



The Importance of Strong Agrarian Law: Preventing and Overcoming Land Mafia in Indonesia

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Abstract

To this day, land mafias are still rampant and disturbing the public. The land mafia is so detrimental to its victims that it must be eradicated. In this research, we will discuss the importance of strong agrarian law in preventing and dealing with land mafia perpetrators. This research is qualitative research, following the research object. In this article, this type of research is included in the library research category. For this reason, in library research, book collection must be gradual, because it would be difficult if this were not done using data from various references, both primary and secondary. The results of this research can be concluded that agrarian law in Indonesia is good at regulating land and policies regarding land have been created with the aim of eradicating land mafia perpetrators, but in its implementation there are still many land mafia activities, due to lack of supervision of the regulations and policies in place has been made.

Keywords: *Agrarian Law; Land Mafia; Preventing; Overcoming*

Introduction

Land mafia is a land crime involving a group of people working together to illegally own or control land belonging to other people. The perpetrators used methods that violated the law which were carried out in a planned, neat and systematic manner. Illegal ownership and control of land often triggers conflicts or disputes which often result in the loss of human life. Weak supervision, law enforcement and lack of transparency are some of the causes of the land mafia. Apart from that, the community's disregard for the land they own is also often exploited by the land mafia to control their land illegally. Ironically, victims sometimes don't know that their land certificates have changed their names because they don't check with the National Land Agency (BPN).¹

Statistically, the number of land disputes continues to increase, while what is very worrying is that land disputes are increasingly complex; for example, in 2018 there were 2997 conflicts, while land disputes totaled 7739 cases. Policies relating to the handling of agrarian conflicts, including land, have been specifically mandated in the Decree of the People's Consultative Assembly (MPR) Number

¹ Dian Cahyaningrum, "Pemberantasan mafia tanah," *Info Singkat* 8, no. 23 (2021): 1.

IX/MPR/2001 Article 5 paragraph (1) letter d which emphasizes the need for careful attention in resolving resource conflicts over agrarian issues that arise. during this time as well as anticipating potential disputes in the future to ensure that law enforcement is carried out by paying attention to the principles contained in customary law.²

Policy in the field of agrarian resources contains two possibilities, namely, on the one hand, it can resolve conflicts by accommodating the interests of communities that have been marginalized. However, on the other hand, it can give rise to new disputes if not handled comprehensively. One manifestation of the implementation of the Decree of the Indonesian People's Consultative Assembly is actually to carry out agrarian reform, especially regarding the regulation of land control and ownership, which is very urgent for the government to pay attention to.³

The number of land mafia cases is quite worrying, especially since the losses caused are very large. Therefore, there needs to be serious attention to be able to eradicate the land mafia. In connection with this, this article examines The Importance of Strong Agrarian Law: Preventing and Overcoming Land Mafia in Indonesia.

Methods

This research is qualitative research, following the research object. In this article, this type of research is included in the library research category. For this reason, in library research, book collection must be gradual, because it would be difficult if this were not done using data from various references, both primary and secondary. Documentation techniques collect data, namely by reading, studying, studying and recording literature related to the problem discussed in this article. Then data analysis techniques are carried out. The method used in this article is a data analysis technique. In this model, qualitative analysis activities are carried out interactively and continuously until they are deemed sufficient.⁴

Discussion

In relation to the land mafia, there is no specific law regarding the land mafia itself, but it regulates the methods/actions they take to obtain land rights. Regarding the actions of the land mafia that they often carry out, they can be subject to the following laws:⁵

1. Crimes involving falsification of letters or documents, each of which is regulated in Articles 263, 264, 266 and 274 of the Criminal Code.
2. Crimes of land grabbing are regulated in Article 167 of the Criminal Code.
3. The criminal act of embezzlement of rights relating to immovable property such as land, houses, rice fields. This crime is often referred to as the crime of *stellionaat* which is regulated in Article 385 of the Criminal Code.
4. Crimes of giving false oaths and false statements as regulated in Article 242 of the Criminal Code. What is meant is Ordering to enter false information into an authentic deed.
5. Article 52 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA).
6. Article 6 of Law Number 51 /Prp/1960 concerning the prohibition of Unused Land Use. permission of the rightful person or authority.

² Damianus Krismantoro, "Kebijakan Pencegahan dan Pemberantasan Mafia Tanah: Reforma Agraria di Indonesia," *Jurnal Kewarganegaraan* 6, no. 3 (2022): 6031.

³ Hanafiyah Arya Nashuha dan Muh Afif Mahfud, "Pemberantasan Mafia Tanah dengan Menggunakan Instrumen Hukum di Indonesia (Peraturan Menteri Agraria dan Tata Ruang/Badan Pertanahan Nasional Nomor 16 Tahun 2020)," *UNES Law Review* 6, no. 1 (2023): 2964–73.

⁴ Dameis Surya Anggara dan Candra Abdillah, "Metode penelitian," 2019.

⁵ Mokhammad Arif Hidayatulloh, "MAFIA TANAH MENURUT KEBIJAKAN UNDANGUNDANG PERTANAHAN," *Dinamika Hukum & Masyarakat* 3, no. 1 (2020).

Apart from law enforcement officials, the Ministry of Land and Spatial Planning/National Land Agency (ATR/BPN) has been involved in eradicating the land mafia since 2017 by forming an anti-land mafia force. The land mafia is a land control conspiracy involving parties who have ulterior motives and officials who have the authority to determine the validity of land rights. This task force was formed to eradicate the most horrific land violations committed by the land mafia. Therefore, the government's steps with the support of the DPR RI and the Corruption Eradication Commission of the Republic of Indonesia in eradicating the land mafia are the right steps to create legal certainty in the land sector and guarantee legal prosecution against perpetrators of land mafia crimes.⁶

Through the issuance of land reform regulations, the government establishes a land reform program. The government must be proactive and not reactive in dealing with land crimes related to conflict prevention and resolution, especially in terms of law enforcement, which seems to ignore land-related issues. The formation of a special task force to eradicate the land mafia is indeed risky. However, this must be permanent and not just temporary. Apart from state officials, the prosecutor's office and the police, the team must also include state legal educators. In addition, because land issues are and will continue to become more complex, widespread and cross-sectoral, the establishment of a special land jurisdiction is very important. In addition, even though laws and regulations already exist, government intervention is still ineffective in protecting land owners from land mafia crimes, especially because land mafias continue to bribe government officials to win cases. To make this happen, Indonesian President Joko Widodo (Jokowi) has directed law enforcement officials, namely the Indonesian National Police (Polri) and the Indonesian Attorney General's Office to eradicate land crimes. The Ministry of Land and Spatial Planning/National Land Agency (ATR/BPN) has also contributed to the formation of the Anti-Land Mafia Task Force (Satgas) since 2017 in addition to law enforcement agencies.⁷

The government's enthusiasm for finding solutions and resolving land ownership issues in Indonesia must be welcomed positively. However, these efforts must still pay attention to and look for the background to the main causes of difficulties in handling land cases in Indonesia. The root of the ownership problem cannot be separated from developments in land dimensions due to the increasing need for land along with the acceleration of physical development throughout the archipelago. Furthermore, George J. Aditjondro explained that agrarian disputes in Indonesia cannot be understood only as agricultural disputes or land disputes, but are interrelated with the development of the economic system, competition between minorities, and inequality between traditional and modern societies. One aspect of the difficulty in resolving land disputes is the emergence of speculators who buy as much land as possible to use as business objects, which is contrary to the spirit of the UUPA which emphasizes that control and ownership of land outside the boundaries is not permitted. Although restrictions on agricultural land have existed since 1961, they are no longer appropriate to current conditions, while restrictions on control and ownership of land in urban areas do not yet exist.⁸

The rise of land brokering emerged because of hidden information obtained by speculators from the government who were going to carry out land acquisitions behind closed doors. This means that it is not announced to the public before planning, but the plans are often leaked to land speculators, this is good for a land mafia network that is invisible, but to this day it still exists in the land sector. Understanding the various root causes can be used as a starting point in efforts to prevent and overcome them. In the future, the spirit of the reform era, especially the development and renewal of the National Land Law, must pay attention to the 1998 reform mandate as outlined in the MPR regulations. This means that the development paradigm that is used as the basis for implementing land use management must be

⁶ Ita Novita, "Kebijakan Hukum Kementerian ATR/BPN Terhadap Pencegahan Mafia Tanah Dalam Basis Penerapan Sistem Pendaftaran Tanah," 2022.

⁷ Prima Novianti Salma dan Habib Adjie, "Penyelesaian Sengketa Tanah Mengenai Sertipikat Ganda Akibat Tindak Pidana Mafia Tanah," *Jurnal Pendidikan dan Konseling (JPDK)* 5, no. 1 (2023): 5144–53.

⁸ Ayu Dewi Rachmawati, Dewa Gede Sudika Mangku, dan Ni Putu Rai Yuliantini, "PERAN PEMERINTAH DALAM MENANGANI MAFIA TANAH SEBAGAI PERLINDUNGAN KEPADA PEMILIK HAK TANAH," *Jurnal Pendidikan Kewarganegaraan Undiksha* 7, no. 3 (2019): 82–93.

based on three pillars, namely respecting and protecting human rights, sustainability of community productive assets, and upholding the principles of sound governance and prioritizing community economic development in the land sector.⁹

By paying attention to the paradigm above, various efforts to prevent land mafia can be proposed in resolving land disputes or minimizing land conflicts and disputes, including narrowing the space for land speculators. These efforts can be carried out simultaneously. In the field of legislation, the following efforts are needed: a) Efforts to synchronize various laws and regulations while waiting for the national land law to be ratified; b) Consistent and consistent enforcement of laws and regulations; c) Similarity of perception or interpretation of laws and regulations and their follow-up actions. In the institutional field as follows: a) A firm and continuous division of roles between central and regional governments is needed in the management of natural resources; b) Establishment of a task force to prevent and eradicate land mafia at the central and regional levels; c) Establishment of a land mafia prevention and eradication task force apart from involving related government agencies, for example the Government, Land Office, Prosecutor's Office, police. It also involves an independent team of sustainable land law lecturers, meaning it is not temporary; d) Forming an anti-extortion team like the one that cleans up illegal levies (saber extortion), but it must be sustainable, meaning it is not temporary. The team must also cooperate with relevant agencies and law enforcement.¹⁰

The DPR RI, through the relevant council apparatus (AKD), especially Commission II and Commission III, can carry out its supervisory function so that officials (government and law enforcement) carry out their duties and continue to make various efforts to eradicate the land mafia properly. Regarding this matter, Commission II DPR RI has formed the Land Mafia Panja which plays an important role in unraveling land problems, finding solutions, and encouraging the government to prevent and eradicate the land mafia.¹¹

Indonesia as a legal state has regulated land matters in such a complex way to protect the community from various conflicts that may occur at any time. Law can be said to be something that acts as a solution to violations that are said to be contrary or conflicting, which then occur in society, using this rule can provide protection for the people. In the case of the land mafia itself, the legal protection provided is legal protection given to land voters, in sync with UUPA No. 5 Years 1960 regarding the aim of becoming a regulation of a person's ownership of land, so that land owners can be protected.¹²

Law no. 5 Years. 1960 regarding the UUPA in Article 19 states that to build legal certainty in land, institutions that have the authority to carry out land registration or recording. Land that has been registered will then be given proof of land rights, which is a strong and accurate proof of land ownership. To use another term, certified land is very crucial in the subject of having rights to land because a certificate is proof of ownership of an item which is explained in writing and legally and is an authentic deed regarding the ownership of an object, namely land which is protected by law.¹³

It is necessary to pay attention to the regulatory protection of land title certificate holders because the crime of falsifying documents is a criminal act. Referring to article 263 paragraph (1) and paragraph (2) of the Criminal Code which states, anyone who makes a fake letter/falsifies a letter can give rise to rights, agreements/to be used as proof of something, using it with the intention of using/instructing someone to use the letter as if the content is valid, if its use could result in loss, for falsifying a letter, it is punishable by a maximum prison sentence of 6 years. Paragraph (2) further explains that the same

⁹ Dianto Bachriadi dan Edward Aspinall, "Land Mafias in Indonesia," *Critical Asian Studies*, 2023, 1–23.

¹⁰ Rahmat Ramadhani, "Legal Protection For Land Rights Holders Who Are Victims Of The Land Mafia," *International Journal Reglement & Society (IJRS)* 2, no. 2 (2021): 87–95.

¹¹ Vani Wirawan, Ana Silviana, dan Yeni Widowaty, "Eradicating the Land Mafia in Indonesia: Challenges and Opportunities," *Migration Letters* 20, no. 7 (2023): 227–43.

¹² Batahan Fransiskus Sihombing, "Critical Studies of the Land Mafia Practices: Evidence in Indonesia," *Beijing L. Rev.* 14 (2023): 433.

¹³ Wirawan, Silviana, dan Widowaty, "Eradicating the Land Mafia in Indonesia: Challenges and Opportunities."

criminal penalty is threatened with anyone who intentionally uses a fake/falsified letter as if it were genuine, if the use of the letter could result in loss. Adding a signature is included in falsifying a letter in this article.¹⁴

If we pay attention to law enforcement, there are several interrelated factors, including legal substance, supporting facilities, and community culture. These three variables must be met so that law enforcement can run as it should. Meanwhile, according to Sulistyowati, in line with the statement above, there are several interrelated things, namely regulations, professionalism of law enforcement, legal facilities and infrastructure, as well as the legal culture of society. Of the several factors that still need to be improved is professionalism, because law enforcement recruitment has now been damaged because the practice of bribery to become law officers has become an open secret. While society's legal awareness cannot be separated from the legal system, law enforcers must be role models for society. Law enforcement is closely related to legal authority. Law is authoritative if the law is a social force if obeyed. The law will be strengthened if it has support from the value system that applies in society, there is legal awareness of law enforcers who act objectively and are supported by the government and pressure groups or political parties. Law is supported by law users because these legal values reflect the values that grow and develop in society and fulfill philosophical, juridical and sociological requirements.¹⁵

Land disputes dominate the cases handled by the courts, so they take longer to resolve. In addition, the quality of land disputes is increasingly complex. In these uncertain conditions, it provides an opportunity for the influence of the land mafia and justice mafia to hamper law enforcement, which ultimately defeats financially weak communities. We cannot just leave it like that, because it will damage the world of law as well as harm the nation's children and the nation's children.

The land mafia has a very large role in land misappropriation, including colluding in determining or changing land use. Land use permits often involve governors or regents/mayors who have been caught several times by the Corruption Eradication Commission (KPK) in bribery operations using the mode of bribing officials. Collusion in making land certificates, producing duplicate certificates, colluding with government officials and law enforcers so that private companies own some of the land.¹⁶

Sometimes even government or private programs can be hampered if they don't go through the land mafia. Based on the description above, land mafia law enforcement cannot be carried out partially but requires integrated and comprehensive involvement involving all institutional elements related to the land office, including academics. In enforcing this law, consistent and sustainable political will from the government is needed, meaning that it is not temporary or temporary; for example, forming an Illegal Sweep Team which has broad duties, functions and authority in anticipating and dealing with illegal levies that occur within government agencies. Due to the huge negative impact of the land mafia's actions, the handling must be more intensive by involving the Corruption Eradication Commission (KPK) to carry out repressive actions using the arrest operation (OTT) pattern. Because this institution has sophisticated instruments and equipment for disclosing cases of legal violations.¹⁷

Mitigation efforts by paying attention to the root of the problem, the solution to solving the problem can be presented as follows: a) From an economic perspective, the existence of a company should be needed by the community, meaning that between the company and the surrounding community there is a symbiotic mutualism (mutual need) in achieving common needs; b) From the perspective of the government, it must supervise and direct companies to care for the surrounding community, it is not

¹⁴ ILHAM URANE dan AMAD SUDIRO, "LAW ENFORCEMENT AGAINST LAND MAFIAS IN INDONESIA," *Russian Law Journal* 11, no. 6 (2023).

¹⁵ Darwin Ginting, "Policies on prevention and eradication of land mafia: Agrarian reform in Indonesia," *Utopía y praxis latinoamericana: revista internacional de filosofía iberoamericana y teoría social*, no. 2 (2020): 255–63.

¹⁶ Yunawati Karlina dan Irwan Sapta Putra, "Pemberantasan Mafia Tanah Dengan Menggunakan Instrumen Hukum Pidana Di Indonesia," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 2, no. 1 (2022): 109–30.

¹⁷ Ricco Survival Yubaidi, "The future of land ownership regulation in Indonesia," *International Journal of Multicultural and Multireligious Understanding* 6, no. 6 (2020): 712–20.

enough just to fulfill social responsibilities. What is most important is the role of the government, especially the Land Office, in improving performance in improving orderly land administration, land registration and data collection on state or state-owned goods, State-Owned Enterprises and private and private-owned land in the form of land status maps; c) From a political aspect, politicians must be able to position themselves professionally in encouraging correct conflict resolution in accordance with applicable procedures and laws and regulations; d) From the socio-cultural aspect, the community must be involved in the development process, to improve welfare and a sense of belonging to the existing environment and community leaders or traditional leaders must play a role in resolving conflicts; e) From the aspect of law enforcement, the prevention and control of crime must be prioritized accompanied by firm, consistent and professional law enforcement against anyone who violates the law; f) It is necessary to form an integrated team between related agencies in handling conflicts involving non-governmental organizations and land law lecturers so as to facilitate coordination with related agencies.¹⁸

The idea of forming a land mafia task force is an effort that needs to be followed up but must be sustainable, meaning that it is not just temporary and team members other than the Land Office, prosecutor's office and police must also involve land law lecturers. Meanwhile, the enthusiasm to create a special land justice institution is a very urgent need considering that land cases occurring currently and in the future are increasingly complex, extensive and have cross-sectoral impacts. Likewise, currently and in the future quantitative land cases will continue to increase, even based on the author's experience as an expert witness, the quality of land disputes is increasingly complex, even made worse by the fact that it is increasingly difficult for the land mafia to obtain fair legal certainty. It is hoped that through the land court the handling of land cases can be resolved effectively, efficiently and professionally, so that the interests of the community can be protected, because judges focus on land disputes and judges must prioritize those who have mastered land law and agrarian law from the start of their career.

Conclusion

Land mafia is a land crime involving a group of people working together to illegally own or control land belonging to other people. Some efforts to eradicate it are by taking firm action against the perpetrators; increasing the integrity and professionalism of the apparatus; improve inter-agency coordination; land certification; and increasing community participation/activity in protecting their land. Regarding these efforts, Commission II and Commission III of the DPR RI play an important role in supervising the relevant authorities so that they continue to strive to eradicate the land mafia. For this reason, Commission II DPR RI has formed the Land Mafia Panja which focuses on supervising the government in resolving land problems and eradicating the land mafia so that people's rights are protected.

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¹⁸ Aminuddin Kasim dan Muhammad Rizal, "Retributive Justice in Law Enforcement Against Land Mafia in Indonesia: Perspectives of State Administration Law and Indonesian Criminal Law," *International Journal of Criminal Justice Sciences* 18, no. 2 (2023): 259–74.

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