

THE FUNCTION OF AGRARIAN REFORM POLICY AS AN INSTRUMENT FOR STRUCTURING LAND TENURE AND OWNERSHIP IN THE ERA OF PRESIDENT JOKO WIDODO

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Abstract

This study aims to examine the function of the Agrarian Reform policy carried out by the government on the arrangement of land tenure and ownership structures in the era of President Joko Widodo. The results of this study are the success of the government in the asset legalization step, namely the Complete System of Land Registration but the Transmigration Land has not been able to meet the target, as well as the success of former lands with Cultivation Rights, Abandoned Land, and other types of State Land but for the Release of Forest Areas it still does not meet the requirements target. This study uses a doctrinal research method with a statutory approach and conceptual approach. The Agrarian Reform Policy can be said to be successful if the government as the implementing party can provide the Agrarian Reform Object Land (TORA) as targeted.

Keywords: Agrarian Reform, Control, Ownership, Land, Joko Widodo

1. INTRODUCTION

Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia is the main reference regarding agrarian arrangements in Indonesia, which is then embodied in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). Law Number 5 of 1960 has been the legal basis for many years regarding agrarian matters. Although in general, there is still overlapping implementation caused by several regulations at the same level that contradict the operation of the UUPA.

[1] Sectoral regulations that have the same level as the UUPA are considered to have arisen as a result of articles not covered by the UUPA. This is also based on the assumption that the UUPA is a legal basis that only focuses on land and does not cover Natural Resources (SDA) as a whole, because the UUPA has 58 articles that regulate land. [2] In addition, the UUPA is also considered weak in accommodating the development of science, social values, political values, culture, economy, and also the needs of the community. A reflection of this weakness is the emergence of conflicts related to the ownership of land rights as well as disputes related to land tenure and ownership due to the inequality and injustice that accompanies it.

Agrarian Reform or Land reform exists as a solution to inequality in land tenure and ownership while at the same time increasing people's welfare. Agrarian reform has a main goal, namely as a means of restructuring the structure of control, ownership, use, and utilization of land more equitably through the mechanism of asset management and accompanied by structuring access for the prosperity of the Indonesian citizen. [3] There is hope that agrarian reform can be a solution to the problem of inequality in ownership and equity, not only related to land

redistribution. Agrarian Reform was initiated with several major objectives, such as creating prosperity and welfare for the community, creating jobs to reduce poverty, improving and maintaining environmental quality, increasing food security and sovereignty, handling and resolving agrarian conflicts, reducing inequality inland tenure and ownership, and improving community access to economic resources. [4] The idea of agrarian reform cannot be separated from the underlying legal basis, namely the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX/MPR/2001 concerning Agrarian Reform and Natural Resources Management and Law Number 17 of 2007 concerning the National Long-Term Development Plan 2005-2025 and its implementation which is based on Presidential Regulation Number 86 of 2018 concerning Agrarian Reform.

During the reign of Joko Widodo, agrarian reform became one of the National Priority Programs in the effort of sustainable development and to improve the quality of life. This is also supported by Joko Widodo's statement in his vision and mission when he and Ma'ruf Amin became President and Vice President for 2019-2024. In point 3 regarding Equitable and Equitable Development, precisely at number 3.1 Joko Widodo will seek to redistribution of assets for equitable development which is intended to realize justice in the control, ownership, use, and utilization of land, territory, and natural resources. Joko Widodo said that he would accelerate the implementation of targeted national agrarian and forestry reforms in order to provide opportunities for people who so far do not own land/assets to engage in economic activities; Continuing community assistance in the use, utilization, and production of land subject to agrarian reform and social forestry so that it is more productive; and continue to accelerate the legalization (certification) of land owned by the people and waqf land, to have legal certainty and prevent disputes over land. [5] Therefore, the author feels it is appropriate to reassess the function of the agrarian reform policy promoted by Joko Widodo as an instrument in structuring the structure of land tenure and ownership as one of the success factors of agrarian reform. Based on the background that has been described, the author determines the problem regarding the function of agrarian reform policy as an instrument for structuring the structure of land tenure and ownership in the reign of Joko Widodo-Ma'ruf Amin.

2. METHOD

This study uses a doctrinal research method with a statutory approach and a conceptual approach. [6] This study uses deductive syllogism analysis techniques and interpretations of legal sources that are the reference for implementing agrarian reform in Indonesia, namely MPR Decree Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management and Presidential Regulation Number 86 of 2018 concerning Agrarian Reform. Data collection techniques were carried out by reviewing the written literature and then presented descriptively.

3. FINDINGS AND DISCUSSION

Agrarian Reform is a restructuring of the ownership, control, and use of agrarian resources (especially land). Theoretically, agrarian reform can be interpreted as a change in the

composition of the legacy of the feudalism and colonialism style system into a just and equitable society. Ideally, agrarian reform policies are formed to solve land problems in the form of abandonment of former Cultivation Rights lands, difficulty in obtaining access (inaccessibility), and population crime against land tenure. [7] For the sake of creating equitable justice, the concept of agrarian reform includes three basic concepts, namely: a. the concept of land reform, namely the restructuring of land ownership control structures that are more equitable; b. the concept of access reform, namely the concept of structuring the use or productivity of land use by structuring the support of adequate facilities and infrastructure and allowing farmers to gain access to economic resources in rural areas or surrounding areas. The access referred to can be in the form of agricultural facilities and infrastructure, irrigation, roads, farming, production marketing, farming cooperatives, and banking (people's business credit); c. the concept of policy reform, namely the concept of realigning policy and legal arrangements in favor of the people.[8]

The issuance of MPR Decree No. IX/MPR/2001 was then considered a milestone for change in the context of agrarian reform. This is due to the following reasons [9]: MPR Decree Number IX/MPR/2001 as a strategic policy direction in which it contains changes to the agrarian vision and mission, to present agrarian legal politics that prioritizes the community; and as the legal basis for laws and regulations and subsequent agrarian policies. The application of TAP MPR RI Number IX/MPR/2001 must be considered in the formulation of policies in the agrarian sector, so as not to abandon the vision and mission that has been changed to humane in the first point. This stipulation regarding Agrarian Reform and Natural Resource Management includes Land Reform in an important program of agrarian reform, namely in Article 5 which states that one of the policies implemented is the restructuring of control, ownership, use, and use of land (land reform) in a just manner by taking into account land ownership. By the people and organize land data collection through comprehensive and systematic inventory and registration of control, ownership, use, and utilization of land in the context of implementing land reform. In addition, Article 6 of MPR Decree Number IX/MPR/2001 also mentions the agenda for implementing agrarian reform, namely: reviewing various laws and regulations; carry out the realignment of control, ownership, use, and utilization of land (Land reform); re-organize land data collection; resolve conflicts; strengthening institutions; seek financing.

Table 1: Targets based on RPJM 2015-2019 and 2020-2024

Land for Agrarian Reform (TORA)				
Asset Legalization 4.5 Million Hectare		4.5 Million Hectare Land Redistribution		
Transmigration Land: Target 600,000 hectares	Complete Systematic Land Registration: Target 3.9 million hectares	Ex-HGU, Abandoned Land, Other State Land: Target 400,000 hectares	Forest Release: Target 4.1 Million Hectares	
Achievements: 168,819 Certificates cover a land area of 113,109 hectares (18.85%)	Outcomes: 24,287,387 Lands covering an area of 6.88 million hectares (176.41%)	Outcomes: 1,599,611 lands with a total area of 1,045,646 hectares (261.41%)	Outcome: 544,541 lands with a total area of 265,845 hectares (6.45%)	
Total Asset Legalization covers an area of 6.99 Million hectares (155.40%)		Total Land Redistribution of 1,310,491 Hectares (29.12%)		

Entering the reign of Joko Widodo, Presidential Regulation Number 45 of 2016 was issued concerning the 2017 Government Work Plan as a follow-up to the Nawacita program which is a National Priority Program. [10] This policy was also confirmed by the issuance of Presidential Decree No.86 of 2018 concerning Agrarian Reform. Based on Presidential Decree No. 86 of 2018, the implementation of agrarian reform is carried out through the stages of Asset Management and Access Arrangement following Article 5. Asset Management consists of Land Redistribution and Asset Legalization. Access arrangements are carried out on a cluster basis to increase economies of scale, add value and encourage entrepreneurial innovation for Agrarian Reform Subjects. The implementation of agrarian reform according to Article 3 is carried out by the Central and Regional Governments and is carried out on the Land of the Agrarian Reform Object (TORA). The types of TORA objects that can be used for purposes are regulated in Article 7 which includes, among others, Cultivation Rights and Building Rights lands whose validity period has expired; Abandoned Land; Land Result of dispute and conflict resolution; release of forest area; and other soil types. While related to the subject of agrarian reform, it has been stipulated in Article 12 that the subject of agrarian reform is an individual; community groups with Shared Ownership Rights; or Legal Entity. This article also determines the specifications of the subjects that are included as subjects of agrarian reform. The success of agrarian reform can be determined by the availability of Agrarian Reform Object Land (TORA) originating from the Transmigration cluster, expired Cultivation Rights, state land, abandoned land, and release from forest areas. [8]

The implementation of agrarian reform is based on promises made by the government in 2019 and confirmed in the National Medium-Term Development Plan (RPJMN) which targets 9 million hectares of land, with an asset legalization scheme of million hectares which includes the legalization of 600,000 uncertified transmigration lands. Hectares and the legalization of 3.9 million hectares of land already under community ownership. Meanwhile, land redistribution of 4.5 million hectares includes Expired Land Use Rights, abandoned land, and other State lands covering an area of 400,000 hectares and land derived from the release of forest areas covering an area of 4.1 million hectares. [11] Land control and ownership is an aspect that is considered important in the implementation of agrarian reform because it also intersects with the provisions on asset management as defined in Article 1 paragraph 2 of Presidential Regulation No. 86 of 2018. The asset management policy in agrarian reform is carried out through the redistribution of agricultural and non-agricultural land, while the legalization of assets is carried out by providing land certificates.

Since the implementation of the Agrarian Reform in the National Medium-Term Development Plan (RPJMN), the government has attempted a massive movement to distribute land certification throughout Indonesia through the Complete System Land Registration (PTSL) with the main goal of holding land certificates on all lands in Indonesia. In 2017, 5 million certificates have been issued by the government, while 7 million certificates in 2018, 9 million certificates in 2019, and by 2025 it is expected that all land owners in Indonesia have land certificates. [12] While the implementation of land redistribution from the Release of Forest Areas is targeted to increase from 4.11% in 2020 to 100% (approximately 4.1 million ha) in 2024, the implementation of land redistribution from ex-HGU and abandoned land, from 200%

(0.4 million ha) in 2020 to 500% (2 million ha) in 2024, increasing the income of Agrarian Reform subjects (from former Cultivation Rights, abandoned land, redistribution, PTSL, transmigration) by 25% [13]. This target refers to the rise of disputes and conflicts rooted in the delegation of land rights to the community. Based on data from the Directorate General of Dispute and Conflict Handling cited by Fitra and Mujiburohman (2022), the total number of land cases is 8,111 cases consisting of 60 land crimes; land disputes 4,211 cases; cases 3,290 cases; and 550 cases of land conflicts. Based on 51 million registered land parcels, 0.015% of them are problematic land parcels [14]. The achievement of the implementation of Agrarian Reform as described in the table is a form of government consistency that can be said to be successful in carrying out asset legalization and also land redistribution. Even so, the government's steps to be able to exceed the target are still quite far. The government should be able to invite related parties to focus more and be more aggressive in implementing the release of forest areas and the legalization of transmigration land to achieve the targets contained in the RPJMN.

Transmigration land as an aspect that has not met the target has several problems that still have to be resolved by the government, including a) Disputes with local communities; b) Land overlapping with the Company's Cultivation Rights; c) lack of business land; d) there is an overlap with the forest area; e) disputes with other government agencies; f) Regional administrative boundaries; g) legality of a residential area; h) Overlap with ulayat/customary rights. Meanwhile, at the stage of releasing forest areas for the creation of land redistribution, there is a need for synergy and continuity of performance between the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency and the Ministry of Environment and Forestry. Apart from this synergy, several issues also deserve to be considered as a priority in the completion and fulfillment of the target of releasing forest areas. These problems include: a) not all releases of forest areas from the Equipment permit for business license for utilization of wood forest products (IUPHHK) addendum have been followed up with the process of Determination/Changes Statement Letter; b) Not all Neighborhood/ward review locations are designated for TORA; c) field identification problems due to the small scale of the TORA object map from forest area release; d) Boundary marks in the field are relatively difficult to find. [15] The success of the government in implementing Agrarian Reform by legalizing assets and redistribution of land will greatly impact the community. Communities who receive a Certificate of Ownership or as subjects of Agrarian Reform will have the opportunity to develop their land and take part in the development of agriculture and plantations. On a larger scale, equitable distribution of land ownership and control will have an impact on the goal of food self-sufficiency and sustainability.

4. CONCLUSION

The government's policy in implementing Agrarian Reform should be seen as an effort to realize even distribution of ownership structure and land tenure by the community. This is so that the existence of land in Indonesia is not only owned or controlled by a handful of parties. Regulations that are used as references by the government should be a big consideration so that they can be made into laws that have wider legal force and can be applied comprehensively. In

addition, the success of the government in implementing a Complete System of Land Registration and Land Redistribution other than the Release of Forest Areas cannot escape the fact that the Government still has to be more aggressive in carrying out Land Redistribution in order to achieve the targets that have been set.

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