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The Conception of the Social Function Principle of Land Rights in Customary Law as the Foundation of National Land Law

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Abstract

Article 5 of the Basic Agrarian Law (UUPA) affirms that customary law constitutes the primary foundation of national land law in Indonesia. Nevertheless, the diversity of customary legal systems existing within Indonesian society, each possessing distinct characteristics, including feudalistic and capitalistic elements, necessitates certain limitations on their application. For this reason, the UUPA only recognizes customary law that is compatible with national and state interests, supports national unity, is consistent with the principles of Indonesian socialism, and does not contradict the provisions of the UUPA or other prevailing laws and regulations. In establishing the framework of national land law, the UUPA selectively adopts the concepts, principles, and legal institutions derived from customary law that are considered relevant to its objectives. One important concept incorporated into national land law is the principle of the social function of land rights. This principle represents one of the fundamental principles underlying national land law, alongside the principles of nationality, the state's right to control land, and the recognition of customary rights. Accordingly, a deeper understanding of the concept of the social function of land rights within Indonesian customary law is essential to ensure its conformity with the principles and standards established by the UUPA.

Keywords: Principles of Social Function, Customary Law, Land Rights

Introduction

The UUPA stipulates that agrarian law governing land, water, and airspace is derived from customary law, provided that it does not contradict national and state interests founded upon national unity, Indonesian socialism, the provisions of the UUPA, and other applicable legislation, while still taking into account principles rooted in religious law.

This provision confirms that customary law serves as the foundation of the national land law system. This provision accords customary law a special position within national land law. However, the UUPA does not automatically accept all customary laws as the basis for the UUPA, as it is impossible for all existing, diverse customary laws to apply as a whole as national land law. Moreover, in its implementation, customary law is inextricably linked to the influence of the local communities in which it applies, grows, and develops. Furthermore, customary law communities are also influenced by their surrounding environment, namely modern capitalist societies and feudal autonomous communities. Consequently, the prevailing customary land law is no longer entirely pure. Therefore, for customary law to truly serve as the primary source for developing national land law, the concepts, principles, and legal institutions within customary law must be maintained and upheld, so that customary law truly serves as the foundation of national land law.

One concept of custumary law that remains relevant and serves as the basis for nationnal land law is the concept of the social functions of land rights. This principple of social functions must be maintained, especially in the current era of globalisation, where the influence of Western culture is strongly felt in Indonesia. As a result, people tend to be individualistic and think hedonistically in all matters, measuring everything based on material gain, profit, and loss. Meanwhile, the sense of social solidarity, the spirit of mutual cooperation, prioritizing the interests of many people and so on, is increasingly diminishing, even disappearing completely. Therefore, it is necessary for us to re-understand the concepts, principles, and legal institutions within customary law, as this can make this nation more cultured. Moreover, customary law itself is dynamic and adapts to societal developments that require change. Therefore, it is only natural that the concepts, principles, and legal institutions

within customary law be preserved and remain the basis of national land law.

Result and Discussion

1. Understanding the Social Function of Land Rights

Article 6 of the UUPA states that all land rights have a social function. Furthermore, the Explanation to Article 6 of the UUPA explains that not only ownership rights, but all land rights have a social function.

The General Explanation of the the UUPA identifies the social function of land rights as one of the fundamental principles of national land law, together with the principles of nationality, the state's right to control land, recognition of costomary rights, and other related principles.

According to Notonagoro, an understanding of the social function of land rights requires an examination of the relationship betwen humans and land. Notonagoro (1984; 61-62) [1] explains that this relationship should be analyzed from both objective and subjective perspectives. From an objective standpoint, land is limited in quantity, making it impossible for land to be connected equally to every individual. Consequently, it is neither feasible nor possible for all people in Indonesia to possess or control land. Therefore, efforts must be made to ensure that as many humans as possible have a relationship with land. So, even though people do not own/control land, they have the right to receive benefits from the land. Meanwhile, according to a subjective perspective, humans possess a dual nature: as individuals and as social beings. Based on this dual nature, the relationship between humans and land is relative, meaning that human control over land cannot be unlimited. In controlling land, humans cannot base themselves solely on their personal nature (individual traits), but must also consider their social nature as members of society. Therefore, the human relationship regarding land control is not absolute, but rather relative. Therefore, we should not aspire to the highest rights of Indonesians to their land, at the expense of others (society). Therefore, the human relationship with land, in addition to its individual nature, also has a collective nature, which is termed a social function.

The proportional relationship between human beings in exercising control over land rights does not imply that individual interests must be subordinated to public or societal interests. Instead, both individual and community interests should exist in harmony and maintain a balanced relationship. The Basic Agrarian Law acknowledges individual land rights, as stipulated in Article 4 of the UUPA, which provides that:

1. Pursuant to the state's right to control as regulated in Article 2, several rights over the earth's surface, referred to as land, are established and may be granted to and possessed by individuals, either individually, collectively with others, or by legal entities.
2. The land rights referred to in paragraph (1) confer authority to utilize the relevant land, including the earth's surface, water, and the space above it, insofar as necessary for purposes directly connected to the use of the land, within the limitations prescribed by this law and other higher legal regulations.
3. In addition to the land rights mentioned in paragraph (1), rights concerning water and airspace are also regulated.

The land rights referred to in Article 4 (1) of the UUPA above, according to Article 16 (1) of the UUPA, are:

a. Ownership rights;
b. Business use rights;
c. Building use rights;
d. Use rights;
e. Lease rights;
f. Land clearing rights;
g. The right to collect forest products;
h. Rights that are not included in the rights mentioned above will be determined by law as well as rights that are temporary in nature as mentioned in Article 53.

According to Effendi Perangin (1986: 221–222) [2], the implementation of the social function of land requires that it be optimally utilized to provide benefits not only to the rights holder but also to the surrounding community. Therefore, land rights cannot be viewed solely as a means to fulfill the individual interests of the owner, but must also consider broader social interests. Land ownership and use must not harm the public interest, thus requiring a balance between individual and community interests. Therefore, landowners are obligated to protect, maintain, and improve the quality and fertility of the land, while preventing damage that could reduce its usefulness.

Based on this perspective, it can be understood that land rights held by an individual not only hold value and benefits for the rights holder, but also serve a function aimed at supporting the interests of the Indonesian nation and society as a whole. Consequently, according to Boedi Harsono (2003; 301-302) [3], land use should not be solely for one's own benefit but also the interests of the community. A balance must be maintained between the interests of the owner and the interests of the community.

In this regard, the General Explanation of the UUPA states:"... Any land rights that a person has cannot be justified, that the land will be used (or not used) solely for his personal interests, especially if this causes harm to society. Land use must be carried out with due regard to the nature and status of the rights attached to it, so that its existence can provide benefits to rights holders and support the welfare of society and the interests of the state. However, this principle cannot be interpreted to mean that individual interests must be completely set aside for the sake of the public interest. National agrarian law continues to recognize and protect individual rights to land. Therefore, a proportional balance is needed between personal interests and the interests of society. This balance aims to realize the ideals as mandated in Article 2 (3) of the UUPA, namely the achievement of prosperity, justice, and welfare for all Indonesian people.

Thus, the use of land rights must be a balance betwen the interest of society and individual interest, so that the main objectives of the UUPA are achieving prosperity, justices and hapines for all Indonesian people as mandated by Article 2 (3) of the UUPA can be realized.

The application of the principle of social function entails the need for land to be protected, cared for, and utilized responsibly to maintain and even enhance its fertility, as well as to protect it from potential damage. This responsibility rests not only with the land owner or rights holder, but also with all parties legally connected to the land, including individuals, legal entities, and government agencies.

Provisions regarding the obligation to maintain land are stipulated in Article 15 of the UUPA, which obliges every

legal entity with a legal relationship to land to maintain its sustainability, increase its productivity and fertility, and prevent land degradation or damage. In implementing this obligation, consideration must be given to the circumstances of economically disadvantaged parties.

The balance between individual and societal interests, as previously described, can be achieved if there is a land alocation and use plan established by the government/state (Effendi Perangin, 1986; 222) [2]. The determination of land alocation and use plans by the state is in accordance with the authority of the state's right to control land as stipulated in Article 2 (2) of the UUPA, namely:

a. Regulate and carry out the allocation, supply, use and maintenance of land;

b. Determining and regulating the legal relationship betwen people with the land;

c. Determining and regulating the legal relationship betwen individuals and legal acts concerning the land.

Based on the provisions above, the Government shall create a general plan regarding the provision, use, and allocation of land for:

a. The needs or requirements of the state itself;

b. The needs for worship or other sacred purposes, in accordance with the foundation of our nation, Pancasila, namely the first principle, Belief in the One Almighty God;

c. The needs of the center of community life, especially for economic, social, cultural, and other public welfare purposes;

d. The needs for developing production in the fields of agriculture, fisheries, and animal husbandry, or those closely related to these;

e. The needs for the development of industry, mining, and transmigration (Article 14 (1) of the UUPA).

Accordingly, the utilization of land in conformity with government-designated spatial and development plans reflects the implementation of the social function principle of land rights. Under this principle, public interests are prioritized over private interests as a necessary consequence of maintaining social order and promoting collective welfare. Nevertheless, as argued by Boedi Harsono (2003; 302) [3], the prioritization of public interests should not be interpreted as a denial of individual rights. Private land rights continue to receive legal recognition and protection. Therefore, when the realization of public interests requires the limitation or relinquishment of individual land rights, resulting in economic or material losses, fair and adequate compensation must be provided to the affected rights holders.

In this regard, the legal framework governing land acquisition for public purposes is set out in Perpres No. 36 of 2005 concerning Land Acquisition for the Implementation of Development in the Public Interest. The regulation establishes the principle that parties whose land rights are affected by public development projects are entitled to compensation. Article 1 (3) of the Regulation defines land acquisition as any activity undertaken to obtain land through the provision of compensation to individuals or entities that release or transfer their rights over land, buildings, crops, and other objects attached to the land, or through the revocation of land rights in accordance with applicable laws and regulations.

The release or transfer of land rights is a method implemented by the government or regional government if the land is needed for development in the public interest (Article 2 (1) of Perpres No.36 of 2005). However, the release or transfer of rights is carried out by providing compensation to the land rights holder based on deliberation (Article 1 number 6 of Perpres No. 36 of 2005).

In addition to the provisions contained in Perpres No. 36 of 2005, the legal framework governing compensation for land rights holders is also addressed in Law No. 26 of 2007 on Spatial Planning. This legislation recognizes the rights of individuals who suffer losses as a consequence of development activities implemented in accordance with approved spatial plans. Accordingly, the law establishes legal safeguards to ensure that affected parties receive appropriate compensation for any resulting damages.

Article 60 of Law No. 26 of 2007 stipulates that, within the context of spatial planning, every person is entitled to:

a. Obtain information regarding spatial plans;

b. Benefit from increases in land or spatial value resulting from the implementation of spatial planning policies;

c. Receive fair and adequate compensation for losses arising from development activities carried out in conformity with established spatial plans;

d. Submit objections to the competent authorities concerning development projects that are inconsistent with the spatial plan applicable to their area;

e. Request the revocation of permits and the cessation of development activities that violate the applicable spatial plan by filing claims with the relevant authorities; and

f. Seek compensation from the government and/or permit holders when development activities conducted in violation of spatial planning regulations cause losses or damages.

These rights reflect the commitment of the spatial planning regime to balancing development objectives with the protection of individual rights, particularly in circumstances where planning decisions and development projects have direct consequences for affected landowners and local communities.

Furthermore, Article 61 of Law No. 26 of 2007 provides that every person is required to comply with the established spatial planning framework. This provision underscores the binding nature of spatial plans and imposes an obligation on all stakeholders to ensure that land use and development activities are carried out in accordance with the approved planning policies. Nevertheless, where development projects implemented in conformity with the spatial plan result in losses to land rights holders, the affected parties are entitled to receive fair and reasonable compensation for the damages incurred.

From the foregoing discussion, it can be inferred that the public interest occupies a higher position than individual interests in the context of land regulation and development policy, consistent with the legal principles that govern social coexistence and collective welfare. This principle reflects the social function of land rights, which constitutes a fundamental concept in Indonesian land law. However, the prioritization of public interests should not be construed as a disregard for private rights. Individual land rights continue to be recognized and protected by law. Where the realization of public interests necessitates the relinquishment or transfer

of private land rights, the affected rights holders are entitled to appropriate compensation, the amount and form of which should be determined through consultation and mutual agreement between the parties concerned.

2. Customary Law Conception Regarding the Principle of the Social Function of Land Rights

The most important statement regarding land rights, reflecting the communal or social nature underlying National Land Law, is the statement contained in Article 6 of the UUPA, which states that all land rights have a social function.

This provision of Article 6 of the UUPA does not imply that individual interests are overridden by public (community) interests. The UUPA still considers individual interests in land, but these interests must be balanced. According to the General Explanation of the UUPA, prosperity, justice, and happiness for all people, the primary goals of National Land Law, will be achieved if there is a balance between individual and community interests in the control of land rights.

According to Boedi Harsono (2003; 301-302) [3], the concept of UUPA regarding the nature of individual rights to land, as stipulated in Article 6 of the UUPA, is essentially a concept of customary law. In this regard, customary law is the primary source in developing national land law, drawing upon its concepts, principles, and legal institutions.

This concept of customary law is a communalist concept that embodies a spirit of mutual cooperation and kinship, imbued with a religious atmosphere. This allows for individual land ownership, with private land rights, while simultaneously containing an element of community, because in customary communities no individual is separate from the community. This is what Hollemann, in his book De Commune Trek in het Indonesische Rechtsleven, defines as one of the general characteristics of indigenous communities, where indigenous communities assume that every individual (member of society) is an integral part of society as a whole (Otje Salman Soemadiningrat, (2002; 35) [4].

Thus, this communalistic nature indicates that there are joint rights of members of the indigenous legal community to land, which in this case is called customary rights. Customary land is land located within the territory of an indigenous legal community and is land owned jointly by all members of the indigenous legal community concerned, which is believed to be a gift from a supernatural power or a legacy from ancestors to the indigenous legal community group (Boedi Harsono, 2003; 301-302) [3].

According to customary law, a community is its members living together. Customary land is owned by the customary law community with the mandate to be utilized for the benefit of the community, meaning the common good and the interests of each member. To meet their individual needs, citizens are given the opportunity to open, control, and appropriate certain portions of this customary land.

The adoption of the concept of customary law and even its use as the basis for national land law is indeed appropriate, because customary law aligns with the character of the Indonesian people (Effendi Perangin, 1986; 220) [2] and is the original law of the Indonesian people (Mahadi, 1991; 50) [5]. As the original law of the Indonesian people, and due to its unwritten nature, customary law has grown and developed freely without awareness. Therefore, customary law has become a living law within indigenous Indonesian society and tends to have a significant influence on national and state life (Ilyas, 2005; 235) [6].

In the 1975 Seminar on Customary Law and National Legal Development, held by the National Legal Development Institute of the Department of Justice in Yogyakarta, it was stated that the UUPA defined Customary Law as: "The original law of the indigenous people, which is a living law in unwritten form and contains authentic national elements, namely social and familial characteristics, based on balance and imbued with a religious atmosphere" (Boedi Harsono, 2003; 207) [3].

According to A.P. Parlindungan (1998, 59), the formulation of Indonesia's national agrarian law draws upon selected elements of customary (adat) law that are considered relevant to the country's legal development. These customary legal materials include:

a. Legal concepts and principles that are capable of addressing both present and future societal needs in support of the national objective of establishing a just and prosperous society based on the values of Pancasila and the 1945 Constitution. Among the fundamental principles derived from customary law are the principle of kinship and communal solidarity, the principle that public interests should prevail over private interests, and the principle of immediate and tangible legal transactions (Djuhendah Hasan, 1996, 114) [7].

b. Traditional legal institutions that have been modernized and adapted to contemporary social and economic conditions while preserving the distinctive characteristics and cultural identity of the Indonesian legal system.

c. The incorporation of customary legal concepts and principles into legal institutions originating from foreign legal systems, with the aim of enriching and advancing national law, provided that such incorporation remains consistent with the philosophical foundations of Pancasila and the constitutional framework established by the 1945 Constitution.

These elements demonstrate that Indonesia's national agrarian law is not merely a codification of customary norms but rather a dynamic legal framework that integrates indigenous legal values with modern legal developments while maintaining conformity with the nation's constitutional and ideological foundations.

Although unwritten, customary law is generally always adhered to. This is because:

a. Complying with customary law is ingrained in one's flesh and blood.

b. Fear of ancestors' anger if customary law is violated.

c. Constantly receiving advice to comply with customary law (Mahadi, 1991; 50-51) [5].

Thus, it is understandable that customary law is dynamic and adapts to societal developments that require change. Therefore, it is only natural that customary law be accepted as the basis for national land law, so that customary law truly enjoys a special position within national land law (Ilyas, 2005; 244) [6].

The affirmation of customary law as the basis for national land law is explicitly stated in Article 5 of the UUPA, which reads:

Although the UUPA is based on customary law, it does not automatically accept all customary laws as the basis for the UUPA. In other words, the declaration that customary law is the basis for national agrarian law does not mean that all

existing customary laws are valid as national land law. This is understandable because, according to Boedi Harsono (2003; 301-302) [3], customary law (customary land law) is not immune to the influence of the communities in which it applies, grows, and develops. Furthermore, customary law communities are also, in turn, influenced by their surroundings, namely modern capitalist societies and feudal autonomous communities. Consequently, the prevailing customary land law is no longer entirely pure.

Because customary law itself is flawed, it must be purified of elements inconsistent with the spirit and provisions of the UUPA and the national interest (Effendi Perangin, 1986; 220) [2]. Furthermore, the influence of kings during the ancient kingdom era significantly influenced the customary rights of customary law communities. Apart from that, there was also foreign influence (Dutch colonialism) during the colonial period, where the agrarian policies implemented by the Dutch East Indies government greatly influenced the customary land law of the Indonesian people (Soerjono Soekanto, 1981; 129-134) [8].

Customary law that aligns with the spirit and provisions of the UUPA and national interests is referred to by Boedi Harsono (2003; 63) [3], as sanitized customary law, new customary law according to Saleh Adiwinata (1975; 74) [9], retooled or refined customary law according to Sudargo Gautama (1973; 18) [10], growing and changing customary law according to Ko Tjay Sing (Abdurrahman, 1978; 82), and customary law that has been stripped of its regional character and given a national character according to Soehardi (Abdurrahman, 1978; 82).

Thus, not all customary law is simply accepted by the UUPA and used as the basis for national land law. This is limited by Article 5 of the UUPA. Article 5 of the UUPA specifies the conditions that must be met for customary law to be used as the basis for the UUPA, namely:

a. It must not conflict with national and state interests, which are based on national unity.

Costumary law provisions must not comflict with national and state interests, as is appropriate. Land law must serve national and state interests, meaning that national and state interests must be placed above group and regional interests, let alone individual interest.

In this regard, Efendi Perangin (1986; 220) [2] provides an example of a customary law provision that conflicts with national and states interest based on national unity, relating to the implementation of customary rights. In this case, customary rights are indeed the rights of a customary law comunity over its land area, which grants certain authority to customary rulers to lead and regulate it. The Basic Agrarian Law recognizes this right, but does not authorize customary rulers to obstruct or hinder government efforts to achieve public prosperity. For example, customary rights cannot be used as a pretext to hinder transmigration, regular and planned forest clearing, logging companies, or other development efforts.

b. Not Contrary to Indonesian Socialism

As is known, the goal of the Indonesian people's struggle is to establish a just and prosperuos society based on Pancasila, which in the UUPA is referred to as the Indonesian Socialist Society. According to the considerations of MPRS Decree No. II/MPRS/1960, the Indonesian Socialist Society is defined as a just and prosperuos society based on Pancasila.

Furthermore, the explanation of the definition of Indonesian Socialism states, among other things: "Indonesian Socialism is a teaching and movement for a just and prosperous society based on Pancasila. A just and prosperous society based on Pancasila is a demand of the Mandate of the Suffering of the Indonesian People. A just and prosperous society based on Pancasila, as the embodiment of Indonesian Socialism, is fundamentally based on justice, democracy, and prosperity."

Therefore, Land Law, as a tool to achieve the goals of the Indonesian people struggle, must not contain provisions that conflict with Indonesian Socialism.

c. Does not conflict with UUPA

The UUPA is the basic regulation of National Land Law. Consequently, no Land Law regulations (whether written or unwritten) may conflict with the UUPA. For example, the provision stating that every Indonesian citizen has an equal opportunity to acquire land rights. Customary law provisions in certain regions that only provide members of their own legal community with the possibility of owning land are in conflict with the UUPA provisions contained in Article 9 paragraph (2).

This article also stipulates that there is no distinction between men and women in land ownership. If customary law in some regions does not allow men or women to own land with ownership rights, this is in conflict with the UUPA provisions.

d. Not in conflict with other laws and regulations

Provisions in Customary Law are often misused by customary authorities who have authority within a local customary law community. Therefore, provisions are needed to limit this authority so that customary law provisions do not conflict with laws and regulations.

Article 53 of the UUPA requires regulations regarding mortgage rights, profit-sharing rights, easements, and agricultural land leases, among other things, to eliminate elements of extortion. With the enactment of these provisions, any customary law provisions that conflict with them are no longer valid. Furthermore, customary law provisions regarding land clearing also do not apply if the right to clear land is granted to a foreign national. According to Article 46 (1) of the UUPA, the right to clear land can only be held by Indonesian citizens.

The granting of land clearing rights, followed by the granting of ownership rights to an area of 25 square kilometers, was granted by the Traditional Ruler (Village Head) of Sarang-Halang in South Kalimantan to an Indonesian citizen of foreign descent in the period leading up to the enactment of the UUPA (Boedi Harsono, 2003; 210) [3].

Based on the above description, it can be understood that customary law provisions do not apply if they conflict with the provisions of the UUPA and other laws and regulations. Thus, customary law is not outside national land law, but rather is part of it, namely its unwritten part. This means that customary law provisions remain valid as long as they are relevant and do not conflict with national land law provisions.

Therefore, in order to develop a national legal system, according to Bernard Arief Sidharta (2000; 220) [12], it is necessary to intensify the study of Pancasila and field research in the fields of Customary Law, Legal Anthropology, and Legal Sociology. This is certainly well-

founded, as it is known that customary law was the law that prevailed among Indonesian society long before Westerners arrived in Indonesia. This is as stated by Bernard Arief Sidharta (2000; 34-35) [12], who stated that:

Long before Westerners arrived in the archipelago, life in Indonesia was already orderly thanks to the existence of various legal associations. Through the actions of citizens in their interactions with each other and the decisions of community leaders in resolving conflicts between citizens and various issues related to common interests, this legal system naturally grew and developed in line with the growth and development of the community's culture and civilization. During this development, a process of differentiation occurred, giving rise to a legal system later called Customary Law, alongside other legal systems such as custom and religion, although the boundaries are still unclear. The citizens and leaders of the community (legal association), as supporters of the culture (cultuurdragers) that gave rise to Customary Law, intuitively internalize the values and principles with the rules and systems of Customary Law in more or less the same way.

Based on the above description, it is clear that research into customary law is crucial and needs to be intensified in the developmen of the national legal system, including land law. If customary law is no longer appropriate to societal developments within the current national legal system, this is understandable, as the dynamics of societal development continue to change and no longer meet the community's concrete needs. According to Bernard Arief Sidharta (2003; 3), this can also occur in legislation and other official decisions. In such circumstances, the forced implementation of these regulations and legal institutions will no longer represent a concrete embodiment of Pancasila. It would be prudent to amend and adapt these regulations and institutions to reflect the real world. This is because concrete meaning and significance are always determined by the reality in which the principles are to be realized (historisch bepaald). What is important is that everything is carried out through procedures based on law and inspired by Pancasila, as the philosophical foundation and critical norm for the Indonesian Legal System.

Conclusion

The Indonesian national land law framework is founded upon several fundamental principles, including the principle of nationality, the state's right to control land, the recognition of customary (adat) rights, and the principle of the social function of land rights. These principles collectively serve as the normative basis for regulating land tenure, use, and management in Indonesia.

The incorporation of the social function principle into national land law signifies that land rights cannot be exercised solely for the private benefit of the rights holder, particularly when such use—or non-use—may adversely affect the interests of the broader community. Accordingly, land utilization must be consistent with the nature, characteristics, and designated purpose of the land so that its benefits extend not only to the rights holder but also to society and the state. In this sense, land is viewed as a resource that carries both private and social responsibilities.

The principle of the social function of land originates from customary law, which constitutes the primary source and philosophical foundation of Indonesia's national land law. In the process of developing the national legal system, customary law contributes its legal concepts, principles, and institutional structures. The underlying philosophy is communal in nature, emphasizing solidarity, mutual cooperation, and kinship values within society. At the same time, this conception recognizes individual ownership of land while maintaining the understanding that land rights possess both personal and collective dimensions. Consequently, the exercise of individual land rights must remain compatible with the interests and welfare of the wider community.

Suggestions and Recommendations

Because national agrarian law is based on customary law, the community is expected to respect the provisions of customary law, as long as said customary law does not conflict with national agrarian law, Indonesian socialism, national interests, or other matters. Therefore, if disputes or disagreements arise within the community regarding land or land rights, they can first be resolved through deliberation based on applicable customary law. This is understandable, given the communal nature of customary law, embodying a spirit of mutual cooperation and kinship, imbued with a religious atmosphere.

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