

Complexity of Agrarian Law Regulations in Disputes over Unauthorized Use of Land

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ABSTRACT

Background: The complexity of agrarian law regulation in Indonesia has led to significant legal uncertainty and social conflicts, particularly regarding unauthorized land use. Land, as a vital resource in agrarian societies, often becomes the center of disputes due to ineffective land administration, the misuse of land certificates, and corrupt practices.

Objective: This study aims to analyze the challenges in agrarian law regulation and propose measures to address disputes over unauthorized land possession.

Methodology: Using a normative legal research method, this study examines relevant regulations, including Law No. 5 of 1960 on the Basic Agrarian Law, through legislative and conceptual approaches.

Findings: The research identifies key challenges, such as inefficiencies in land administration, abuse of legal documentation, and systemic corruption. To resolve these issues, improvements in the land administration system, stricter enforcement of laws, and increased legal awareness among the public are necessary.

Conclusion: The study concludes that more effective agrarian policies are essential to address disputes over unauthorized land use, ensuring legal certainty and minimizing conflicts.

KEYWORDS

Agrarian Law, Indonesia, Land Administration, Legal Certainty, Unauthorized Land Use.

INTRODUCTION

Natural resources such as water, earth, outer space, and all that they contain are gifts from the Almighty bestowed upon humanity, especially in Indonesia. These resources play a vital role in the development of a just and prosperous society (Santos, 2024). The regulations governing land management and other natural resources are encapsulated within Agrarian Law. This body of law is crucial to ensure that land use is conducted fairly and contributes to the welfare of the Indonesian people. Land, which is the primary focus of agrarian law, holds immense value as it serves as a fundamental resource in human life. It not only serves as a place for farming but also constitutes a source of wealth,

Citation: Cahyadi, D., & Saptomo, A. (2024). Complexity of Agrarian Law Regulations in Disputes over Unauthorized Use of Land. *Rechtsnormen Journal of Law*, 2(4), 389-399.

<https://doi.org/10.70177/rjl.v2i4.1692>

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Received: December 7, 2024

Accepted: December 17, 2024

Published: December 30, 2024



as it harbors various potentials that can generate income for its owners or possessors. In this context, the complexity of agrarian law regulation is essential in resolving disputes over unauthorized land use (Castro, 2024). Without clear and strict regulations, the abuse of land through illegitimate possession will persist, threatening social and economic stability.

Land regulation in Indonesia is fundamentally governed by Law No. 5 of 1960, commonly known as the Basic Agrarian Law (UUPA) (Muntaqo dkk., 2024). Following Indonesia's independence in 1945, the country experienced a dualism in agrarian law, where the colonial land laws left behind by the Dutch coexisted with customary law derived from Indonesian society's traditions. This legal dualism persisted for over a decade, resulting in ambiguity regarding land governance in Indonesia. In response to this situation, the Indonesian government enacted the UUPA in 1960 to eliminate this dualism, integrating national agrarian law into a cohesive system (Narayan, 2024). The UUPA aims to revoke all provisions of Dutch Agrarian Law and establish customary law as its material foundation, as well as to implement the principle of legal unity in agrarian law that applies throughout Indonesia.

The primary objective of enacting the UUPA is to lay the foundations of agrarian law that can guarantee prosperity, happiness, and justice for the Indonesian people, particularly the farmers, to create a fair and prosperous society (Ustyukova, 2023). The UUPA also seeks to simplify and unify land laws in Indonesia and provide legal certainty regarding land rights for all citizens.[4] In the complex framework of agrarian law regulation concerning disputes over unauthorized land use, the UUPA provides a robust foundation for dispute resolution. However, despite the UUPA's clear regulations regarding land rights and obligations, the application of these regulations in addressing violations of unauthorized land use often faces challenges (Rudy Haryanto & Lailatul Maufiroh, 2023). Weak implementation factors, insufficient oversight, and difficulties in law enforcement hinder the achievement of the goals set forth by the UUPA, thereby necessitating efforts to strengthen oversight mechanisms and law enforcement to enhance the effectiveness of these regulations in preventing and addressing unauthorized land use disputes.

Land regulations play a vital role in the management of natural resources, as land, being the primary natural resource, has wide-ranging impacts on social, economic, and environmental aspects (Liang, 2021). In addition to regulating land use by individuals or groups, land regulations must consider broader interests, such as social and sustainable environmental concerns. The objectives of land law extend beyond merely conferring ownership or possession rights; they also aim to ensure that land use is carried out judiciously, prioritizing sustainability and the public interest. Through clear regulations, land law aids in managing land conversion, restricting harmful resource use, and governing areas involving social and ecological diversity (Grossman, 2022). Thus, land law is critical in preventing excessive exploitation that could harm the environment and exacerbate social inequalities while promoting more inclusive and sustainable development.

Regarding land ownership rights, some parcels of land in Indonesia have clear ownership titles; however, some areas, such as state land, lack a definitive legal status. Although land regulations have been established to protect ownership rights and prevent violations, numerous cases of unauthorized land use continue to occur (López Romero, 2023). It is attributed to challenges in law enforcement, discrepancies between existing regulations and their implementation, and a lack of a holistic approach to land oversight and management. Despite regulations such as the Basic Agrarian Law (UUPA) outlining land ownership rights, violations concerning unauthorized land use persist in practice.

Article 16 of Law No. 5 of 1960 (UUPA) delineates the rights contributed to citizens regarding land ownership, including Ownership Rights, Cultivation Rights, Building Rights, Usage

Rights, and others (Sobolieva, 2023). Additionally, Article 53 of the UUPA regulates temporary rights granted to specific parties. Although these regulations exist to provide a legal basis for land ownership and use, many cases illustrate that these provisions have not been fully effective in preventing violations. The gap between existing regulations and their field implementation often becomes an obstacle in resolving disputes concerning unauthorized land use, requiring greater attention to law enforcement. Based on this exposition, the author will discuss the complexities of agrarian law regulation regarding disputes over unauthorized land use in this writing (Nandwani, 2022). Furthermore, this research will address the challenges and efforts related to agrarian law regulation in unauthorized land use disputes.

RESEARCH METHODOLOGY

The normative legal research method is a methodology utilized in legal studies that focuses on the examination of documents and legal norms (Fortou dkk., 2023). This method analyzes the applicable legal rules and how these rules are implemented or interpreted within a specific context. In normative legal research, the primary sources utilized are statutes and other legal literature. This approach is particularly relevant for investigating legal issues that are theoretical and conceptual in nature, such as examining the complexities of agrarian law regulation in disputes over unauthorized land use (Tchatchoua-Djomo dkk., 2020). Additionally, this research will address the challenges and efforts related to agrarian law regulation in unauthorized land use disputes. Some of the approaches employed within this method are the statute approach and the conceptual approach. The statute approach involves examining and analyzing various rules that govern specific issues, such as Law No. 5 of 1960 concerning the Basic Agrarian Law and related regulations (Hinojosa, 2021). Through this approach, researchers can discuss the complexities of agrarian law regulation in the context of disputes over unauthorized land use.

RESULT AND DISCUSSION

Complexity of Agrarian Law Regulations in Disputes over Unauthorized Use of Land

Unauthorized land occupation refers to the actions of individuals or legal entities that unlawfully possess or utilize land that is not theirs, without any legal basis or proper permission. In many land-related cases, this act is considered a serious legal violation. Land holds immense significance in the lives of the Indonesian people, particularly because Indonesia maintains a strong agrarian culture (Mohylnyi dkk., 2022). It is seen not merely as a place for living or agriculture but also as a symbol of wealth and social identity for many communities. Consequently, unauthorized land occupation often triggers legal disputes and social conflicts, as land is viewed as a vital source of livelihood that is inseparable from the community.

The importance of land in the social and economic lives of the Indonesian populace has led to the establishment of specific rules governing the manner of land possession, management, and dispute resolution. As the human population grows, the systems, patterns, and structures for managing land issues have also evolved. As the most valuable form of property, land serves as a primary resource for community sustenance. As a result, many individuals or groups feel deeply connected to their land and will protect it at all costs, fostering an emotional and cultural bond between communities and their land. When disputes or unauthorized land occupations arise, the reactions and responses from communities are often intense.

To address the issue of unauthorized land use, the Indonesian government issued Government Regulation instead of Law (Perpu) No. 51 of 1960 concerning the Prohibition of Land Use Without

the Right or Authority. This regulation aims to protect land ownership rights and prevent unauthorized land use (Prasanthi & Daryono, 2023). It came into effect on December 16, 1960, and applies throughout Indonesia, stipulating that land use must be based on legitimate ownership rights, whether by individuals or legal entities.

Article 1 of Perpu Number 51 of 1960 states that anyone wishing to use land must have valid proof of ownership of that land. For state-owned land, permission is granted by the Minister of Agrarian Affairs or designated officials. Should an individual or group utilize land without valid authorization, local government officials such as mayors or regents have the authority to take action to regulate or vacate the land following the procedures outlined in Governor Regulation of DKI Jakarta No. 207 of 2016, which governs the regulation of unauthorized land occupation.

Acts of unauthorized land use may incur criminal sanctions based on the provisions in Article 6 of Perpu No. 51/1960. Anyone who utilizes land without valid authorization, disturbs rightful owners, or assists others in committing such violations may be subject to imprisonment for a maximum of three months or a fine of up to Rp 5,000 (Mahfud & Chin Chin, 2024). In this regard, the government is expected to resolve land disputes through deliberation, considering the interests of communities utilizing the land and residents surrounding the area.

Land disputes often arise due to migration or the movement of people from one area to another seeking to settle, particularly among low-income groups. This process results in overlapping claims of landownership, where multiple parties assert claims over contested land. These claims are generally based on historical reasons, specifically the belief that the land has been occupied by its ancestors and passed down through generations. Communities asserting claims over this land often fail to provide valid proof of ownership despite their firm belief that the land is theirs.

In many instances, residents without lawful proof of land ownership continue to occupy or utilize land classified as state property. According to existing regulations, the parties entitled to occupy state land are those authorized by the government, such as the Minister of Agrarian Affairs or appointed officials. When communities occupy land without valid authorization, they are engaging in unauthorized land occupation (Ioris, 2022). Nevertheless, many parties express strong objections when asked to vacate land they have settled on, despite the absence of legitimate ownership proof.

In addition to historical factors, a strong desire to own land is another cause of land disputes. When individuals or groups perceive an opportunity to occupy land, they often take unauthorized actions to occupy land that is not theirs. Initially, they may feel comfortable in their living conditions, having adapted their environment to suit their needs. However, when local government officials, such as mayors or regents, issue eviction orders, widespread resistance from residents who occupy the land typically occurs. This resistance hinders the regulatory processes required to restore order, exacerbating existing tensions and prolonging land disputes.

Unauthorized land occupation must promptly be followed by enforcement actions determined by the relevant authorities. Competent authorities maintain that regulation is not synonymous with eviction, although many community members still perceive such actions as displacement (Singh & Bhogal, 2021). The main objective of these regulatory efforts is to encourage communities to adhere to established rules and respect legitimate land ownership rights, ultimately contributing to an orderly urban environment in line with existing regulations. The goal of these regulations is to foster a conducive atmosphere where individuals comply with applicable laws regarding land use.

If communities occupying the land remain steadfast in their refusal to vacate and resist the regulatory process, coercive evacuation measures will be implemented under the supervision of

security forces, such as the military and police, to prevent potential conflicts. Before the execution of such coercive measures, mayors or regents convene coordination meetings with various related agencies, including police, military, prosecutors, and courts. These meetings aim to determine technical details, such as the appropriate timing for enforcement, personnel deployment, required equipment, and operational strategies. Through thorough coordination, it is hoped that the enforcement process will proceed smoothly without causing unrest.

Unauthorized land occupation can be defined as actions taken by individuals or legal entities to utilize or occupy land that does not belong to them without permission or legal basis (Knight, 2024). In matters of land, such actions are invariably regarded as legal violations, as unlawfully occupied land not only contravenes administrative rules but also infringes upon the ownership rights of others. Land in Indonesia plays a crucial role in the lives of the population, particularly given the nation's strong agrarian culture, wherein land serves not only as a residence or agricultural space but also as a symbol of wealth and an important source of livelihood. Consequently, unauthorized land occupation frequently leads to disputes that involve not only the disputing parties but also impact the social stability of the larger community.

As the significance of land in daily life continues to grow, various groups in Indonesia have developed regulations and standards regarding land management from legal, social, and cultural perspectives. The management of land issues evolves alongside population growth and the increasing demand for land (Arta dkk., 2021). Because land is the most valuable asset and primary resource for many, individuals feel deeply attached to their property and will go to great lengths to protect it. This profound sense of ownership leads to an inseparable bond between individuals and their land, resulting in the unauthorized land occupation being viewed as a threat to be contested with all available means, sometimes even at great personal sacrifice.

Unauthorized land occupation represents a violation of the law and may incur criminal sanctions. Criminal sanctions refer to penalties imposed on offenders for their actions that endanger or harm legal interests. In the legal system, criminal sanctions are intended to provide consequences that correlate with the acts committed, such that the result of a criminal act is the punishment that the offender must serve. This punishment may involve imprisonment or other forms of sanction imposed by authorities to uphold the law and induce a deterrent effect on offenders.

Criminal sanctions offer offenders rehabilitation, preventing the recurrence of similar behavior. However, in practice, criminal sanctions often predominantly act as threats to individual freedom, as offenders entangled in the legal system face consequences that can severely affect their quality of life and liberty (Colao, 2021). In cases of unauthorized land occupation, criminal sanctions are designed to uphold rightful ownership over the land and prevent abuse or claims that harm the legitimate parties' rights. This ensures that no individual can arbitrarily appropriate land belonging to another without a valid legal basis.

According to Article 6 of Government Regulation instead of Law (Perpu) No. 51 of 1960 concerning the Prohibition of Land Use Without the Right or Authority, several actions may incur criminal penalties related to unauthorized land occupation. First, individuals who occupy land without permission from parties with rightful authority or ownership over that land may face criminal sanctions. Second, those who disturb or obstruct rightful parties in exercising their rights over that land may also be subject to criminal penalties. Additionally, individuals who incite, persuade, or inform others to engage in unauthorized land occupation may face legal consequences. Lastly, those who assist in any form to support the actions of unauthorized land occupation will also be subject to criminal penalties as stipulated in the applicable law.

Challenges arise from these provisions as Article 19 paragraph (2) of the Basic Agrarian Law (UUPA) emphasizes that land certificates possess strong legal authority as proof of legitimate ownership. Land certificates must record information that accurately corresponds with the related Survey Letter, as the data on the land certificate is derived directly from the relevant survey and land book. This is further underscored in Government Regulation Number 24 of 1997, particularly in Article 32, which reinforces the certificates as legitimate proof of ownership (Cabannes & Göral, 2020). However, in practice, many land certificates fail to provide detailed information regarding land boundaries, frontage width, and length, which should otherwise deliver a clear depiction of the land's status. This issue is exacerbated by corruption and collusion affecting law enforcement, allowing violators to evade penalties due to detrimental relationships compromising the integrity of the judicial system. Instances of double certificates issued by the National Land Agency (BPN) further complicate land administration in Indonesia.

The complex administrative processes and lengthy timelines required to obtain land use permits often act as incentives for violations, particularly among individuals by convoluted bureaucratic procedures. The lack of optimal administration in land matters pushes communities to utilize land without authorization from relevant authorities (Illytskyi & Boychenyk, 2022). Inequitable access to information regarding regulations and land permits further complicates the situation, as many individuals remain unaware of their legal obligations and the potential consequences of violations. In some cases, unauthorized land use highlights the ineffectiveness of law enforcement within the land sector, which may stem from the inadequate performance of land administration agencies in delivering transparent and effective services to the public. This illustrates the gaps within the implementation of land law in Indonesia.

Challenges and Efforts to Regulate Agrarian Law in Disputes over Unauthorized Use of Land

Unauthorized land occupation has become one of the main issues in the field of land tenure in Indonesia, often resulting in legal disputes involving various parties. As a country with a strong agrarian tradition, land holds not only economic value but also significant social and cultural meanings (López Hernández, 2022). Therefore, the regulation and management of legitimate land use are crucial to maintaining legal certainty and justice for the entire society. Unfortunately, the complexity of the land system, compounded by corruption, convoluted bureaucracy, and ambiguous land boundaries, has created loopholes for unauthorized land occupancy practices.

In this context, the issue of unauthorized land use demands serious attention from both the government and the public. Moreover, the numerous cases of unauthorized land occupation could disrupt social and economic balance and undermine the existing legal system. Therefore, it is essential to explore the challenges at hand and the legal efforts that can be taken to address disputes over unauthorized land use. Firm law enforcement, administrative improvements in land management, and increased public awareness will be vital steps in ensuring fair and transparent land management for all Indonesians.

One of the main challenges in unauthorized land use disputes in Indonesia is the lack of clarity regarding land boundaries listed in certificates. Although land certificates are recognized as valid evidence of ownership, in practice, they often lack clarity or contain insufficient information about land boundaries, frontages, and dimensions specified in the documents (Girado & Larrea, 2022). It leads to discrepancies between the data recorded in land books and the actual conditions on the ground, potentially triggering disputes among parties claiming legitimate rights to the land. This ambiguity in land boundaries creates opportunities for irresponsible individuals to occupy or

utilize land without permission, as difficulties in determining definite boundaries become loopholes in agrarian law regulation.

Corruption and collusion occurring during land administration processes exacerbate the legal regulatory system for land in Indonesia. In some cases, double certificates can be issued by the National Land Agency (BPN) as a result of opaque relationships between authorities and parties desiring the land. Such practices lead to indecisiveness in law enforcement and create injustices because land that should be properly managed often falls into the hands of those undeserving of it. Corruption in the land sector further complicates land management and slows down the dispute resolution process, as involved parties wield power or influence over decisions made, hindering the realization of justice for those rightfully entitled to the land.

The application for land use permits in Indonesia is often marked by complicated bureaucracy and lengthy procedures. Individuals seeking permission to utilize or manage land frequently navigate numerous stages that consume significant time and financial resources. This creates frustration among the public, who encounter difficulties in accessing permits legally (Esteves, 2021). This situation prompts some individuals to seek shortcuts by occupying land without permission, feeling hindered by convoluted bureaucracy. The increasing complexity of administrative processes not only diminishes compliance with regulations but also exacerbates the implementation of agrarian law, as some individuals prefer to violate the law to gain access to land.

One of the significant challenges in the legal regulation of agrarian issues related to unauthorized land use disputes is the inequality of access to information about land regulations and laws. Many people lack sufficient knowledge about their rights to land or changes in land regulations. This is particularly evident in remote areas where communities have limited access to socialization or adequate legal information. This ignorance potentially leaves individuals unaware of their obligations to manage or use land according to applicable regulations. The lack of understanding regarding procedures and the legal consequences of unauthorized land occupation further complicates the enforcement of agrarian law, as individuals are ill-equipped to avoid violations that could harm them.

Improving the Quality of Land Administration: One effort that can be made to address the challenges of legal agrarian regulation concerning unauthorized land use disputes is to enhance the quality of land administration. The government should ensure that the land surveying systems are accurate and provide clear and detailed data regarding land boundaries (Wahanisa dkk., 2021). It will reduce the potential for boundary disputes, which often serve as sources of conflict. Furthermore, information recorded in land certificates must be clear and reflect actual conditions on the ground. Improvements in administrative quality will not only reduce legal uncertainty but also enhance transparency in land management processes, thereby minimizing harmful practices or abuses of land rights.

Tough and consistent law enforcement is crucial in addressing unauthorized land use. If the law is not enforced fairly and without bias, violations will continue to occur, harming those with legitimate rights to the land. Therefore, individuals involved in unauthorized land occupation must be held legally accountable according to the applicable regulations, with clear and strict sanctions. The application of sanctions that function as a deterrent effect will also send a strong message to the public that illegal land occupation is unacceptable. Consistent law enforcement will strengthen a more equitable land system and ensure that rightful owners can defend their rights.

To support more effective legal agrarian regulation, ongoing efforts must be made to improve public understanding of land regulations and the importance of compliance with the law. The community is educated about the legal consequences of unauthorized land occupation and the

significance of legitimate administrative processes in land ownership (Di Falco dkk., 2020). This can be accomplished through awareness campaigns utilizing various media outlets, direct training at the village or sub-district level, and the publication of easily understood materials regarding the rights and obligations of land. With increased public legal awareness, it is hoped that individuals will manage land more wisely and avoid illegal practices that can be detrimental to their interests.

One of the main obstacles to resolving land use disputes is the convoluted bureaucracy involved in the land use permit application process. Therefore, land bureaucratic reform is necessary to simplify procedures and expedite the processing time for permits. This system overhaul may include reducing unnecessary administrative steps, developing digital systems that allow easier access for the public to obtain information and land permits, and training officials involved in administrative processes. Such simplification will facilitate legal access to permits for the community and encourage adherence to proper procedures rather than taking shortcuts through unauthorized land occupation.

Strict oversight of land practices, especially in conflict-prone areas, is vital to prevent unauthorized land occupation that could harm rightful owners. The government, through the National Land Agency (BPN) and related institutions, must strengthen their roles in conducting routine monitoring of land management and usage (Zhang dkk., 2024). Effective oversight will help detect early signs of abuse or land rights violations, allowing preventive measures to be taken before such issues escalate into larger disputes. Additionally, increased oversight will bolster public trust in the land system and enhance the integrity of land administration in Indonesia.

CONCLUSION

Unauthorized land occupation is a serious issue that frequently leads to legal disputes and social conflicts in Indonesia, given the significant value that land holds in people's lives. This issue is driven by historical factors, a desire for land ownership, and the ambiguity surrounding proof of ownership. Although the government has regulated land management and usage through regulations such as PERPU No. 51/1960, unauthorized land occupation persists, particularly among low-income groups that are relocating. To address this problem, decisive action from the government is required, including enforcement measures that consider community interests and fair dispute resolution, alongside enhancing legal awareness regarding the importance of legitimate proof of ownership. Unauthorized land occupation constitutes a legal violation that can incite disputes and disrupt social order, given the crucial role land plays in the lives of the Indonesian population. The enforcement against unauthorized land occupation aims to create an orderly urban environment and to respect legitimate property rights. Although such enforcement is perceived as eviction, its primary objective is to uphold the law and prevent the abuse of land rights. However, challenges such as complicated administration, corruption, and a lack of access to information exacerbate the situation, inciting violations and demonstrating the ineffectiveness of law enforcement in the land sector. Consequently, efforts to improve the land administration system and to enhance law enforcement are essential for establishing better legal certainty for the public.

In confronting the increasingly complex issues of unauthorized land occupation, various challenges—including ambiguity regarding land boundaries, corrupt practices, convoluted bureaucracy, and a lack of public understanding—must be addressed seriously to create a more transparent and equitable land system. Efforts to enhance land administration quality should include ensuring data accuracy and the integrity of land certificates, implementing rigorous and consistent law enforcement to provide a deterrent effect, and educating the public on compliance with land regulations. Bureaucratic reforms to simplify permit procedures and stricter oversight by relevant

agencies are also necessary to prevent illegal land occupation and to reduce disputes that adversely affect many parties. Through these measures, it is expected that legitimate and equitable land management will be achieved, and prevent unauthorized land occupation that undermines the Indonesian agrarian legal system.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.

Author 2: Conceptualization; Data curation; In-vestigation.

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