia is a secret society that is engaged in land crime. So the land mafia is a secret group involved in land crime. While land speculators are people or legal entities, as well as a group of people engaged in land business aimed at seeking large profits by speculating.

According to Widjanarko (Widjanarko: 2017), mafia discourse is a group of organizations that have an extensive network with silent operational systems in crime. This means that its activities are not very clear, making it difficult for law enforcement to reach. In line with the definition above, the regulation of technical

guidelines for handling agrarian and spatial issues, explains that the land mafia is a deliberate act by law subjects to commit crimes that can cause and cause an obstruction in the handling of land cases.

From this description, it can be explained that the understanding of the land mafia is an action taken by an individual or group to systematically design and carry out an effort to control the legal or illegal land in the object of the dispute to obtain profits. There are several modes by which the land mafia is carried out, resulting in land disputes as follows: 1) The village head makes a copy of the Girik, makes a certificate of non-dispute and makes a certificate of land more than once against the same parcels; 2) Falsification of land-related documents such as eigendom cards and land certificates; 3) Provoking the farming community or cultivators to occupy or cultivate land illegally on the right to develop plantations, both those that are going to end or are still valid; 4) Changing/shifting/removing markers of land boundary markings; and 5) Submitting an application for a replacement certificate because it is lost if the document is not lost and is still in possession of the owner, resulting in the emergence of multiple materials.

### **Land conflicts and disputes hamper agrarian reform**

In a country, land conflicts and disputes are a necessity because the land is minimal, while population growth cannot be dammed. This means that quantitative land disputes will be difficult to the weir, but that is very worrying at this time for our nation the quality of land disputes is increasingly complex because of the influence of the dimensional development of the land.

According to Fu and Gillespie (Fu & Gillespie: 2014), A paradigm shift in land dispute resolution with a long term impact on the political landscape. This means that the political development of land law as a modern state will change the paradigm of land dispute resolution, which is rational, efficient, and measurable. This is what we need to reach as part of the world's citizens in the development of land dispute settlement in the future.

From the diverse opinions on the roots of the problems above, mainly the conflicts of land affairs that turn into land disputes in Indonesia resulting from 1) The less order cleanliness of the land administration in the past; 2) Unbalanced land ownership and ownership structures; 3) Negative publication system of land registration; 4) Increases in needs of lands, so the prices of minerals become uncontrollable; 5) Overlapping legislation, both horizontally and vertically, as well as the regulated substances; 6) The still many abandoned lands; 7) The less carefulness of notaries and land deed issuing officers in doing their duties; 8) There is no unity of perception or interpretation between law enforcers, particularly judgments, on applicable land legislations; 9) The law enforcers do not commit to implementing prevailing consequently and consistent legislations (Ginting: 2016). The understanding of the diverse roots of problems can be made as a base in an attempt to resolve the land disputes that occur

### **Efforts to prevent and eradicate land mafia**

The spirit of the government looking for a way out and solving the problems of land ownership in Indonesia must be welcomed positively. Still, these efforts must pay attention and look for the background of the leading causes of the difficulty of handling land cases in Indonesia. The root of the problem of ownership is inseparable from the development of the land dimension due to the increasing need for land along with the acceleration of physical development throughout the archipelago. Furthermore, George J. Aditjondro (Aditjondro: 1993) explained that agrarian disputes in Indonesia cannot be understood only as agricultural disputes or land disputes, but are interrelated with the development of the economic system, minority-minority rivalry, and inequality between traditional and modern societies. One aspect of the difficulty in resolving land disputes is due to the emergence of speculators buying as much land as possible to make business objects that are contrary to the spirit of the LoGA which emphasizes that land tenure and ownership beyond the limits are not allowed. Although restrictions on agricultural land have existed since 1961, it is no longer in line with current conditions, while restrictions on land tenure and ownership in urban areas have not yet lived.

The rise of land brokering arises because of hidden information obtained by speculators from the government who will conduct land acquisition that is closed. This means that it was not announced to the people before the planning, but the plan was often leaked to land speculators, this is great for the land mafia network which is invisible to its form, but to this day it still exists in the land sector.

From the understanding of the various root causes, it can be made as a starting point in efforts to prevent and mitigate it. In the future, the spirit of the reform era, especially the development and renewal of the National Land Law, must pay attention to the mandate of the 1998 reform as outlined in the MPR regulation. This means that the development paradigm which is used as the basis for the operation of land use must be based on three pillars, namely, respecting and protecting human rights, the sustainability of the productive assets of the community and the upholding of sound governance principles and prioritizing democratic economic development in the land sector.

By observing the above paradigm, various efforts to prevent land mafia can be proposed in resolving land disputes or minimizing conflicts and land disputes, including narrowing the space for land speculators. These efforts can be taken simultaneously. In the field of legislation, the following efforts are needed: a) Efforts to synchronize various laws and regulations while waiting to be passed the national land law; b) Consistent and consistent enforcement of laws and regulations; c) Equal perception or interpretation of laws and regulations and their follow-up.

In the institutional sector as follows: a) The role of strict and sustainable division between central and regional governments is needed in managing natural resources; b) Establishment of a task force to prevent and eradicate land mafia at the central and regional levels; c) The establishment of a task force for the prevention and eradication of the land mafia in addition to involving relevant government agencies, for example, the Government, the Land Office, the Prosecutors' Office, the police. It also involves an independent team of sustainable land law lecturers, meaning that it is not temporary; d) Forming an anti-extortion team such as the existing broom cleaning illegal levies (saber extortion), but it must be sustainable, meaning that it is not temporary. The team must also work together with relevant agencies and law enforcers.

### **Law enforcement of land mafia practices**

Law enforcement is an effort to enforce the laws and regulations consistently by involving law enforcers. According to Buchanan (Buchanan: 2017, pp. 175-211), law enforcement is an attempt to synchronize the values that live in society to achieve peace in community activities. Whereas in the criminal aspect of law enforcement as the actors are the police and prosecutors. Thus it can be concluded that the implementation of the law is an effort to implement legislation consistently and consistently. These legal norms are guidelines that are deemed appropriate or appropriate or should be.

If we pay attention to law enforcement, there are several interrelated factors, including the legal substance, supporting facilities, and the culture of the community. The three variables must be fulfilled so that law enforcement can run as it should. While according to Sulistyowati (Sulistyowati: 2017), in line with the statement above, that there are several interrelated things, namely, regulation, the professionalism of law enforcement, legal facilities and infrastructure, and the legal culture of the community. Of the several factors that still need to be improved is professionalism, because the recruitment of law enforcers has now been damaged because the practice of bribery to become a legal apparatus has become a public secret. While the legal awareness of the community is inseparable from the legal system, the law enforcers must be a role model for the community.

Law enforcement is very closely related to legal authority. The law is authoritative if the law is a social force if it is obeyed. The law will strengthen if it has the support of the prevailing value-system in society, the existence of legal awareness of law enforcers acting objectively and supported by the government and pressure groups or political parties. Laws are supported by users of the law because the values of these laws

reflect the values that grow and develop in society and meet the philosophical, juridical, and sociological requirements (Roberts: 2018).

Land dispute cases dominate in cases handled by the court, so it takes longer to be settled. In addition, the quality of land disputes is increasingly complex. During these uncertain conditions, it provides an opportunity for the entry of the influence of the land mafia and the judicial mafia to inhibit law enforcement, which in turn defeats the financially weak community. We cannot just leave it alone, because it will damage the world of law while harming the nation's and nation's children.

### **Criminal law enforcement against land mafia**

The land mafia is a part of the problems that cause conflicts in the land sector with several modes carried out above. They can do this because of networking and cooperation with central government officials, local government officials, land offices, private sector business entities, private elements, and law enforcement officials.

The land mafia has a very large role in the misappropriation of land, among others, colluding in the determination or change of land allotment. Land use permits that often involve the Governor or Regent / Mayor who in several times has been arrested by the Corruption Eradication Commission with a bribery operation with bribery mode official Collusion in the making of land certificates, resulting in multiple certificates, colluding with government officials, law enforcers so that private companies own some land. Sometimes even government or private programs can be hampered if not through the land mafia.

Based on the description above, the law enforcement of the land mafia cannot be done partially but requires integrated and comprehensive involvement by involving all elements of the institutions associated with the land office by including academics. In this law enforcement, it is very much needed a consistent and sustainable political will of the government, meaning that it is not temporary or temporary, for example, such as forming a Wild Sweeping Sweep Team which has broad duties, functions, and authority in anticipating and overcoming illegal levies that occur government agency environment. Because of the huge negative impact of the land mafia act, the handling must be more intensive by involving the Corruption Eradication Commission (KPK) to carry out repressive actions with a pattern of arrest operations (OTT), because this institution has sophisticated instruments and equipment in the disclosure of cases a violation of the law (Syarif: 2012).

### **DISCUSSION**

Direct and indirect consequences of land mafia actions increase the number of land disputes, disturbing landowners, disrupt the investment climate in the housing sector, and make it difficult to achieve legal certainty over land ownership. The Head of National Land Affairs provides several land mafia criteria, namely, complex or broad dimension land disputes, indicated involvement of the land mafia in it, against decisions that have permanent powers stating that the holders of land rights are defeated, even with the certainty that the basis for the rights used by the party won in the case is the basis of improper rights according to the land legislation has been declared no longer valid. Usually, the object of the dispute is using Eigendom Vervonding or other proof of western rights that are not registered at the local land office. Or using fake documents such as the heir's statement.

In conditions of rampant conflicts and land disputes, while the resolution of land disputes in the courts requires a long time, high costs, the people with small capital are usually unable to keep up with the judicial process, especially to the level of cassation or review, this is where the land mafia at the same time the judicial mafia is utilizing momentum to win cases in court because they have a wide network and strong capital.

One obstacle to realizing agrarian reform that has been designed since the reform era in May 1998 is the result of many conflicts and land disputes that have not been resolved. Therefore the government must be present in making regulations and solid interagency related teams be able to prevent or at least minimize land

conflicts and disputes so that the space for speculators and land mafias can be minimized. Government efforts in resolving these problems have been set out in the Jokowi-Jusuf Kalla Cabinet Nawacita, including Point number 4, the State intends to implement system changes and eradicate corruption at its roots, to reach a civilized and trusted nation, while point number 5, the state intends to improve the lives of the people economically and implement a land reform program to distribute land to people who are unable to periodically and sustainably (Rawls: 2009; Galisanka: 2019).

Besides that, the government wants to improve the quality of human life and realize the structuring of land ownership opportunities that are justly resolving conflicts and land disputes, creating jobs. We expect a lot that the realization of this agrarian reform can be carried out by the ruling government. To realize this mission, the Government made an agrarian reform program by issuing regulations on agrarian reform.

Law enforcement on land crimes in the context of conflict prevention and resolution, especially in law enforcement, the government must be proactive rather than reactive, let alone the government seems to be neglecting the problems related to land. This means that the government seems to be passive, waiting for the conflict to emerge, and then act as a firefighter. This happens because the community or the company are closed to the real problem, and the intervention of the land mafia is so strong that it makes it difficult to resolve the conflict, and eventually, it becomes a land dispute. Therefore, efforts to prevent land conflicts cannot be resolved partially, but it requires an integrated countermeasure concept from all elements of law enforcement, government, land offices, nongovernmental organizations, politicians, and community leaders. This happens because of the complexity and breadth of the dimensions of conflict resolution and land disputes (Nugrahani & Hum: 2014).

Mitigation efforts by paying attention to the root of the problem, then the solution of problem-solving can be conveyed as follows: a) From the economic aspect, the existence of the company should be needed by the community, meaning that between the company and the surrounding community there is a mutual symbiosis (mutual need) in achieving common needs; b) From the aspect of the government, it must conduct supervision and direct the company to care for the surrounding community, it is not enough to only fulfill social responsibility. The most important thing is how the role of the government, especially the Land Office, improves performance in improving the orderly quality of land administration, land registration and data collection of state or state assets, State-Owned Enterprises and private and private lands in the form of land status maps; c) From the political aspect, politicians must be able to position themselves professionally in encouraging correct conflict resolution by the procedural and applicable laws and regulations; d) From the socio-cultural aspect, the community must be involved in the development process, to improve the welfare and sense of belonging to the existing environment and community leaders or traditional leaders must play a role in resolving conflicts; e) From the aspect of law enforcement, that prevention and prevention of crime must be prioritized accompanied by strict, consistent and professional law enforcement against anyone who commits lawlessness; f) Need to establish an integrated team between related agencies in handling conflicts involving non-governmental organizations and land law lecturers so that it makes it easier to coordinate with related agencies.

Violations of the law against the land sector include civil and criminal cases. Criminal acts as regulated in book II of the Criminal Code. It is called a land crime because its object or purpose is to control the land. There are several articles in the Criminal Code relating to criminal aspects such as land grabbing, falsification of land documents, and embezzlement of land known as crime stallion at, including article 385 of the Criminal Code. The criminal aspect in the LoGA is regulated in Article 53, which states that a crime against land is called a violation.

In the perspective of criminal aspects, anyone who is involved in land mafia practices can be applied to a specific criminal act, namely the criminal act of corruption, as an act of abuse of authority. By implementing articles that regulate participation and help emphasize that, which regulates involving as a perpetrator, ordered

to do, participate in committing or providing assistance in committing criminal acts (Harsono: 2015; Pakes: 2019).

The idea of forming a land mafia task force is an effort that needs to be followed up but must be sustainable, meaning that it is not only temporary and the team members besides the Land Office, the prosecutor's office, and the police should also involve land law lecturers. While the spirit of realizing a special court institution of land is a necessity that is very urgent given the land cases that are happening today and in the future are increasingly complex, broad, and cross-sectoral in impact. Also, in the present and future quantitative land cases continue to increase, even based on the author's experience as an expert witness, the quality of land disputes has become more complex, even compounded by the fact that the land mafia is increasingly difficult to achieve fair legal certainty. It is expected that through the land court the handling of land cases can be resolved effectively, efficiently and professionally, so that the interests of the community can be protected, because the judges focus on land disputes and the judge must prioritize those who master the land law and agrarian law from the beginning of his career (Ismail: 2007; Laureano et al.: 2018, pp. 4-7).

## **CONCLUSION**

From the foregoing, it is clear that land conflicts that cannot be resolved, as a result, lead to land disputes that finally resolve efforts to end up at the court as the last bastion to obtain fair legal certainty. Also, land disputes are very complex and multidimensional. Therefore, it is necessary to make a joint commitment to prevent and eradicate the land mafia to its roots consistently and sustainably. This means that this effort is not temporary, by forming a land mafia task force team from the center and the regions and revitalizing the anti-extortion team (extortion saber team) within the government environment but more specifically within the Land Office.

It was then empowering the Corruption Eradication Commission's institution to its full potential to take preventive and repressive measures. Repressive action by increasing the frequency of Operation Catch Hands (OTT), because this institution has sophisticated instruments and equipment in the disclosure of bribery cases about land mafia actions that can regulate land use and spatial change and land use permits in the regions. The establishment of a land court as a special court is a necessity that needs to be implemented immediately through the enactment of the Land Law, which is almost final in parliament, so that the handling of land cases due to land mafia can be resolved effectively, efficiently and professionally. In realizing this effort, we need the political will of the government consistently and sustainably.

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