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Land Redistribution Policy as an Agrarian Reform Object as an Effort to Improve Farmers' Welfare

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Abstract

State control over land is a mandate stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD 1945). The state is mandated to manage and utilize land based on the spirit of improving public welfare. Agrarian reform in the land sector is one form of overhaul or restructuring of land management and utilization. Agrarian reform functions to strengthen land ownership for all Indonesians, especially the landless. This study aims to assess the effectiveness of the land redistribution program. The method used in this study is normative juridical, relying on secondary data as the main source. The data collected includes primary legal materials such as laws and regulations related to agrarian matters, as well as secondary legal materials consisting of literature such as books and journals discussing land redistribution from land objects of agrarian reform. Land is a major factor

in agricultural development. The findings of this study indicate that priority in the implementation of agrarian reform is given to state land or former plantation land whose HGU validity period has expired and has not submitted a permit extension request in the past year. The form of state control over this land needs to be specifically regulated in a law governing land. One form of state control is through land redistribution. Land redistribution for the people is carried out by identifying Agrarian Reform Object Land (TORA) to then be managed as part of the Agrarian Reform. In addition, in order to support the land redistribution program, the government can impose a moratorium on land use for business-oriented development, limit land ownership and control, control land prices, and revoke rights to unused land.

Keywords: Policy, Land Redistribution, Welfare, Farmers

Introduction

In Indonesia, land is considered a divine gift from God Almighty, intended for humans to utilize to its fullest potential for the benefit of society, as stipulated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, namely: *"The earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people"*. To fulfill the directive of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the government must guarantee that the sources of the people's prosperity are accessible broadly and equitably. Article 4, paragraph (1) of the Basic Agrarian Law (hereafter referred to as UUPA) clarifies that the State's authority to regulate, as outlined in Article 2, encompasses different forms of rights pertaining to the surface of the earth.¹

Land can be assigned to individuals or legal entities. Thus, land is characterized as the surface of the earth, which also encompasses a portion of the earth's body beneath it and the airspace above it. Nevertheless, there are limitations outlined in Article 4, which specify that land use must align with interests directly associated with the land and adhere to the constraints established by the Basic Agrarian Law and superior regulations. The government is hastening land redistribution as part of the National Strategic Program, which has a direct effect on equity and the enhancement of the community's economy. It is anticipated that this expedited land redistribution will alleviate poverty and unemployment, while also fostering the attainment

¹Muhammad Fajar, "Implementasi Reforma Agraria di Desa Sumberdanti Kecamatan Sukowono Kabupaten Jember Perspektif Hukum Pertanahan Indonesia," *Rechtenstudent* 2, no. 3 (December 28, 2021): 331–41, <https://doi.org/10.35719/rch.v2i3.84>

of food security and sovereignty at the national level.

Land, which ought to serve as a means to enhance people's welfare by being utilized for the community's benefit, has instead turned into a "benefit" for select groups. Individuals treat land as an investment vehicle and a valuable asset with a lucrative resale potential. Consequently, land has become a source of conflict within the community. A significant issue in these conflicts is the improper distribution of land among community members. The disparity between the wealthy and the impoverished is becoming more pronounced. Land ownership is skewed, with the affluent possessing a substantial amount of land, while the less fortunate are increasingly without land.² Discrimination and inequality in land ownership are challenges that have persisted since the era of Dutch colonialism.³

This issue has evolved into a persistent problem that is still not addressed. Currently, a significant portion of agricultural land is predominantly held by a select few individuals or specific groups, whereas most farmers possess only minimal land or may not have any access whatsoever.⁴ The disparity in land ownership in Indonesia is evident, with 1% of the population holding 63% of the land, while the remaining 37% is contested by the other 99% of the population.⁵

A key issue in enhancing farmer welfare is land tenure, which refers to fair access to land ownership. This concern arises from the ongoing problem of unequal land ownership and control in Indonesia. According to data from the National Land Agency (National Land Office), approximately 1% of Indonesia's population possesses 40% of the total agricultural land. Consequently, most farmers are left with minimal land, which is evidently inadequate to fulfill their basic living requirements.⁶ Ironically, as of August 2022, it was found that out of the 53 hectares of land allocated by the Government, 94.8% was utilized by corporations, whereas the Indonesian populace was granted only 2.7 million hectares of land ownership rights.⁷ This inequality is not in line with the values in the 1945 Constitution of the Republic of Indonesia.

² Arie Sukanti Hutagalung, "Pembaharuan Hukum Agraria di Indonesia", dalam *Jurnal law Review* Vol. X, No. 2, November 2010, h. 146.

³ Rut Agia Aprilliani, Dkk. "Ketimpangan Penguasaan Tanah Oleh Korporasi dan Warga Masyarakat Dalam Optik Politik Pertanahan Nasional." *Binamulia Hukum*, Vol. 9, No. 1, April 2023, h. 29-44, <https://doi.org/10.37893/jbh.v9i1>

⁴ Shohibuddin, Mohamad. "Memahami dan Menanggulangi Persoalan Ketimpangan Agraria (2)." *Bhumi: Jurnal Agraria dan Pertanahan*, Vol. 5, No. 2, Desember 2019, h. 136-49, <https://doi.org/10.31292/jb.v5i2.366>

⁵ Aji. "Menilik Kesejahteraan Petani Dari Kacamata Undang-Undang." *Ugm*, 29 September 2022, <https://ugm.ac.id/id/berita/22998> Menilik-Kesejahteraan-Petani-Dari Kacamata-Undang-Undang/

⁶ Ari Tri Wibowo dan Yuliani Catur Rini, *Kajian Yuridis Dampak Undang-Undang Cipta Kerja Terhadap Pelaksanaan Reforma Agraria di Indonesia*, *Jurnal Hukum Dan Kenotariatan*, Volume 6, Nomor 1 Februari 2022, <https://doi.org/10.33474/hukeno.v6i1.13484>

⁷ Anuur, Cindy Mutia. "Walhi: 94,8% Lahan Indonesia dikuasai Korporasi." *Katadata*, 16 Agustus 2022, <https://databoks.katadata.co.id/datapublish/2022/08/16/walhi-948>

The government's initiatives to enhance agricultural land ownership are executed through a land redistribution program, which is part of the agrarian reform implementation. The primary aim of this agrarian reform is to diminish inequality within the agrarian structure and establish justice by redistributing land ownership and its use. The legal foundation for agrarian reform in Indonesia is the UUPA. This regulation imposes a maximum limit on agricultural land ownership, specifically 20 hectares for individuals and 200 hectares for legal entities, as outlined in Article 1 paragraph (2). Furthermore, Presidential Regulation No. 62 of 2023 regarding the Acceleration of Agrarian Reform Implementation nullifies Presidential Regulation No. 86/2018, which governs agrarian reform.

The truth is that a significant portion of land ownership in Indonesia is concentrated in the hands of a few individuals, especially those engaged in business and investment. Consequently, agrarian reform aims to enhance access to agricultural land for smallholder farmers in rural regions. By striving for a fair distribution of land ownership and equitable land tenure, this initiative seeks to tackle poverty and unemployment, while also achieving national food security and sovereignty, thereby enhancing community welfare. This program is intended to provide land ownership rights to qualifying farmers, allowing them to elevate their welfare through the ownership of productive assets that bolster their business capital.

In practice, the diverse goals of this program are frequently not met effectively, especially regarding the redistribution of land to farmers in genuine need. Thus, it is essential to guarantee that agrarian reform fosters prosperity and public welfare, enhances food security and sovereignty, tackles agrarian challenges, and improves community access.⁸ This initiative seeks to tackle current disparities, lower poverty rates, generate employment opportunities, and enhance community access to economic assets, particularly land.⁹

This study is closely linked to earlier work by Sapriadi, who published in the *IUS Journal, Legal and Justice Studies*, Volume III, Number 8, August 2015, discussing "Redistribution of State Land as Land Reform Objects in Supporting the Agrarian Reform Program in Sumbawa Regency." He concluded that the government possesses the power to regulate and manage the allocation, use, and exploitation of land to ensure the maximum prosperity for the populace.

Furthermore, during the execution of land redistribution to the community, it is anticipated that the government will allocate land that is directly under state control. Rachmat Trijono and colleagues, in a study carried out by the National Legal Development Agency in 2015 titled "State Control Rights in the Land Sector," focus on the legal frameworks governing land and the rights that the state can exercise in this sector. Additionally, Yance Arizona, in the *Constitutional Journal*, Volume 8, Issue 3, published in June 2011, discussed "The Development of the Constitutionality

⁸ Siti Chadijah, Dwi Kusumo Wardhani, and Ali Imron, "Kebijakan Reforma Agraria Terhadap Lahan Pertanian di Kabupaten Tulungagung," *JCH (Jurnal Cendekia Hukum)* 6, no. 1 (September 30, 2020): 91, <https://doi.org/10.33760/jch.v6i1.286>

⁹ Herman Hermit, *Cara Memperoleh Sertifikat Tanah Hak Milik, Tanah Negara dan Tanah Pemda, Teori dan Praktek*, (Bandung: CV. Mandar Maju, 2020), h 197.

of State Control over Natural Resources in Constitutional Court Decisions." This article examines the Constitutional Court's (MK) interpretation of Article 33, particularly concerning the notion of state control over natural resources, and analyzes eleven MK rulings related to the judicial review of laws pertaining to natural resources.

The three articles examine the state's authority over natural resources, drawing upon the Constitutional Court's interpretation of Article 33 paragraph (3) of the 1945 Constitution. Additionally, the study titled "State Authority in Land Control: Land Redistribution for the People" not only highlights the Constitutional Court's view on state control but also outlines potential measures for redistributing land to the community. In line with this initiative, a land redistribution program has been established to address the issues of inequality in land control and ownership.¹⁰ The process of land redistribution encounters numerous challenges in issuing land certificates to farmers.

These challenges encompass the verification and validation of recipient information, insufficient outreach and education, limited financial resources, and ongoing disputes and conflicts. Such issues adversely affect the effectiveness of agrarian reform implementation within the community, potentially obstructing the realization of the reform's goals and objectives. The main aim of agrarian reform is to enhance land productivity and elevate community welfare, especially for farmers and smallholders in rural regions. Additionally, the program aims to bolster food security, mitigate land disputes and conflicts, maintain environmental quality, and optimize agricultural land use to enhance the welfare of farmers.

Drawing from the concepts presented in the background of the aforementioned problem, and to aid the research, this background will be clarified by pinpointing the issues that will subsequently serve as research questions, as detailed below: 1. Does the Implementation of the Land Retribution Policy for Agrarian Reform Objects (TORA) aim to enhance Farmer Welfare? 2. What is the trajectory of the Land Retribution Policy concerning the welfare of farmers in Indonesia?

Research Method

This research is oriented toward dogmatic and theoretical content, with a normative juridical research type that refers to anticipatory interpretation, namely research to answer a legal issue based on a rule and supplemented by empirical research for normative analysis. The statute approach is an approach that examines all applicable laws and regulations related to the issues at hand. Furthermore, the conceptual approach is an approach that refers to legal principles found in the views of scholars or legal doctrines.¹¹ With this approach, researchers will find ideas that give rise to legal definitions, legal concepts, and legal principles that are relevant to the issues at hand.

¹⁰ Putri Intan Ayuningutami and Fatma Ulfatun Najicha, "Regulasi Hukum Terhadap Penerapan Program Reforma Agraria dalam Lingkup Kehutanan," *YUDISIA: Jurnal Pemikiran Hukum dan Hukum Islam* Vol.13, No. 1 (June, 2022), h. 39, <https://doi.org/10.21043/yudisia.v13i1.12899>

¹¹ Ibid, h.302.

Discussion

1. The execution of the Land Retribution Policy for Agrarian Reform Objects (TORA) aims to enhance the welfare of farmers

The government, acting as the steward of natural resources, holds the duty to guarantee equitable land distribution, as outlined in the constitutional directive found in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This article highlights the importance of maximizing the use of land, water, and other natural resources for the benefit of the populace. The UUPA particularly focuses on fostering the development of a fair and prosperous society. Despite the implementation of land reform up to this point, these initiatives have not completely fulfilled expectations regarding the initiation of change aimed at enhancing the benefits derived from land use for all Indonesian citizens.

There are three primary issues that obstruct the realization of agrarian reform objectives in Indonesia: substantial inequality in land ownership, agrarian disputes arising from past overlapping land redistribution policies, and social as well as ecological challenges encountered in rural regions.¹² Therefore, the government feels the need to implement agrarian reform with the aim of reducing poverty levels, creating broad and inclusive employment opportunities, increasing public access to economic assets, especially land, reducing disparities in ownership, use and utilization of agrarian resources, reducing land-related conflicts and other agrarian issues, maintaining and improving the quality of the environment, and increasing food and energy security in the community.¹³

UUPA regulates the reform of unbalanced land structures to make them fairer, resolve land conflicts, and improve community welfare after the implementation of agrarian reform.¹⁴ Agrarian reform is a mandate emphasized in People's Consultative Assembly Decree No. IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management. This mandate arose because the MPR has the constitutional duty to determine the direction and basis of development policies that can provide solutions to various problems of poverty, inequality, socio-economic injustice, and the destruction of natural resources.¹⁵

Agrarian reform is expected to be a solution to achieving equitable land ownership for the sake of prosperity and justice. There are many benefits from implementing agrarian reform, including creating economic independence and food security,¹⁶ contribute to community income,¹⁷ can reduce

¹² Sulistyarningsih, R. Reforma Agraria di Indonesia. *Kajian Masalah Hukum dan Pembangunan Perspektif*, Vol.26, No.1, (2021), h. 57-64.

¹³ Isnaini, & Lubis, A. A. *Hukum Agraria Kajian Komprehensif*. (Jakarta, Pustaka Prima, 2022).

¹⁴ Martini, S., Ash-Shafikh, M. H., & Afif, N. C. Implementasi Reforma Agraria Terhadap Pemenuhan Harapan Masyarakat Yang Bersengketa Lahan. *BHUMI: Jurnal Agraria dan Pertanahan*, 5(2), (2019), h. 150–162. <https://doi.org/10.31292/jb.v5i2.367>

¹⁵ Ida Nurlinda, Perolehan Tanah Obyek Reformasiagraria (Tora) Yang Berasal Dari Kawasan Hutan: Permasalahan dan Pengaturannya, *Veritas Jurnal*, Vol 4, No 2, 2018, h.252-273, DOI: 10.25123/vej.2919

¹⁶ Waryanta, M. Reforma Agraria: Momentum Mewujudkan Kemandirian Ekonomi Masyarakat Kecil dalam Mendukung

land disputes and contribute to preventing recurring conflicts that could potentially lead to national disintegration,¹⁸ agrarian reform as the fulfillment of farmers' basic rights.¹⁹

Agrarian reform, also known as Agrarian Reform, is an ongoing process related to the restructuring of control, ownership, use, and utilization of agrarian resources. This process is implemented to achieve legal certainty and protection, as well as justice and prosperity for the people. However, the implementation of agrarian reform has not been fully realized due to numerous irregularities. This is due to the existence of many conflicting regulations.²⁰ For example, the issuance of laws on forestry, mining, plantations, and water resources, as well as provisions that ignore the UUPA, have resulted in overlapping regulations between ministries, often triggering disputes and conflicts. Agrarian reform should address the inequality in land ownership and control, not merely land redistribution.

In practice, the terms agrarian renewal and agrarian reform are closely related to land reform programs and are generally used to progressively implement land-related agendas.²¹ The welfare of farmers and the preservation of fertile rice fields remain a challenge for the Indonesian nation. Several indicators show that this vital component of national food security is increasingly vulnerable. Meanwhile, food security will become even more crucial in the future amidst climate change, which threatens global food security.

According to data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), by 2022, the average rate of conversion of rice fields to non-rice fields in Indonesia will be 100,000-150,000 hectares per year. Furthermore, according to Ministry of Agriculture data, the area of rice fields has decreased from 8.1 million hectares in 2015 to 7.5 million hectares in 2019.²² In the Land Asset Legalization program, for example, land registration has reached 279.83 percent of the target, while transmigration land registration has only reached 24.92

percent. Similarly, the Land Redistribution program, which includes ex-HGU land, abandoned land, and other state land, has reached 358.53 percent of its target.

2023 data shows that more than 94% (108,220 families) of agrarian reform beneficiaries have received support to increase the productivity and utilization of their land.²³ In addition to land certificates, communities also need access and support to manage their land productively. Comprehensive agrarian reform is expected to be a solution to address rural poverty, particularly that caused by limited access to agricultural land. Recent data shows that the number of rural poor remains quite high, reaching 11.74 million in 2023.²⁴

Agrarian reform has had a significant impact on improving public welfare. Data shows that average income increased by 16% in 2021 for 22,304 beneficiary families. The program also contributed to reducing land ownership inequality, as reflected in the decline in the Gini index from 0.54-0.67 in 2022 to 0.48 in 2020. Furthermore, agricultural productivity increased, as evidenced by a 0.39% increase in harvested area, or 0.04 million hectares, in 2022.²⁵

Adanya inisiatif pemerintah untuk mewujudkan kesejahteraan masyarakat, khususnya di bidang agraria melalui Reforma Agraria, terutama dalam konteks Percepatan Pelaksanaan Reforma Agraria, mulai menunjukkan hasil yang dapat diamati berdasarkan data yang telah dikumpulkan. Namun, pencapaian tersebut masih belum optimal dan menyeluruh. Dalam beberapa aspek, masih terdapat banyak target yang belum tercapai, dan hal ini tentunya menjadi "pekerjaan rumah" bagi pemerintah serta masyarakat untuk bekerja sama dalam mendukung Reforma Agraria demi terwujudnya cita-cita mulia bangsa, yaitu keadilan dan kesejahteraan bagi seluruh rakyat Indonesia. Redistribusi tanah merupakan salah satu aspek dari reforma agraria yang ditujukan untuk masyarakat dengan cara mengidentifikasi Tanah Obyek Reforma Agraria (TORA). Selain itu, pemerintah dapat memberlakukan moratorium terhadap penggunaan tanah untuk pertumbuhan yang berorientasi bisnis, membatasi kepemilikan dan pengelolaan tanah, mengatur harga tanah, serta mencabut hak milik yang tidak dimanfaatkan untuk mendukung program redistribusi tanah.

Reformasi agraria, yang juga dikenal sebagai Pembaruan Agraria, merupakan suatu proses yang berkelanjutan terkait dengan penataan kembali penguasaan, kepemilikan, penggunaan, dan pemanfaatan sumber daya agraria. Proses ini dilaksanakan untuk mencapai kepastian dan perlindungan hukum, serta keadilan dan kemakmuran bagi masyarakat. Namun, dalam pelaksanaan reforma agraria, belum dapat terwujud dengan baik karena banyaknya penyimpangan yang terjadi. Hal ini disebabkan oleh adanya banyak regulasi yang saling bertentangan.²⁶ Contohnya, penerbitan undang-undang mengenai kehutanan, pertambangan, perkebunan, dan sumber daya air, serta ketentuan undang-undang yang mengabaikan keberadaan

Ketahanan Pangan. *BHUMI: Jurnal Agraria dan Pertanahan*, 2(2), (2018). h.179–193. <https://doi.org/10.31292/jb.v2i2.69>

¹⁷ Istiningdyah, R., Sutaryono, S., & Wahyuni, W. Kontribusi Redistribusi Tanah Terhadap Kenaikan Pendapatan Masyarakat di Jawa Tengah, *Jurnal Tunas Agraria*, 1(1). (2018). <https://doi.org/10.31292/jta.v1i1.2>

¹⁸ Tarfi, A., & Amri, I. Reforma Agraria sebagai Jalan menuju Perdamaian yang Berkelanjutan di Aceh, *Jurnal BHUMI: Agraria dan Pertanahan*, 7(2), (2021), h.210–225. <https://doi.org/10.31292/bhumi.v7i2.509>

¹⁹ Suhendro, P. Manfaat Reformasi Agraria Bagi Pemenuhan Hak-Hak Asasi Petani. *Jurnal Pengabdian Kepada Masyarakat*, 19(74), (2013), h. 60-64.

²⁰ Maladi, Y. Reforma Agraria Berparadigma Pancasila Dalam Penataan Kembali Politik Agraria Nasional. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 25(1), (2013). 27- 41. <https://doi.org/10.22146/jmh.16108>

²¹ Neilson, Jeff, Agrarian Transformations and Landreform in Indonesia, in John F. Mc. Carthy and Kathryn Robinson (editors), *Land and Development in Indonesia: Searching for the People's Sovereignty*, Singapore, ISEAS Publishing, 2016, h.246.

²² <https://www.kompas.id/artikel/kesejahteraan-petani-dan-lahan-abadi-pangan-masih-jadi-pekerjaan-rumah>

²³ Data Direktorat Pemberdayaan Tanah Masyarakat, 2024.

²⁴ Data Badan Pusat Statistik, 2023.

²⁵ Data Kementerian Koordinator Bidang Perekonomian, 2023.

²⁶ Maladi, Y. Reforma Agraria Berparadigma Pancasila Dalam Penataan Kembali Politik Agraria Nasional. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 25(1), (2013). 27- 41. <https://doi.org/10.22146/jmh.16108>

UUPA, mengakibatkan tumpang tindih peraturan di antara kementerian yang sering kali memicu sengketa dan konflik.²⁷ Reforma agraria sejatinya dapat menjawab ketimpangan kepemilikan dan penguasaan tanah, bukan hanya sekedar redistribusi tanah.

2. The direction of the Land Retribution Policy for the welfare of farmers in Indonesia

Kebijakan retribusi tanah di Indonesia, yang lebih tepat disebut sebagai redistribusi tanah, merupakan bagian dari program Reforma Agraria. Tujuannya adalah untuk merestrukturisasi penguasaan, kepemilikan, penggunaan, dan pemanfaatan tanah demi mencapai keadilan dan kesejahteraan masyarakat, terutama para petani. Redistribusi tanah mencakup penyerahan tanah dari Objek Redistribusi Tanah kepada Subjek Redistribusi Tanah, yang dilengkapi dengan bukti hak seperti sertipikat.

Kebijakan redistribusi tanah merupakan inisiatif pemerintah untuk mendistribusikan atau menyerahkan tanah kepada individu atau kelompok yang memerlukan, khususnya petani yang tidak memiliki lahan atau memiliki lahan yang terbatas. Tujuan dari kebijakan ini adalah untuk mewujudkan keadilan sosial, meratakan kepemilikan tanah, serta meningkatkan kesejahteraan masyarakat. Konsep Utama Redistribusi Tanah, adalah:

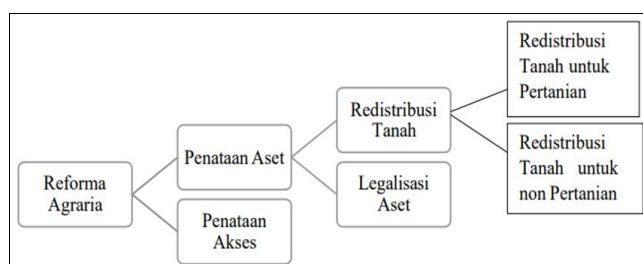
1. Tujuan: Redistribusi tanah bertujuan untuk mengurangi kesenjangan kepemilikan tanah, meningkatkan produktivitas pertanian, dan meningkatkan kesejahteraan masyarakat, khususnya petani.
2. Objek: Objek redistribusi tanah bisa berupa tanah kelebihan maksimum, tanah absentee, tanah bekas swapraja, dan tanah negara lainnya yang memenuhi syarat.
3. Subjek: Penerima redistribusi tanah adalah petani yang tidak memiliki tanah atau memiliki lahan yang sempit, serta memenuhi persyaratan yang ditetapkan.
4. Proses: Redistribusi tanah melibatkan beberapa tahapan, mulai dari identifikasi objek dan subjek, pengukuran dan pemetaan, sidang panitia, hingga penerbitan sertifikat hak atas tanah.
5. **Landasan Hukum:** Kebijakan redistribusi tanah didasarkan pada peraturan perundang-undangan yang berlaku, seperti Undang-Undang Pokok Agraria dan peraturan pelaksanaannya.
6. **Pelaksanaan:** Pelaksanaan redistribusi tanah dilakukan oleh pemerintah, termasuk instansi terkait seperti Badan Pertanahan Nasional (BPN).

Penataan tersebut jelas memerlukan kekuatan dan mandat dari negara untuk memastikan bahwa masyarakat memiliki sumber-sumber ekonomi serta akses sosial dan politik yang diperlukan untuk kehidupan mereka. Dalam kerangka mandat ini, juga diperlukan distribusi atau redistribusi aset-aset yang dimiliki oleh negara, termasuk tanah, kepada rakyat yang tidak memiliki aset atau yang asetnya tidak mencukupi untuk mendukung kehidupan rumah tangga mereka, termasuk tanah dan aspek agraria lainnya. Distribusi atau redistribusi aset ini harus disertai dengan pengembangan akses masyarakat terhadap berbagai hal yang

memungkinkan mereka memanfaatkan aset yang dimiliki dengan baik.²⁸

Di antara hal-hal tersebut adalah akses untuk berpartisipasi secara signifikan dalam kehidupan sosial dan politik, serta akses terhadap modal, teknologi, manajemen, pendampingan/pembinaan, peningkatan kapasitas dan kemampuan, pasar input dan pasar output, atau hal-hal lain yang diperlukan untuk berkembang. Kebijakan landreform adalah elemen dari pelaksanaan politik pembaruan hukum agraria yang bertujuan untuk merestrukturisasi penguasaan dan kepemilikan tanah, serta meningkatkan kesejahteraan para petani. Landreform meliputi berbagai inisiatif seperti redistribusi tanah, pembatasan luas maksimum penguasaan tanah, dan pengaturan perjanjian bagi hasil, yang semuanya ditujukan untuk mewujudkan keadilan sosial dan ekonomi dalam sektor agraria.

Redistribusi tanah dalam Peraturan Presiden Nomor 86 Tahun 2018 tentang Reforma Agraria yang telah dicabut dengan Peraturan Presiden Nomor 62 Tahun 2023 tentang Percepatan Pelaksanaan Reforma Agraria dipahami sebagai elemen dari Penataan Aset yang dijelaskan dalam Pasal 6, di mana penataan aset mencakup redistribusi tanah dan legalisasi aset. Oleh karena itu, posisi redistribusi tanah dalam kerangka reforma agraria Jokowi - JK dapat dilihat pada bagan berikut:



Gambar Posisi redistribusi tanah dalam kebijakan RA Jokowi²⁹

Merujuk pada gambar di atas, ujung dari pelaksanaan reforma agraria Jokowi adalah "Redistribusi atau Legalisasi" TORA kepada subjek penerima. Legalisasi aset telah mendapatkan berbagai kritik dan dianggap bukan bagian dari reforma agraria, melainkan sebagai pekerjaan rutin dan administratif lembaga pertanahan. Sementara itu, untuk meneliti redistribusi tanah lebih dalam, harus dilihat melalui tiga aspek yaitu:

1. Tanah Objek Reforma Agraria (TORA),
2. Subjek Penerima TORA dan
3. Proses pelaksanaan redistribusi TORA.

Ketiga hal di atas sangat penting untuk diperiksa guna memastikan sejauh mana redistribusi tanah berfungsi sebagai ujung tombak reforma agraria. Seluruh mekanismenya sepenuhnya diarahkan untuk mendukung reforma agraria yang sejati. Salah satu argumen penting yang disampaikan oleh Wiradi mengenai perlunya reforma agraria adalah bahwa reforma agraria itu "merombak struktur" dan bukan sekadar "membagi-bagi tanah". Perombakan ini diperlukan karena adanya ketimpangan dalam sebaran (distribusi) kepemilikan tanah.³⁰ Dengan

²⁷ Mujiburohman, D. A., *Penegakan Hukum Penertiban dan Pendayagunaan Tanah Terlantar*. (Yogyakarta: STPN Press. (2019).

²⁸ Diyan Isnaeni, Log, h.83-97.

²⁹ Kasmianti, *Mencari Sisi Partisipasi Agenda Redistribusi Tanah di Masa Pemerintahan Jokowi*, Sajogyo Institute, h.5.

³⁰ Wiradi G. *Garis-Garis Besar Argumen Dalam Wacana Reforma Agraria*. Dalam Tjondronegoro dan Wiradi G

demikian, redistribusi tanah dapat dipahami sebagai proses untuk mendistribusikan kembali kepemilikan atau penguasaan tanah agar lebih adil. Jika perombakan struktur tidak terjadi dalam proses redistribusi tanah, maka reforma agraria tersebut pasti akan gagal.

Agrarian Reform Policy, specifically TORA, is a government effort to reorganize land ownership, control, use, and utilization to achieve social justice. TORA refers to land controlled by the state or the community that is then redistributed to agrarian reform subjects, with the aim of providing legal access to land and improving community welfare. Agrarian reform exists as a movement or policy aimed at changing the structure of land ownership and use, especially in rural areas.

The main objective is to create social justice in the agrarian sector, reduce inequality in land ownership, and improve the welfare of the community, especially farmers. Agrarian reform is a systemic effort aimed at addressing structural inequality in the ownership and use of land and other natural resources. Land redistribution is a series of actions carried out by the government through the allocation of state land from land redistribution objects to land redistribution recipients.³¹

One of the main focuses of attention in improving farmer welfare is land control or fair access to land control because in reality, the problem of inequality in land control and ownership in Indonesia remains unresolved. Data from the National Land Agency (BPN) in 2018, BPN recorded that at least 1% of the Indonesian population can control 40% of agricultural land. This results in most farmers having limited land and this is certainly insufficient to meet their living needs. The government's efforts to maximize agricultural land ownership have implemented a land redistribution program within the implementation of agrarian reform. Basically, the goal of this Agrarian Reform is to reduce inequality in the agrarian structure to be more equitable through the redistribution of control and land use.

The legal basis for agrarian reform in Indonesia is UUPA No. 5 of 1960. UUPA sets the limit on the size of agricultural land ownership, namely 20 hectares for individuals and 200 hectares for legal entities in Article 1 paragraph (2) and is regulated in Presidential Decree No. 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform which replaces Presidential Decree No. 86/2018 concerning Agrarian Reform.³² The land redistribution program is an effort to overcome the problem of inequality in land control and ownership.³³ This is based

(penyunting). Dua Abad Penguasaan Tanah: Pola Penguasaan Tanah Pertanian di Jawa Dari Masa Ke Masa. (Yayasan Obor Indonesia. Jakarta. 2008), h.486.

³¹ Triandaru, L., Amberi, M., Oktavianoor, T., & Hidayat, M. F. Kolaborasi Stakeholder Dalam Reforma Agraria Dengan Pola Redistribusi Tanah di Kabupaten Hulu Sungai Selatan. Kolaborasi: Jurnal Administrasi Publik, 7(2), (2021). h.201-216. <https://doi.org/10.26618/kjap.v7i2.5655>

³² Ari Tri Wibowo, "Kajian Yuridis Dampak Undang-Undang Cipta Kerja Terhadap Pelaksanaan Reforma Agraria di Indonesia.

³³ Putri Intan Ayuningutami and Fatma Ulfatun Najicha, "Regulasi Hukum Terhadap Penerapan Program Reforma Agraria dalam Lingkup Kehutanan," *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam* 13, no. 1 (2022): 39, <https://doi.org/10.21043/yudisia.v13i1.12899>

on the fact that most land ownership can only be owned by a few people, especially those who work in the business and investment sector (companies).

Agrarian reform aims to achieve justice by redistributing land, addressing extreme land tenure disparities, and prioritizing the needs of small farmers over the interests of large corporations.³⁴ However, in terms of implementation, the agrarian reform program remains far from effective. Challenges and obstacles remain that require in-depth analysis regarding asset legality and land management, despite the policy's strong legal basis through the UUPA and its subsidiary laws.

Land Redistribution Certification Activity Realization Table

No.	Tahun	Target (Ha)	Realisasi	Persentase
1	2020	301.179	290.905	95,59 %
2	2021	489.726	444.147	90,69 %
3	2022	385.545	356.811	92,55 %
4	2023	258.373	252.257	97,63 %

Source: (Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, 2024)

The table above shows the realization of the land redistribution certification program over the past five years. The data shows that although the land certification target continues to increase, the achievement has not yet reached 100%. In 2021, for example, of the target of 489,726 hectares, only 444,147 hectares (90.69%) were successfully certified.

The land redistribution program in East Java, which is part of agrarian reform, aims to restructure land ownership and control to improve community welfare. This program involves the distribution of land from the object of redistribution to the subject of redistribution, which is generally a farmer, accompanied by the issuance of land title certificates. The main objective of the land redistribution program is to create equitable land distribution, reduce ownership gaps, and improve community welfare, especially for the poor. This program is part of agrarian reform that aims to restructure the unbalanced agrarian system, resolve agrarian conflicts, and improve people's welfare.

1. Land Ownership Restructuring: Correcting land ownership inequality by distributing land to those in need, especially smallholder farmers.
2. Improving Welfare: Improving the socio-economic conditions of the community through legal certainty over land and the potential for increasing agricultural productivity.
3. Realization of Agrarian Reform: Becoming an integral part of broader agrarian reform efforts, which include asset management and access management.

The realization of land redistribution in East Java in 2024 reached 10,323 plots from the target of 14,129 plots, with a percentage of 73.06% until April 2024. Overall, the target for the implementation of Complete Systematic Land

³⁴ Herlindah, Rohmah, S., Mushoffa, I., & Kodir, A. The Deconstruction of Nahdlatul Ulama Activists Against the Concept of Agrarian Reform Based on Fiqh of Priorities. *Jurisdicte: Jurnal Hukum Dan Syariah*, 14(1), (2023). 106–126. <https://doi.org/10.18860/j.v14i1.21037>

Registration (PTSL) in 2024 was 973,337 plots, with the realization until April 2024 of 9,925 plots or 1.02%.

Conclusion

The implementation of the land retribution policy for agrarian reform (TORA) in East Java aims to reorganize land control, ownership, use, and utilization to achieve social justice and improve farmer welfare. The focus is on land redistribution from former HGU (Right to Cultivate) land and abandoned land. This aims to provide legal certainty for tenant farmers and increase land productivity for food security. Comprehensively, the implementation of land redistribution for farmers has had a positive impact and is based on justice, providing legal certainty for farmers.

It is important to acknowledge that the implementation of the Land Retribution Policy for Agrarian Reform Objects as an Effort to Improve Farmer Welfare in East Java Province also faces obstacles. Various existing regulations, such as the UUPA and Presidential Regulation No. 62 of 2023 concerning the Acceleration of Agrarian Reform Implementation, do not necessarily eliminate administrative obstacles and minimal oversight of land conversion. Therefore, agrarian reform requires not only accelerated asset legalization but also integration with farmer capacity-building strategies so that certified land can be utilized productively and sustainably.

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