

THE LEGAL PHILOSOPHY AND JUSTICE VALUES IN THE ACQUISITION OF LAND RIGHTS IN INDONESIA: A NORMATIVE LEGAL RESEARCH

Try Widiyono
Universitas Islam Jakarta, Indonesia
twidiyono.uid@gmail.com

Md Zubair Kasem Khan
Baruch College, City University of New York, USA
mzkkkan.nyu@gmail.com

Abstract

This study aims to describe the authority to control land by the state in various legal and regulatory arrangements from the Basic Agrarian Law, constitution, and other derivative regulations. The object of this study is the various types of land rights that are stated in the various legal arrangements. The method used in this research is normative legal studies that examine legal products with a statutory approach. The findings describe that the 1945 Constitution and the regulations under it regulate how to obtain land rights in order to fulfill the nature and elements of the law. Some of the main things regulated in the legislation are in order to balance the public interest and the sustainability of the national economy. The findings have theoretical implications for regulatory arrangements on aspects that have not been regulated by law. The findings of this study underscore the importance of synchronizing land arrangements at the national level, as well as suggesting harmonization of land laws to avoid overlapping and at the same time accommodate various needs, including public interests, economic development, individual and social interests. Philosophically, this research underscores the aspect of people's prosperity as the most important basis of authority originating from the right to control by the state.

Keyword: Acquisition; Land; Ownership; Policy; Right .

A. INTRODUCTION

The 1945 Constitution is a positive legal norm. As a legal norm, its formation is closely related to legal politics. Dirdjosisworo (1983) defines legal politics as including activities to find and choose values and apply them to the law in seeking its goals¹. Concerning land law, the politics of the land law of the Republic of Indonesia is stated in the Constitution of the Republic of Indonesia namely Article 33, paragraph 3 of the 1945 Constitution.² The Article states that land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people."

1 Dirdjosisworo Soedjono, *Pengantar Ilmu Hukum*, Rajawali, Jakarta, 1983

2 B.F. Sihombing, Contemporary Issues of Agrarian Law Institutions: Critical Analysis of Legal Structure on Human Capital and Information Technology, *Journal of Legal, Ethical and Regulatory Issues*, Vol. 22, No. 2, 2019, page.1-11.

Juridical consequences relating to land in the territory of the Republic of Indonesia, legally "controlled by the state.

The definition of land controlled by the state is explained in Act No. 5 of 1960 concerning *Undang-Undang Pokok Agraria* (UUPA/Basic Agrarian Law/BAL). In Article 2 paragraph 1 of the BAL, it is stated that "*on the basis of the provisions in article 33 paragraph 3 of the constitution and the matters referred to in article 1, the land, water and space, including the natural resources contained therein, are at the level of the highest state is controlled by the state, as an organization of power for the whole people.*"

Article 2 of the BAL explains, "the right of control gives the authority to (a) regulate and organize the designation, use, supply and maintenance of the land, water and space, (b) determine and regulate legal relations between people, the land, water, and space, (c) determine and regulate legal relations between people and legal actions concerning the land, water and space". Based on these provisions, the authority that comes from the right to control from the state is used to achieve the greatest prosperity of the people in the sense of nationality, welfare and independence in society and an independent, sovereign, just and prosperous Indonesian legal state.³ Article 2, paragraph 4 of the BAL states, "the state mentioned above's right to control can be delegated to autonomous regions and customary law communities, as long as it is necessary and does not conflict with national interests, according to the provisions of government regulations."

It is clear that in the conception of Indonesian land law, the state does not have ownership rights over a plot of land, but the state has the "right to regulate" land parcels throughout the territory of Indonesia.⁴ Further implementation in the conception of Indonesian land law can be seen in various laws and regulations relating to land, including but not limited to types and rights to land, transfer, guarantee, granting of permits, acquisition, revocation, management, spatial planning (*Rencana Umum Tata Ruang* RUTR/General Spatial Plan).⁵ Other legal subjects can be granted certain rights over certain land parcels.⁶

3 F.X. Sumarja, Ade Arif Firmansyah, and Pradipta Wijonugroho, *Agrarian Reforms in Indonesia: A Pleasure*, *ICETLAWBE*, 2020, page.108; Adriaan Bedner, and Yance Arizona, *Adat in Indonesian Land Law: A Promise for the Future or a Dead End?*, *The Asia Pacific Journal of Anthropology*, Vol. 20, No. 5, 2019, page.416-434; Helmi, Helmi, Defriman Djafri, Cut Mutiani, Nurdin Abd Halim, Muhammad Badri, and Yefni Yefni, *Indigenous People in the Dynamics of Land Use Changes, Forest Fires, And Haze in Riau Province, Indonesia*, in Raza Ullah, Makoto Inoue, Ganesh Shivakoti, Shubhechcha Sharma, and Sobia Asghar (eds.), *Natural Resource Governance in Asia*, 2021, page. 291-308. Elsevier

4 Helmi, Helmi, Defriman Djafri, Cut Mutiani, Nurdin Abd Halim, Muhammad Badri, and Yefni Yefni, *Indigenous People in the Dynamics of Land Use Changes, Forest Fires, And Haze in Riau Province, Indonesia*, in Raza Ullah, Makoto Inoue, Ganesh Shivakoti, Shubhechcha Sharma, and Sobia Asghar (eds.), *Natural Resource Governance in Asia*, 2021, page. 291-308

5 Some research had extensively discussed these various implementation of land rights in specific fields such as customary law, environment, forestry, mining. For more detail, see Ida Aju Pradnja Resosudarmo, Luca Tacconi, Sean Sloan, Faridh Almuhayat Uhib Hamdani, Iis Alviya, and Muhammad Zahrul Muttaqin, *Indonesia's land reform: Implications for Local Livelihoods and Climate Change*, *Forest Policy and Economics*, Vol. 108, 2019, page.101903; Herman Hidayat, Herry Yogaswara, Tuti Herawati, Patricia Blazey, Stephen Wyatt, and

It should be stated that ownership of a right to a certain plot of land granted by the state to certain legal subjects is only limited to the surface of the land or a few meters from the surface of the land and meters from the surface of the air⁷. It means that water sources below the land's surface and air in the atmosphere from a parcel of land owned by legal subjects for certain rights are still controlled by the state. In other words, a person given a title to a specific parcel of land does not necessarily mean that they have been given the right to own the entire land beneath it and all the air above it⁸. The granting of ownership to the plot of land is only given by the state to use the surface of the land (some materials from the surface of the land). The deeper and larger water sources below the land's surface cannot be taken immediately without prior permission from the Regional Government, which is regulated in more detail regarding this matter which stands alone apart from the granting of rights attached to ownership rights⁹. Therefore, it is appropriate to discuss the issue of how to obtain land rights for the people of Indonesia.

There are several previous studies that have discussed land rights in Indonesia. Sihombing discusses land regulation and registration by analyzing the role of HR and information technology in the perspective of the legal structure of human capital and information technology.¹⁰ Hartanto discusses the legal aspects of buying and selling land in Indonesia.¹¹ To sum, aspects that are commonly studied in the land rights in Indonesia are about customary rights,¹² systematic registration of land,¹³ and land tenure.¹⁴

Richard Howitt, *Forests, Law and Customary Rights In Indonesia: Implications of a Decision of the Indonesian Constitutional Court in 2012*, *Asia Pacific Viewpoint*, Vol. 59, No. 3, 2018, page. 293-308; Yeni Widowaty, and Dimas Amanda Wahid, *Law Enforcement of Land Transfer from Agricultural Land to Housing in Indonesia*, *E3S Web of Conferences*, Vol. 232, 2021, page. 04008; EDP Sciences; Lila Juniyanti, Herry Purnomo, Hariadi Kartodihardjo, and Lilik Budi Prasetyo, *Understanding the Driving Forces and Actors of Land Change Due to Forestry and Agricultural Practices in Sumatra and Kalimantan: A Systematic Review*, *Land*, Vol. 10, No. 5, 2021, page.463.

- 6 Laurens Bakker, and Sandra Moniaga, *The space between: Land Claims and the Law in Indonesia*, *Asian Journal of Social Science*, Vol. 38, No. 2, 2010, page.187-203; John F. McCarthy, and Kathryn Robinson, (Eds.), *Land and development in Indonesia: searching for the people's sovereignty*. ISEAS-Yusof Ishak Institute, 2016; Arsad Ragandhi, Agus Heruanto Hadna, S. Setiadi, and Ahmad Maryudi, *Why Do Greater Forest Tenure Rights not Enthuse Local Communities? an Early Observation On The New Community Forestry Scheme In State Forests in Indonesia*, *Forest and Society*, Vol. 5, No. 1, 2021, page.159-166.
- 7 Adriaan Bedner, *Indonesian land law: Integration at last? And for whom 2016*, In John F. McCarthy, and Kathryn Robinson, (Eds.), *Land and development in Indonesia: Searching for The People's Sovereignty*, ISEAS-Yusof Ishak Institute, 2016. pp. 63-88.
- 8 Ricco Survival Yubaidi, *The role of land deed official regarding legal certainty of complete systematic land registration*, *Jurnal Hukum dan Peradilan*, Vol. 9, No. 1, 2020, page.27-42.
- 9 Jude Wallace, *Indonesian Land Law and Administration*, Law and Society, The Federation Press, T. Lindsey (ed.), Indonesia, 2018, page.191-223.
- 10 Sihombing, *Contemporary Issues of Agrarian Law Institutions*.
- 11 J. Andy Hartanto, *Legal Aspects of Land Purchase/Sale Disputes in Indonesia*, *Environmental Policy and Law*, Vol. 48, No. 1, 2018, page.79-82.
- 12 Hidayat et al., *Forests, Law and Customary Rights in Indonesia*.
- 13 Yubaidi, *The Role of Land Deed Official Regarding Legal Certainty of Complete Systematic Land Registration*.

Meanwhile, in the context of agrarian law, previous research focused on land ownership,¹⁵ customary rights,¹⁶ and agrarian reform.¹⁷ Based on the focus on these previous studies, the focus of this study is different in that the examination focuses on the Basic Agrarian Law as a legal authority that needs to regulate the relationship between state control and the goal of community welfare through various land uses. This study argues for the need to maximize the potential contained in various Agrarian Law regulations for public welfare. In addition, several areas of law are the focus of this research, such as space rights as an inherent part of land rights, to support sovereignty and social welfare through the use of land rights in accordance with the Basic Agrarian Law.

B. RESEARCH METHODS

This research belongs to the juridical normative research model. It is a research model that examines legal issues from the point of view of legal science in depth against established legal norms¹⁸. According to Marzuki,¹⁹ legal research is a process to find the rule of law, legal principles, and legal doctrines to answer the legal problems faced. In this study, the legal issue in question is how to obtain land rights for the Indonesian people. This study aims to uncover and find legal norms regarding procedures for obtaining land rights for communities and legal entities in Indonesia and how the Law regulates what should be done in the future. The approach employed was a statutory approach which examines various legal regulations that are the focus as well as the central theme of research related to the acquisition of land rights in Indonesia.

The sources of data obtained in this study came from credible and accountable secondary data in the form of laws and regulations, legal books, journals, scientific works, and other reference sources from the internet. The collected data is then analyzed qualitatively by observing and connecting each data with the provisions of legal principles related to the research object.²⁰

14 Imam Budiman, Takahiro Fujiwara, Noriko Sato, and Dani Pamungkas, Another law in Indonesia: Customary land tenure system coexisting with state order in Mutis Forest, *Jurnal Manajemen Hutan Tropika*, Vol. 26, No 3, 2020, page244-244.

15 Zefrizal Nurdin, and Hilaire Tegan, Legal certainty in the management of agricultural land pawning in the matrilineal Minangkabau society, West Sumatra, *Land*, Vol. 8, No. 8, 2019, page.117.

16 Nugroho Setyawan, and Evita Israhadi, Implementation of Basic Agrarian Law No. 5/1960 in Indigenous Land Disputes in Malinau District, *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021, Jakarta, Indonesia*.

17 Nancy Lee Peluso, Suraya Afiff, and Noer Fauzi Rachman, Claiming the grounds for reform: agrarian and environmental movements in Indonesia, *Journal of Agrarian Change*, Vol. 8, No. 2-3, 2008, page. 377-407.

18 M. Hadin Muhjad, and Nunuk Nuswardani, *Penelitian Hukum Indonesia Kontemporer*, Genta Publishing, Yogyakarta, 2012

19 Peter Mahmud Marzuki, *Penelitian Hukum*, Kencana, Jakarta, 2007

20 Soerjono Soekanto, and Sri Mahmudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 2003; Lexy J. Moleong, *Metodologi Penelitian Kualitatif*: Remaja Rosdakarya, Bandung, 2002

C. RESULTS AND DISCUSSION

1. The Nature of Legal Philosophy of Land Rights in Indonesian Laws

The 1945 Constitution, after the 3rd amendment of 2002, article 1 paragraph (3), states that Indonesia is based on the rule of law. The essence of a rule of law is if all components of the nation, including all people and entities, public legal entities and legal entities and private institutions, including executive government, legislative (DPR) and judicial institutions, obey the law. In addition, the laws and regulations meet community justice requirements.²¹ The discussion regarding the acquisition of land rights in this paper will touch on the notion of law and justice to explain whether land law in Indonesia has fulfilled the sense of justice or not.

The definition of law is the regime that orders human activities and relations through the systematic application of the force of politically organized society, or through social pressure, backed by force, in such a society; the legal system (respect and obey the law).²² Marzuki stated that law has two meanings. The first is a set of prescriptions about what should be done to achieve justice, and the second is a code of conduct aimed at creating public order.²³ Plato stated that the law is a reasonable mind (*reason thought; logismos*) formulated in state decisions.²⁴ Plato rejects the notion that the authority of the law rests solely on the will of the governing power. Law is a must and important for society. Law is an orderly and well-structured system of regulations that binds society. The purpose of law is to ensure order and freedom. Every society must have a law; where there is a community, there is a law (*ubi societas ibi ius*).²⁵ According to Friedman, in the legal theory system, there is a structure, culture and substance in law.²⁶ Antony Allott states that law or legal system is a function of an autonomous and distinct society or community, that is, an organized body of a person.²⁷

The 1945 Constitution as a source of law must exist in accordance with the formation of law. There is no agreement among legal experts on the definition of law. The law has the characteristics of legal elements including specifically containing orders and/or prohibitions and the orders and/or prohibitions must be obeyed by everyone. Meanwhile, the elements of law are regulations regarding human behavior in social

21 Hans Kelsen, Law, State and Justice in the Pure Theory of Law, *The Yale Law Journal*, Vol. 57, No. 3, 1948, page. 377-390.

22 John M. Echols, and Hassan., Shadily, *Kamus Hukum Indonesia Inggris*, PT. Gramedia Pustaka Utama, Jakarta, 2003

23 Marzuki, *Penelitian hukum*.

24 James Warren, *The Pleasures of Reason in Plato, Aristotle, and the Hellenistic Hedonists*, Cambridge University Press, 2014.

25 Hisashi Owada, Conflict of Values in International Law: Universality of International Law in a Globalizing World, *Austrian Review of International and European Law Online*, Vol. 14, No. 1, 2013, page.7-17.

26 Lawrence M. Friedman, *The legal system: A social science perspective*, Russell Sage Foundation, 1975

27 Antony Allott, *The Limit of Law*, Butterworths, Londo, 1980).

interactions; the official bodies in charge enforce the regulations; the regulations with coercive nature; and, the sanctions for violating these regulations²⁸. The 1945 Constitution and the laws and regulations in Indonesia were formed that fulfilled the characteristics and elements of the law mentioned above. Therefore, the laws and regulations in Indonesia have fulfilled the characteristics and elements of the Law.²⁹

Thus, the state as an organization of Indonesian community groups has its laws based on Pancasila and the 1945 Constitution and has fulfilled the requirements specified in legal theory and philosophy, at least based on the legal theory and philosophy described above. The granting of land rights for all Indonesian people is also based on laws that are sourced from the 1945 Constitution and then elaborated with a hierarchy of laws below, which are entirely formed through a process of people's involvement represented by members of the People's Consultative Assembly for the constitution and the involvement of the House of Representatives and the People's Representative Council. Regional Representative Council, regulated in Act No. 12 of 2012, has been amended by Act No. 15 of 2019 concerning the Order of Legislation. Furthermore, based on Article 7, paragraph (2) of the Act states that: "*the legal power of laws and regulations is in accordance with the hierarchy as referred to in paragraph (1). This type of legislation includes regulations stipulated by the People's Consultative Assembly, the People's Representative Council, the Regional Representatives Council, the Supreme Court, the Constitutional Court, the Supreme Audit Agency, the Judicial Commission, Bank Indonesia, the Minister, agencies, institutions, or commissions of the same level established by law or by the government over the government of law, the people's representative council, the governor, the Regional People's Representative Council, the Regent/Mayor, the Village Head or the equivalent.*"

The General Elucidation of the 1945 Constitution in point II.4 confirms that the fourth main idea in the preamble is that the state is based on the One Godhead according to just and civilized humanity. Therefore, the 1945 Constitution contains contents which oblige the government and state administrators of the Republic of Indonesia to maintain the noble human character and uphold the noble moral ideals of the people. Furthermore, the explanation of point IV states that it is sufficient if the constitution only contains rules; the principle only contains outlines as instructions to the Central government and other state administrators to organize state life and social welfare.

The 1945 Constitution, Article 33, paragraph 3 states that: "*land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.*" Furthermore, Article 33 paragraph 3 is described in Act No. 5 of 1960 concerning Basic

28 Christine S.T. Kansil, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Balai Pustaka, Jakarta, 1986

29 Sudargo Gautama, and Robert N. Hornick., *An introduction to Indonesian Law: Unity in diversity*, Penerbit Alumni, Bandung, 2022

Agrarian Regulations of the President of the Republic of Indonesia. Article 1 paragraph (1) states that "*the entire territory of Indonesia is the unity of the homeland of all the Indonesian people, who are united as the Indonesian nation*"; and, paragraph (2) states that, "*the entire land, water and space, including the natural resources contained therein within the territory of the Republic of Indonesia as a gift from God Almighty are the land, water and space of the Indonesian nation and constitute national wealth.*" Furthermore, paragraph (3) states, "*The relationship between the Indonesian people and the land, water and space as referred to in paragraph (2) of this article is an eternal relationship.*" Moreover, the verse (4) states that, "*in the sense of the land, in addition to the surface of the land, it includes the body of the land beneath it and what is underwater.*"

The justice approach in this study utilizes the rationale of utilitarianism and legal positivism. Utilitarianism is a school that puts benefit as the main goal of law.³⁰ In comparison, legal positivism views the need to separate law and morals.³¹ Hans Kelsen³² admits that the validity of a legal norm depends on its effectiveness but does not mean that the validity of a unit norm depends on its effectiveness. Unit legal norms remain valid as long as they are part of a valid legal order. Thus, the legal norms contained in Act No. 5 of 1960 are legal, binding, and fulfill a sense of justice. Also, the 1945 Constitution is legally placed as a valid legal norm.

Land rights can be obtained in various ways; one another can be different. Knowledge of the procedures for obtaining land rights can be used to understand land rights regulated by law. In terms of the procedure for registration of time rights/confirmation of conversion, Article 1 point (9) of Government Regulation No. 24 of 1997 explained that land registration for the first time is a land registration procedure carried out on land objects that have not been registered based on Government Regulation No. 10 of 1961 concerning Land Registration for the First Time. The first is a systematic way. It is a land registration procedure for the first time that is carried out simultaneously, which includes all land registration objects that have not been registered in the territory or part of the territory of a village. Second, sporadic land registration, where land registration activities for the first time involve one or several objects of land registration within the territory or part of a village, either individually or en masse through *Prona* or PTSL (*Pendaftaran Tanah Sistematis Lengkap*/Complete Systematic Land

30 Richard A. Posner, Utilitarianism, economics, and legal theory, *The Journal of Legal Studies*, Vol. 8, No. 1, 1979, page.103-140.; Ernest J. Weinrib, Utilitarianism, Economics, and Legal Theory, *The University of Toronto Law Journal*, Vol. 30, No. 3, 1980, page.307-332.; Charles Frankel, Justice, Utilitarianism, and Rights, *Social Theory and Practice*, Vol. 3, No. 1, 1974, 27-46.

31 Herbert Lionel Adolphus Hart, *Positivism and the Separation of Law and Morals*, In Kenneth Einar Himma, and Brian Bix (eds.), *Law and Morality*, Routledge, London, 2017, page. 63-99.

32 Hans Kelsen, *Law, State and Justice in the Pure Theory of Law*

Registration).

In the process of registering the right for the first time, it was carried out with events including the confirmation of conversion event, meaning that lands with certain legal status before the enactment of Act No. 5 of 1960 concerning Basic Regulations on Agrarian Principles dated September 24, 1960 (BAL) became one of the rights regulated in the Act. Thus, based on conversion, it is "by law". Theoretically, only procedural, administrative action is needed. The main thing in affirming the conversion is the type of land ownership before the enactment of the BAL, proof of ownership and the citizenship of the land owner. To find out the type of land ownership before the enactment of the BAL, read in more detail about land rights, namely those including western rights and land rights including Indonesian land and land rights including customary land rights.³³

Before the enactment of the BAL, there were two groups of land rights, namely western rights consisting of *Eigendom*, *Erfach* rights, *Gebruik* rights, *Opstal* rights and *Agrarich Eigendom* rights and customary rights (Indonesian rights), namely land owned, *yasan*, *andarbeni*, *pesini*, *druwe*, *gogolan*, *pekulen*. They were proven with some proofs of land acquisition rights, namely (1) *grosse* deed of *eigendom* rights issued under the *Overschrijvings Ordonnantie*; (2) proof of ownership rights issued based on self-government regulations; (3) certificate of ownership issued based on Regulation of the Minister of Agrarian Affairs No. 9 of 1959; (4) Decree on the Granting of Property Rights from the authorized official, either before or since the enactment of the BAL which is not accompanied by the obligation to register the rights granted but has fulfilled all the obligations mentioned in it; (5) *petuk* Land Tax/Landrente, *girik*, *pipil*, type and *verponding* Indonesia before the enactment of Government Regulation No. 10 of 1961; (6) Deed of Transfer of Rights made under the hand which is affixed with a testimony by the Head of Customs/Head of Village made before the enactment of this Government Regulation accompanied by the basis of the rights transferred; (7) Deed of Transfer of Land Rights made by PPAT whose land has not been recorded along with the basis of the rights transferred; (8) Waqf Pledge Deed/Waqf Pledge Letter made before Government Regulation No. 28 of 1977, accompanied by the foundation of the rights being waqf; (9) Minutes of Auction drawn up by the authorized Auction Officer whose land has not been recorded; (10) Letter of appointment or purchase of replacement land parcels taken by the Government or Regional Government; (11) Certificate of Land History ever made by the Land and Building Tax Service Office; (12) Other forms of written evidence under any name.

However, in practice, the required document is an application for land rights, which occurs when a legal subject who meets the requirements. For property rights, only Indonesian citizen has certain rights, either based on customary rights and/or based on other

³³ Bedner and Y. Arizona, *Adat in Indonesian Land Law*;

documents. In comparison, confirmation of conversion occurs if ownership is based on customary law or proof of ownership that is not in the form of a certificate, then certification/registration is carried out on that evidence, and then the affirmation of the ownership is carried out first to convert it into one of the rights regulated in the Act No. 5 in 1960.³⁴ Subsequently, Committee A was formed according to the type of rights applied to the local BPN, which was then measured and announced for 60 days or managed through a PTSL, which was formed by the local BPN (*Badan Pertanahan Nasional*/National Land Agency) with the local village head (*lurah*) or subdistrict head (*camat*) according to the approved program according to the instructions. President No. 2 of 2018 Acceleration of Complete Systematic Land Registration. Furthermore, after fulfilling the requirements, a certificate is issued, which consists of a copy of the land book on the front and a measuring letter/picture of the situation on the back. The rights granted in accordance with one of the rights contained in the BAL are (1) Ownership Rights for single Indonesian citizens and legal entities that have been determined and (2) Cultivation Rights (HGU) for Indonesian citizens and legal entities established under Indonesian law and domiciled in Indonesia (3). Building Rights (HGB) for Indonesian citizens and legal entities established under Indonesian law and domiciled in Indonesia (4). Right use for Indonesian Citizens and Legal Entities established under Indonesian law and domiciled in Indonesia/Departments, Non-Departmental Government Agencies, Regional Governments/Religious and Social Entities Foreigners domiciled in Indonesia/Foreign Legal Entities having representatives in Indonesia/Representatives Foreign Countries and representatives of the International Agency (5) Ownership Rights to Flat Units (*Sertifikat Hak Milik atas Satuan Rumah Susun*/SHMSRS) for Indonesian citizens and Indonesian legal entities that meet the requirements (6) Rights to use State Land Bags for Indonesian Citizens I or Indonesian legal entities that meet the requirements.³⁵ Land registration is more specifically regulated in Government Regulation 18 of 2021 concerning land tenure, land rights, apartment units, and land registration.

2. Justice Values in Multi-Interests of the Acquisition of Land Rights

In Indonesian laws, the acquisition of land rights can be done by buying and selling, exchanging, grants, and inheritance. This transfer is common in the ownership of a land right. In the sale and purchase of land, the transfer of the rights to the buyer when the deed of sale and purchase has been legally made by the Land Deed Making Officer (*Pejabat Pembuat Akta Tanah*/PPAT). Based on the PPAT deed, whose

34 Elza Syarief, Electronic Land Certificates: Its Goals and Challenges, *Research Horizon*, Vol. 1, No. 4, 2021, page.120-125.

35 Andrew McWilliam, Historical reflections on customary land rights in Indonesia, *The Asia Pacific Journal of Anthropology*, Vol. 7, No. 1, 2006, 45-64.

draft was based on the Regulation of the Head of the National Land Agency No. 8 of 2012, has given been stated in one of the articles that the seller has received the money, but in practice, the purchase money has not been paid in full. By law, since the sale and purchase deed has been legally signed, the land rights have been transferred to the buyer. Meanwhile, if the land buyer still has an obligation to pay the price of the land title, this is solely a debt and credit relationship regardless of the transfer of the land rights.³⁶

Likewise, with exchanges and grants, the transfer of land rights occurs when the deed of exchange or the deed of grant is completed by the PPAT, as long as the legal subject meets the requirements for ownership of the status of the land rights as referred to in paragraph (1) regulated in the Basic Agrarian Law.³⁷ Specifically, for testamentary grants, the transfer occurs after the grantor of the testament dies, and thus the recipient of the testamentary grant accepts it because he is an heir based on a testamentary grant. This testamentary grant, is carried out before a notary or made in a closed envelope and submitted to the notary in a closed condition and then received by the notary, which is then submitted to be stored at the heritage hall.³⁸

The transfer based on inheritance occurs when a person dies, so by law all the assets of the deceased are transferred to the heirs. However, for this legal event, publicity requirements must be met by registration at the local land registration office. The proof of inheritance in land law is a statement of heirs who are known by the local village head (*lurah*) or subdistrict head (*camat*) where the heir dies. Differences in the conception of joint property between Islamic inheritance law and western (non-Islamic) inheritance law. In western law, a person who marries, then by law, his property is mixed into the joint property unless there is a marriage agreement. On the other hand, according to Islamic Law, assets obtained before marriage are private property, not mixed assets.³⁹ The latest taxation is regulated in Government Regulation No. 18 of 2021 concerning Procedures for Research on Evidence of Fulfillment of Income tax Obligations on the Transfer of Rights to Land and Buildings.

The availability of public facilities and services is related to the legal status of the land. Land rights can be obtained through the procedure for

36 Hartanto, Legal Aspects of Land Purchase/Sale Disputes in Indonesia.; Isdian Anggraeny, and Yelita Putri Pramithasari, Legal Review of Selling Land Of Inheritance without approval of All Heirs, *Legality*, Vol. 28, No. 1, 2020, page.107-120.

37 Safira Ayudiatrri, and Akhmad Budi Cahyono, The Legality of Grants by Foreign Citizens on Land Objects in Indonesia: Case Studies of Court Decisions, *SIGN Jurnal Hukum*, Vol. 4, No. 1, 2022, page.30-45.

38 Tania Wijayanti, Yudho Taruno Muryanto, and M. Irnawan Darori, Comparison of The Transfer of Land Rights to The Description Deed of Inheritance Rights, *Law Reform*, Vol. 17, No. 1, 2021, page.121-134.

39 Lego Karjoko, Abdul Kadir Jaelani, Hilaire Tegan, Henning Glaser, and Muhammad Jihadul Hayat, Islamic Court's Approach to Land Dispute in Inheritance Cases, *AHKAM: Jurnal Ilmu Syariah*, Vol. 21, No. 2, 2021.; David J. Banks, Islam And Inheritance In Malaya: Culture Conflict or Islamic Revolution?, *American Ethnologist*, Vol. 3, No. 4, 1976, page.573-586.

land acquisition for the public interest. This land acquisition program for the public interest is regulated in Act No. 2 of 2012 concerning Land Procurement for Development in the Public Interest and Government Regulation of the Republic of Indonesia No. 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest. The land acquisition program is regulated in the Government of Indonesia Regulation No. 19 of 2021 concerning the Implementation of Land Procurement for Development in the Public Interest. It is necessary if the land is to be used for the Public Interest, namely the interests of the nation, state, and society which must be realized by the central government/regional government and used as much as possible for the prosperity of the people, through compensation. For land procurement for development for public interest, the release of rights event is the activity of terminating legal relations between the Entitled Party to the state.⁴⁰

In order to ensure a sense of justice for the community in land acquisition for the public interest, it is necessary to establish units to accommodate the interests of the community and the government. Among others things conducted by the government are by some measures. The first is public consultation, namely the party conducting dialogue communication or deliberation between parties. The second is by providing compensation as a proper and fair compensation to the entitled party, manager and/or user of goods in the land procurement process. The third is land appraisal where a public appraiser who has obtained a license to calculate object value. The public appraiser is an individual who conducts independent and professional assessments and has obtained an appraisal practice permit from the Minister who administers government affairs in the field of state finances. Next, there is a need for land procurement preparation team to provides notification of development plans, initial data collection on the location of development plans and Public Consultation on development plans. Lastly, the objection study team is formed by the governor/regent/mayor to assist the governor/regent/mayor in carrying out an inventory of the problems that are the reasons for the objections, holding meetings or clarifications with the objecting parties, conducting studies and making recommendations to accept or reject objections. As to manage these overall tasks, task force is also formed by the chief executive of land procurement to assist the implementation of land procurement.

The acquisition of land rights for religious and social interests is related to the public sector. Government Regulation of the Republic of Indonesia No. 38 of 1963 concerning the appointment of legal entities

40 Rofi Wahanisa, Arif Hidayat, R. Benny Riyanto, and Bayu Dwi Anggono, Problems of Disputes/Conflicts Over Land Acquisition Towards Development For Public Interest in Indonesia, *International Journal of Criminology and Sociology*, Vol. 10, 2021, page.320-325.; Yesi Nurmantiyas Sari, Rizal Nugroho, and Al Khanif, Land Acquisition for Public Interests: A Review from the Human Rights Context, *Indonesian Journal of Law and Society*, Vol. 1, No. 1, 2020, page.23-36.

that can own land ownership rights provides an opportunity for religious bodies to have land rights. Based on the Government Regulation, religious and social bodies can have ownership rights over land that is used for purposes directly related to religious and social enterprises.

Next, regarding waqf, it is regulated in the Law of the Republic of Indonesia No. 41 years 24 concerning waqf. Waqf is a legal act of wakif to separate and/or surrender part of his property to be used forever or for a certain time in accordance with his interests for the purposes of worship and/or general welfare according to sharia. Waqf with a testament, either orally or in writing, can only be done if witnessed by at least 2 (two) witnesses. The Waqf Pledge Deed Official (*Pejabat Pembuat Akta Ikrar Wakaf*/PPAIW) on behalf of *nadzir* (waqf manager) registers the waqf property to the authorized Land Office no later than 7 (seven) working days since the waqf pledge deed is signed.

Waqf assets that have been waqf are prohibited: Used as collateral for debt, confiscated, granted, sold, inherited, exchanged or transferred in the form of other rights, based on Minister of Home Affairs Regulation (*Peraturan Menteri Dalam Negeri*/PMDN) No. 6 of 1977 concerning Procedures for Land Registration Regarding Ownership of Land Waqf. The application for registration of the waqf of uncertified lands is carried out together with the application for rights. In other words, first, there is a certificate of land rights in the management of the waqf certificate. If the land to be waqf is not certified, the management of the waqf certificate is concurrent with the management of land rights.

The issue of land rights has also spread to several sectors, such as the business sector. Land acquisition for business/private actors. Land acquisition for business/private actor based on the regulation of the Minister of Agrarian Affairs and Spatial Planning No. 14 of 2018 concerning Location Permits. Here, it is regulated regarding the procedure for obtaining land rights for business actors who meet the requirements and wish to require land parcels for investment. A location permit is a permit granted to a business actor to obtain land needed for his business and/or activity. It is also valid as a permit to transfer rights and to use the land for his business and/or activities.⁴¹

Business actors are individuals or non-individuals who carry out business and/or activities in certain fields who wish to invest, namely all forms of investment activities, both by domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia. Location permit object is land which, according to the regional spatial plan, is intended for use in accordance with the business activity plan to be carried out by business actors based on a permit/approval/registration or similar for investment issued by an

41 Anton Lucas, Land Disputes In Indonesia: Some Current Perspectives, *Indonesia*, No. 53, 1992, page.79-92.

authorized official.⁴² Location permit holders are required to fulfill location permit commitments immediately. After the location permit is effective, business actors are permitted to free land from the rights and interests of other parties based on an agreement with the right holder or parties who have such interests by way of buying and selling, providing compensation, land consolidation or other means in accordance with the provisions of legislation.

Location permits to business actors and other business actors constituting 1 (one) group of not more than an area of:

- a. Housing and settlement development business: 1) Residential housing area: 1 (one) Province: 400 ha (four hundred hectares) All of Indonesia: 4,000 ha (four thousand hectares) 2) Hotel resort area: 1 (one) Province: 200 ha (two hundred hectares) All over Indonesia: 4,000 ha (four thousand hectares).
- b. Industrial estates/special economic zones, free trade areas, free port areas and/or other areas that have been designated as national strategic projects: 1 (one) Province: 400 ha (four hundred hectares) Entire Indonesia: 4,000 ha (four thousand hectares) hectares
- c. Plantation business that is cultivated in the form of large plantations with the granting of cultivation rights: 1) sugarcane commodity: 1 (one) province: 60,000 ha (sixty thousand hectares) - 8 - All over Indonesia: 150,000 ha (one hundred and fifty thousand hectares)
- d. Other Food Commodities: 1 (one) Province: 20,000 ha (twenty thousand hectares); All of Indonesia: 100,000 ha (one hundred thousand hectares)
- e. Pond business: 1) In Java 1 (one) Province: 100 ha (one hundred hectares); All over Indonesia: 1,000 ha (one thousand hectares); 2) Outside Java Island 1 (one) Province: 200 ha (two hundred hectares) All Indonesia: 2,000 ha (two thousand hectares), land that has been acquired must be registered at the local land office no later than 1 (one) year after the expiration of the location permit, in accordance with and in the manner stipulated in Government Regulation No. 24 of 1997 concerning land registration.

The issue is also related to the land procurement model based on an agreement between land owners and rights holders. Indonesian Land Law adheres to the horizontal principle; that is, it is possible for land ownership with different ownership between the land and the building or the part contained on the land surface based on an agreement between the holder of land rights or the owner of land rights as primary rights and the rights holders latter rights as secondary rights holders.

In particular, the holders of land tenure are given by law the right to give part of their authority to enter into agreements with applicants for certain land rights. Land rights from an agreement with the holder of

42 Lusia Savitri Diah Candrasari, and Lego Karjoko, The Principle of Social Function of Land Cultivation Right in Agritourism Accommodation in Indonesia, *International Journal of Multicultural and Multireligious Understanding*, Vol. 5, No. 2, 2018, page.271-279.

land tenure are ownership rights, building use rights and use rights. Thus, it can be concluded that ownership rights, building use rights and use rights can occur or arise from an agreement with the land tenure holder.

Freehold certificate (*Sertifikat Hak Milik*/SHM) can also enter into agreements with other legal subjects who meet certain requirements to obtain building use rights or use rights. Therefore, it is possible to have a building use right born from an agreement with the owner of the ownership certificate. Until now, the right of use born from the agreement with the owner of the ownership certificate cannot be registered with the Land registration office; there are no provisions governing it.

With a certificate of ownership of flat units, standing on ownership rights or building use rights on state land standing on land tenure that were born due to an agreement in the case of building use rights or use rights on state lands will be nullified then the Association of Flat Residents (PPRS) is obliged to request an application to extend the validity of the right to build or the right to use the state land.

Furthermore, still related to the business sector, it is about acquiring land due to investment or entry into the company. The acquisition of land rights for the company can occur because of the *inbreng* from shareholders who are set up to become shareowners. In general, it is to include part of the assets into a company so that the assets become company assets administratively. For such transfer of land rights, still pay attention to the legal aspects of land, which are made by and before the PPAT. This is followed by land registration. Considering that the company is a legal subject who may not have property rights if the property is in the form of property rights, the property rights must first be reduced to building rights or business use rights.

In practice, it is often found that there is "*inbreng*" or such entry without legal documentation as described above. In formal juridical terms, the ownership of land rights is still owned by individuals/other legal subjects, but on a balance sheet in the accounting aspect, the land rights have been included and become the company's assets.

The reason that is often given by the company management is that the transfer fee is relatively large, and the status of the land is lower, namely HGB, because Limited Liability Companies may not have rights to land with property rights. In certain cases, for example, for a housing company or developer, the status of the SHM land will be more marketable than the certificate of HGB. In formal juridical terms, if a housing estate sells a house with the status of ownership, then the sale is essentially carried out by the private owner of the land and not the developer.⁴³

Next is the acquisition of land due to the right to clear land. The

43 Nasrun Hipan, M. Nur Nirwan, and Hardianto Djanggih, *Problematika Penyelesaian Sengketa Tanah Di Lokasi Tanjung Sari Kabupaten Banggai*, *Law Reform*, Vol. 14, No. 2, 2018, page.205-219.

definition of Permit to Build land based on the Regulation of the Mayor of Samarinda No. 61 of 2019 concerning Permits to Open State Land provides a limitation that Permits to Open State Land, hereinafter abbreviated as IMTN, are permits granted by the Mayor or officials appointed to individuals or legal entities to open and/or take the land benefit and use of land directly controlled by the state serves as the basis for the application of rights. IMTN objects are all State Lands requested to be opened and/or utilized, including a. farmland; and b. non-agricultural land. Regarding the acquisition of land clearing rights, it has not been regulated at the national level, either by law or by government regulations, so some regions have regulated it themselves.

No less important concern in land law discussion is obtaining forest concession rights and collecting forest products. The right to clear land and collect forest products can be owned by Indonesian citizens and is regulated by Government Regulation No. 6 of 1999 concerning forest exploitation and collection of forest products in production forests. Forest exploitation is forest utilization activities based on the sustainability of functions and the company's principle, which includes planting, maintenance and security harvesting, processing and marketing of forest products.⁴⁴ Meanwhile, Forest Concession Right is the right to cultivate the forest in a production forest area, whose activities consist of planting, maintaining, securing, harvesting, processing and marketing forest products. Forest concession rights give authority to the holder to do something and process wood in a certain forest area. The area and others are determined in the HPH letter. Usually, the one that issues HPH is the Directorate General of Forestry.⁴⁵

Forest Concession Rights in Production Forests may take the form of Natural Forest Concession Rights or Plantation Forest Concession Rights. Meanwhile, the right to collect forest products is granted through an application by an individual Indonesian citizen or a cooperative or Indonesian legal entity whose entire capital is owned by an Indonesian citizen. Forest concession rights and the collection of forest products are also related to regulations related to the environment.⁴⁶

It is related to the acquisition of water use rights. Right to Use Water (*Hak Guna Air*/HGA) is the right to get water for certain purposes and/or to drain the water over other people's land. Water Use Rights (GHA), as well as fish maintenance and fishing, are regulated by Government Regulation No. 69 of 2014 concerning Water Use Rights. The right to use water is the right to obtain and use or cultivate water for various purposes. The right to use water is the right to obtain and use

44 Hidayat et al., Forests, Law And Customary Rights In Indonesia.

45 Abdul Mutolib, and H. Ismono, Forest ownership conflict between a local community and the state: a case study in Dharmasraya, Indonesia, *Journal of Tropical Forest Science*, Vol. 29, No. 2, 2017, page.163-171.

46 Eko Priyo Purnomo, Rijal Ramdani, Agustiyara, Queenie Pearl V. Tomaro, and Gatot Supangkat Samidjo, Land Ownership Transformation Before And After Forest Fires in Indonesian Palm Oil Plantation Areas, *Journal of Land Use Science*, Vol. 14, No. 1, 2019, page.37-51.

water.

In comparison, the right to cultivate water is the right to obtain and cultivate water.⁴⁷ The right to use water is to obtain, use, or cultivate water for various purposes. Water use rights are not ownership of water but are limited to the right to obtain and use or operate a certain amount (quota) of water in accordance with the allocation determined by the government or regional government to water users. Water use rights cannot be rented or transferred either partially or completely.⁴⁸ This water use right is based on the principle that the ownership of land rights granted by the state to legal subjects is only a few meters underground. It means that the land under which there is an internal spring is still controlled by the state based on article 33 of the 1945 Constitution. Therefore, the state still controls the deep part of the land and the vast sea. Furthermore, the state has the right to regulate the allocation and use of land rights. These arrangements are, in their implementation, left to local governments based on autonomy.

Furthermore, there are regulations on how to obtain fishing and maintenance rights. Act No. 16 of 1964 concerning the sharing of fishery products explains that this right was born because of an agreement, namely an agreement for the business of catching or maintaining fish between the owner fisherman and the cultivating fisherman or the owner of the pond and the cultivator of the pond, according to which agreement they are each. Receive a share of the business results according to the pre-agreed balance, both for marine fisheries and inland fisheries.

Still related to use rights are aerospace use rights, the Republic of Indonesia has not regulated the right to use space, even though it has been written down in the BAL. However, Indonesia has enacted Act No. 16 of 2002, dated April 17, 2002, concerning Ratification of the Treaty on Principles Governing the Activities of States in The Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, 1967 Activities of Countries in Exploration and Use.

Aerospace contains various natural resources not found on land or in water. It means that aerospace can act as a complement, substitute, alternative, or even in certain cases, the only choice for meeting human needs in maintaining survival. Main Contents of the Space Treaty, 1967 include some specific subjects, such as Freedom of Exploration and Use of Aerospace All countries are free to explore and use outer space without discrimination based on equality and in accordance with International Law. Countries are free to access the heavenly bodies. In regulating legal status of space as the province of all humankind, outer space is not subject to national ownership, either based on demands for

47 Nadia Astriani, Legal Policy of Water Resources Management by Local Governments: A Review of Right to Water in Indonesia, *Hasanuddin Law Review*, Vol. 1, No. 2, 2016, page.250-257.

48 Heni Herawati, Suharyanto Suripin, S. Suharyanto, and Tia Hetwisari, Analysis of River Flow Regime Changes Related to Water Availability on The Kapuas River, Indonesia, *Irrigation and Drainage*, Vol. 67, 2018, page.66-71.

sovereignty, use, occupation, or in other ways. Moreover, Applicability of International Law and the United Nations Charter on Aerospace Exploration activities and use of outer space, including the moon and other celestial bodies, are subject to the provisions of international law, including the United Nations Charter, to maintain international peace and security and promote international cooperation and mutual understanding. Lastly, the Space Treaty, 1967 regulated that utilization of aerospace for the interests of all countries and peaceful purposes. Overall, the Aerospace Rights (*Hak Guna Ruang Angkasa/HGRA*) authorizes the use of energy and elements in space for efforts to maintain and develop the fertility of the land, water and natural resources contained therein and other matters related to it. Government regulations regulate space-use rights.

D. CONCLUSION

The findings of this study highlight how state authorities regarding the right to regulate in the context of land rights are determined and derived into various types of land rights. The findings describe that the 1945 Constitution and the regulations under it regulate how to obtain land rights in order to fulfill the nature and elements of the law. Several types of rights are detailed in the procedure for obtaining land rights, namely property rights, cultivation rights, building use rights, use rights, and property rights for apartment units. Meanwhile, some of the main things regulated in the legislation are related to registration, land acquisition programs for public and business interests, customary land, forest and water use, and land use rights.

BIBLIOGRAPHY

- Antony Allott, 1980, *The Limit of Law*, Butterworths, London;
- Christine S.T. Kansil., 1986, *Pengantar Ilmu Hukum dan Tata Hukum Indonesia*, Balai Pustaka, Jakarta;
- Dirdjosisworo Soedjono, 1983, *Pengantar Ilmu Hukum*, Rajawali, Jakarta;
- John M. Echols, and Hassan, Shadily, 2003, *Kamus Hukum Indonesia Inggris*, PT. Gramedia Pustaka Utama, Jakarta;
- James Warren, 2014, *The Pleasures of Reason in Plato, Aristotle, and the Hellenistic Hedonists*, Cambridge University Press, United Kingdom;
- Lawrence M. Friedman, 1975, *The Legal System: A Social Science Perspective*, Russell Sage Foundation;
- Lexy J. Moleong, 2002, *Metodologi Penelitian Kualitatif*, Remaja Rosdakarya, Bandung;
- Peter Mahmud Marzuki, 2007, *Penelitian Hukum*, Kencana, Jakarta;
- Soerjono Soekanto, and Sri Mahmudji, 2003, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta;

Sudargo Gautama, and Robert N. Hornick., 2022, *An introduction to Indonesian Law: Unity in Diversity*, Penerbit Alumni, Bandung;

Journals:

Abdul Mutolib, and H. Ismono, Forest Ownership Conflict Between a Local Community and the State: A Case Study In Dharmasraya, Indonesia, *Journal of Tropical Forest Science*, Vol. 29, No. 2, 2017;

Adriaan Bedner, Indonesian land law: Integration at last? And for whom 2016, In John F. McCarthy, and Kathryn Robinson, (Eds.), *Land and development in Indonesia: searching for the people's sovereignty*. ISEAS-Yusof Ishak Institute, 2016;

Adriaan Bedner, and Yance Arizona, Adat in Indonesian Land Law: A Promise for the Future or a Dead End?, *The Asia Pacific Journal of Anthropology*, Vol. 20, No. 5, 2019;

Andrew McWilliam, Historical reflections on customary land rights in Indonesia, *The Asia Pacific Journal of Anthropology*, Vol. 7, No. 1, 2006;

Anton Lucas, Land Disputes in Indonesia: Some Current Perspectives, *Indonesia*, No. 53, 1992;

Arsad Ragandhi, Agus Heruanto Hadna, S. Setiadi, and Ahmad Maryudi, Why Do Greater Forest Tenure Rights Not Enthuse Local Communities? An Early Observation On The New Community Forestry Scheme In State Forests In Indonesia, *Forest and Society*, Vol. 5, No. 1, 2021;

B.F. Sihombing, Contemporary Issues Of Agrarian Law Institutions: Critical Analysis Of Legal Structure on Human Capital and Information Technology, *Journal of Legal, Ethical and Regulatory Issues*, Vol. 22, No. 2, 2019

Charles F rankel, Justice, Utilitarianism, and Rights, *Social Theory and Practice*, Vol. 3, No. 1, 1974;

David J. Banks, Islam and inheritance in Malaya: culture conflict or Islamic Revolution?, *American Ethnologist*, Vol. 3, No. 4, 1976;

Eko Priyo Purnomo, Rijal Ramdani, Agustiyara, Queenie Pearl V. Tomaro, and Gatot Supangkat Samidjo, Land Ownership Transformation Before And After Forest Fires In Indonesian Palm Oil Plantation Areas, *Journal of Land Use Science*, Vol. 14, No. 1, 2019;

Elza Syarief, Electronic Land Certificates: Its Goals and Challenges, *Research Horizon*, Vol. 1, No. 4, 2021;

Ernest J. Weinrib, Utilitarianism, Economics, and Legal Theory, *The University of Toronto Law Journal*, Vol. 30, No. 3, 1980;

- F.X. Sumarja, Ade Arif Firmansyah, and Pradipta Wijonugroho, Agrarian Reforms in Indonesia: A Pleasure. *Icetlawbe*, 2020;
- Hans Kelsen, Law, State and Justice in the Pure Theory of Law", *The Yale Law Journal*, Vol. 57, No. 3, 1948;
- Helmi, Helmi, Defriman Djafri, Cut Mutiani, Nurdin Abd Halim, Muhammad Badri, and Yefni Yefni, Indigenous people in the dynamics of land use changes, forest fires, and haze in Riau Province, Indonesia, In Raza Ullah, Makoto Inoue, Ganesh Shivakoti, Shubhechcha Sharma, and Sobia Asghar (eds.), *Natural Resource Governance in Asia*, 2021;
- Heni Herawati, Suharyanto Suripin, S. Suharyanto, and Tia Hetwisari, Analysis of river flow regime changes related to water availability on the Kapuas River, Indonesia, *Irrigation and Drainage*, Vol. 67, 2018;
- Herbert Lionel Adolphus Hart, Positivism and the Separation of Law and Morals, In Kenneth Einar Himma, and Brian Bix (eds.), *Law and Morality*. London, Routledge, 2017;
- Herman Hidayat, Herry Yogaswara, Tuti Herawati, Patricia Blazey, Stephen Wyatt, and Richard Howitt, Forests, Law and Customary Rights in Indonesia: Implications of a Decision of the Indonesian Constitutional Court in 2012, *Asia Pacific Viewpoint*, Vol. 59, No. 3, 2018, 293-308.
- Hisashi Owada, Conflict of Values in International Law: Universality of International Law in a Globalizing World, *Austrian Review of International and European Law Online*, Vol. 14, No. 1, 2013;
- Ida Aju Pradnja Resosudarmo, Luca Tacconi, Sean Sloan, Faridh Almuhayat Uhib Hamdani, Iis Alviya, and Muhammad Zahrul Muttaqin, Indonesia's land reform: Implications for local livelihoods and climate change, *Forest policy and economics*, Vol. 108, 2019;
- Imam Budiman, Takahiro Fujiwara, Noriko Sato, and Dani Pamungkas, Another law in Indonesia: Customary Land Tenure System Coexisting with State Order in Mutis Forest, *Jurnal Manajemen Hutan Tropika*, Vol. 26, No. 3, 2020;
- Isdian Anggraeny, and Yelita Putri Pramithasari, Legal Review Of Selling Land Of Inheritance Without Approval of All Heirs", *Legality*, Vol. 28, No. 1, 2020;
- J. Andy Hartanto, Legal Aspects of Land Purchase/Sale Disputes in Indonesia, *Environmental Policy and Law*, Vol. 48, No. 1, 2018;
- John F. McCarthy, and Kathryn Robinson, (Eds.), *Land And Development In Indonesia: Searching For The People's Sovereignty*, ISEAS-Yusof Ishak Institute, 2016;
- Jude Wallace, Indonesian Land Law And Administration In T. Lindsey (ed.), *Indonesia Law and Society*, The Federation Press;

- Laurens Bakker, and Sandra Moniaga, The space between: Land claims and the Law in Indonesia, *Asian Journal of Social Science*, Vol. 38, No. 2, 2010;
- Lego Karjoko, Abdul Kadir Jaelani, Hilaire Tegnan, Henning Glaser, and Muhammad Jihadul Hayat, Islamic Court's Approach to Land Dispute in Inheritance Cases, *AHKAM: Jurnal Ilmu Syariah*, Vol. 21, No. 2, 2021;
- Lila Juniyanti, Herry Purnomo, Hariadi Kartodihardjo, and Lilik Budi Prasetyo, Understanding the Driving Forces and Actors of Land Change Due to Forestry and Agricultural Practices in Sumatra and Kalimantan: A Systematic Review, *Land*, Vol. 10, No. 5, 2021;
- Lusia Savitri Diah Candrasari, and Lego Karjoko, The Principle of Social Function of Land Cultivation Right in Agritourism Accommodation in Indonesia, *International Journal of Multicultural and Multireligious Understanding*, Vol. 5, No. 2, 2018;
- M. Hadin Muhjad, and Nunuk Nuswardani, 2012, *Penelitian Hukum Indonesia Kontemporer*, Genta Publising, Yogyakarta;
- Nadia Astriani, Legal Policy of Water Resources Management by Local Governments: A Review of Right to Water in Indonesia, *Hasanuddin Law Review*, Vol. 1, No. 2, 2016;
- Nancy Lee Peluso, Suraya Afiff, and Noer Fauzi Rachman, Claiming the grounds for reform: agrarian and environmental movements in Indonesia, *Journal of Agrarian Change*, Vol. 8, No. 2-3, 2008;
- Nasrun Hipan, M. Nur Nirwan, and Hardianto Djanggih, Problematika Penyelesaian Sengketa Tanah Di Lokasi Tanjung Sari Kabupaten Banggai, *Law Reform*, Vol. 14, No. 2, 2018;
- Nugroho Setyawan, and Evita Israhadi, Implementation of Basic Agrarian Act No. 5/1960 in Indigenous Land Disputes in Malinau District, *Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021, Jakarta, Indonesia*;
- Ricco Survival Yubaidi, The role of land deed official regarding legal certainty of complete systematic land registration, *Jurnal Hukum dan Peradilan*, Vol. 9, No. 1, 2020;
- Richard A. Posner, Utilitarianism, Economics, and Legal Theory, *The Journal of Legal Studies*, Vol. 8, No. 1, 1979;
- Rofi Wahanisa, Arif Hidayat, R. Benny Riyanto, and Bayu Dwi Anggono, Problems of disputes/conflicts over land acquisition towards development for public interest in Indonesia, *International Journal of Criminology and Sociology*, Vol. 10, 2021;
- Safira Ayudiatrri, and Akhmad Budi Cahyono, The Legality of Grants by Foreign Citizens on Land Objects in Indonesia: Case Studies of Court Decisions, *SIGn Jurnal Hukum*, Vol. 4, No. 1, 2022;

Tania Wijayanti, Yudho Taruno Muryanto, and M. Irnawan Darori, Comparison of The Transfer of Land Rights to The Description Deed of Inheritance Rights, *Law Reform*, Vol. 17, No. 1, 2021;

Yeni Widowaty, and Dimas Amanda Wahid, Law Enforcement of Land Transfer from Agricultural Land to Housing in Indonesia, In *E3S Web of Conferences*, Vol. 232, 2021;

Yesi Nurmantiyas Sari, Rizal Nugroho, and Al Khanif, Land Acquisition for Public Interests: A Review from the Human Rights Context, *Indonesian Journal of Law and Society*, Vol. 1, No.1, 2020;

Zefrizal Nurdin, and Hilaire Tegnan, Legal Certainty in the Management of Agricultural Land Pawning in the Matrilineal Minangkabau Society, West Sumatra, *Land*, Vol. 8, No. 8, 2019.