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**LEGAL POLITICS FULFILLMENT OF LAND RIGHTS IN  
BANJAR MARGO, TULANG BAWANG**

WRITTEN BY:

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## **Abstract**

One of the constitutional mandates of the Republic of Indonesia is the use of natural resources (SDA), including land which is used to a large extent for the welfare of the folks. However, the reality is that in the Banjar Margo sub-district, people who claim to have rights to the land they own must get injustice over their ownership. Local government as the protector of the people must also be strong in providing services to provide a sense of justice to the community. The research method used the case study method with various data collection techniques such as observation, historical tracing, key informant interviews. This research is using a qualitative approach.

Research results and discussion : (1) The political construction of the law for protecting citizens' land in Indonesia is divided into three periods, namely the old order, the new order and the reform order. However The implementation has not been fully elaborated, both in the Old Order and the New Order and the Reformation Order. (2) The map of land conflicts in Banjar Margo sub-district, Tulang Bawang district, originated from three factors, namely: the land certification administration system, unequal distribution of land ownership, and legality of land ownership regardless of land productivity. Conflicts concerning arising land are conflicts of interest between one party and another. In Banjar Margo sub-district, Tulang Bawang Regency, the cause is the unclear land of the ownership status itself.

**Keywords: Land conflicts, Stakeholders, objective conflict maps.**

# **1. INTRODUCTION**

## **1.1. Background**

Land as the basic right of everyone, its existence is guaranteed in the 1945 Constitution. Article 33 of the 1945 Constitution, To mandate natural wealth and production branches which are related to the livelihoods of the people, controlled by the state for the greatest welfare of the people. Law Number 5 of 1960 concerning Basic Agrarian Regulations, as a regulation in order to implement Article 33 of the 1945 Constitution in the agrarian field (natural wealth) and then provide several obligations to the government. <sup>1</sup>.Article 33 paragraph (3) of the 1945 Constitution mandates that the utilization of natural resources (SDA), including land, is for the greatest prosperity of the people. This constitutional mandate mandates to the state that everything related to land as part of the earth, water and natural resources contained therein in Indonesia must be managed and utilized for the greatest prosperity of the people. Land has very many uses, either way be it economically, socially, legally, and politically. Economic use of land is used by the community in order to make a living for the surrounding community by selling land, in addition, land can be used to carry out economic activities such as buying and selling goods on a plot of land. Socially, land can be used as a shelter by building houses and carrying out other social activities.

In the reform era, agrarian conflicts in Indonesia are increasing in number (Astuti, 2011). According to the National Land Agency, in 2011 there were around 3,500 land conflicts dominated by community disputes with oil palm companies (Colchester and Chao, 2011). Secara umum konflik agraria di Indonesia terjadi antara masyarakat dengan perusahaan pemegang izin lahan (Astuti, 2011). Agrarian conflicts occur because of overlapping land uses between the community and the government / company (Mantiri, 2007).

A case of overlapping forest ownership due to legal pluralism occurred in Banjar Margo District, Tulang Bawang Regency. Where is the Conflict Since 1986 Agrarian disputes between seven transmigrant villages in an area of 10,000 hectares and PT BNIL started in 1986 when the then governor of Lampung claimed that the residents' land was the PT Bangun Gaya Modern concession area. For that reason, The area was given to PT BNIL (3,400 ha), PT Rimba Lampung Abadi (4,000 ha), and PT Trimulya Adi Kencana (3,000 ha). However, until 1990, the

three companies did not carry out any activity. The 10,000 ha area began to become densely populated. It became a settlement and was even considered a successful independent pilot of self-initiated transmigration. There are already markets and schools.<sup>1</sup> In 1991, PT. BNIL, assisted by Bakorstanasda-Korem 043 Garuda Hitam, vacated seven villages by force and violence. The problem is not over with expulsion, The Minister of Home Affairs made a problem-solving policy by including eviction victims in the self-initiated transmigration program. In this program, each victim gets a two-hectare land compensation with the following details: a quarter of a hectare for yards, three-quarters of a hectare of food land and one hectare of mandatory BNIL plasma business

### **1.2. Problem Formulation**

Based on the background described, the problems to be resolved in this study are:

1. How is the political construction of law for protecting community land in Indonesia?
2. What is the land conflict map in Banjar Margo District, Tulang Bawang Regency?

### **1.3. Purpose Of The Paper**

The specific objective of this research is to obtain a political construction of the law for protecting community land and produce an objective conflict map of land ownership between the people of Banjar Margo District and PT BNIL in Tulang Bawang Regency.

## **2. RESEARCH METHODOLOGY**

The research method used the case study method with various data collection techniques such as observation, historical tracing, key informant interviews. This research uses a qualitative approach. Strauss and Corbin (2013) define qualitative research as a research method where the findings are not obtained through statistical procedures or other forms of calculation. Data analysis used qualitative analysis (Bungin, 2010). Operationally, qualitative research data analysis is the process of compiling data (classifying it into themes or categories) so that it can be interpreted or interpreted. Data collection and analysis activities in this study are not separate from one another.

### **3. DISCUSSION**

#### **A. Political construction of law to protect the land of citizens in Indonesia**

The politics of land law in the sense of choice of objectives and legal principles which is used as a guideline for realizing the goals has been described in the Basic Agrarian Law (UUPA) which aims to ensure the realization of prosperity for all Indonesian people, To manifest this goal, the LoGA contains the principles of land tenure and use to encourage progress in various fields such as economy, industry, agriculture, and other fields that are implemented depending on the availability of land. LoGA can be placed as progressive law or prismatic law. As a progressive law, UUPA means an instrument to create an advanced change in society in the economic sector through structuring the land owner structure, on the other hand, encourages changes in agriculture and an increasingly advanced industry but without neglecting justice such as the UUPA pays special attention to groups of people who are weakened by land policies in the past. In its implementation, it has not been fully elaborated during the Old Order and the New Order and the Reformation Order.

##### **a. Old Order Period**

The politics of land law have led to efforts to achieve equitable distribution of prosperity for all people through the land reform program as regulated in Law number 56 of 1960 and its implementing regulations, reform of the lame land tenure structure has begun by taking over excess lands from the maximum limit and absent lands, which is then planned to be distributed to landless communities. The spirit of cooperatives as a forum for land exploitation for large-scale land concessions has begun Regulation of the Minister of Agrarian and Agriculture number 11 of 1962 which stipulates the share ownership of the company is divided into 3 parts, namely 50% is owned by the company founder, 25% is handed over to employees, and 25% to the community around the company's operations through the local government.

##### **b. New Order era**

The development of land politics during the New Order era saw a change in development ideology from Indonesian-style socialism developed by Soekarno towards capitalism along with the liberalization and privatization of control and use of land. Initially, the New Order government still maintained the role of

BUMN in controlling and exploiting / exploiting land for plantation and industrial business activities. In its development from mid-1980 to 1990 increasingly intensive, privatization and liberalization are increasingly becoming the mainstream, the substance of land policy is even more directed at land commoditization which has a negative impact on protection of community land ownership .<sup>1</sup>

### **c. During the Reformation**

During the reformation era, there was a spirit of capitalistic, liberal policies and competition that did not change. This means that land policies continue to exist and were practiced during the New Order era, even through sectoral agencies the capitalistic and liberal policies are increasing, although the National Land Agency is trying to curb and restore it in the spirit of the UUPA, but not enough support from sectoral agencies.

## **B. Conflict land map in Banjar Margo District, Tulang Bawang Regency**

The Indonesian state has full sovereignty over the territory of its country and all the natural resources contained therein to be fully explored and utilized in order to meet the needs that can prosper and prosper the lives of all its people. Regarding the land area, waters, territorial sea boundaries and natural resource wealth intended for provide legal certainty and clarity for citizens to know where their territory is. However, on the other hand, this condition can have a negative impact on Indonesian society because it is seen from the current condition of society that there are many imbalances covering development, legal injustice, social, economic inequality, poverty and the dynamics of increasingly irregular political life. With these conditions, Indonesia is a country that is prone to conflicts between communities, both individuals and groups.

Land conflicts that occur in Indonesia originate from three factors, namely: land certification administration system, unequal distribution of land ownership, and legality of land ownership regardless of land productivity. Land problems are increasingly complex when it comes to arising land. By using a descriptive qualitative method, this study aims to determine the

dynamics of land conflicts arising in Sarinah Island. This study uses the theory proposed by Simon Fisher on the dynamics of conflict. Based on the research results, conflicts concerning land arise are conflicts of interest between one party and another who fight over resources on land objects, causing various conflicting actions between communities. The cause of this conflict is the unclear land ownership status.

### **Land Map of the Culture Peoples of Tulang Bawang, Mesuji and its surroundings**



## **4. Closure**

### **4.1. Conclusion**

#### **a. Political construction of law to protect the land of citizens in Indonesia**

Political construction of land protection laws for citizens in Indonesia, divides into three periods, namely the old order, the new order and the reform order. However, the implementation has not been fully elaborated during the Old and New Order periods and the Reform Order. The politics of land law during the Old Order era have led to efforts to achieve equitable distribution of prosperity for all the people through Law No.5 of 1960 concerning Agrarian Principles, however, the UUPA failed due to the government's lack of strong commitment to implementing land reform, both at the parliamentary level and at the shareholder and landlord level. A confrontational and revolutionary policy towards the nationalized land policy of the large foreign

companies. Disbelief towards the government of the largest political party. Rampant poverty. The development of land politics during the New Order era saw a change in development ideology from Indonesian-style socialism developed by Soekarno towards capitalism along with the liberalization and privatization of control and use of land. Current reforms, the spirit of capitalistic, liberal and competitive policies have not changed. This means that land policies continue to exist and were practiced during the New Order era, even through sectoral agencies, capitalistic and liberal policies are increasing.

#### **b. Map of land conflicts in Banjar Margo District, Tulang Bawang Regency**

Land conflicts that occur originate from three factors, namely: land certification administration system, unequal distribution of land ownership, and legality of land ownership regardless of land productivity. Land problems are increasingly complex when it comes to arising land. Conflict concerning land arises is a conflict of interest between one party and another. In Banjar Margo District, Tulang Bawang Regency, the cause of this conflict was the unclear land ownership status. The state as a big vessel for land and its problems cannot help solve it. They even tend to take sides, resulting in significant gaps between strong and weak groups that are economic, social and political. There are three processes for the development of ways of conflict resolution, namely from a settlement that does not involve a third party to a settlement involving a third party. From a pre-judicial settlement method to a judicial settlement method. And from a potential solution that is non-violent, to a solution using violence.

#### **4.2. Suggestion**

- i.** Local Government, in particular Tulang Bawang Regency, Margo village, Must immediately resolve land conflicts that occur between the local customary law community and PT BNIL, so that land conflicts do not occur.
- ii.** The existing Ulayat map must be repaired immediately in accordance with the provisions in the Land Law.



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