



## **Urban Agrarian Reform for State Land Cultivators in the Special Capital Region of Jakarta**

### **Reformasi Agraria Perkotaan bagi Penggarap Tanah Negara di Daerah Khusus Ibukota Jakarta**

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**Abstract:** Legal regulations in the Indonesian legal framework governing state land cultivators in urban areas remain contentious and require further legal examination. Agrarian reform efforts have largely focused on rural areas, even as the phenomenon of cultivators occupying state land in urban regions has significantly grown, creating social systems rooted in the lands they cultivate. These lands serve as their primary means of livelihood, places of social interaction, sites for familial continuity, and as long-term residences. Cultivators use the land without any legal ownership rights. Current legislation does not accommodate applications for the registration of land use rights for cultivators, leaving urban cultivators (in DKI Jakarta) without legal certainty or priority rights to apply for land rights. This legal void presents an inherent injustice to cultivators seeking priority rights over their cultivated land. Furthermore, the Job Creation Law, as framed by the government, reflects a latent capitalist ideology, reserving the right to apply for land-use rights solely for business actors (developers), thereby excluding cultivators themselves. This situation underscores the urgent need for a legal reformulation based on justice principles for the utilization of state land by cultivators in Indonesia, aiming to actualize agrarian reform in urban areas.

**Keywords:** Agrarian Reform, Urban Areas, Land Cultivators, Justice, DKI Jakarta

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## **INTRODUCTION**

The Association Land, as a foundation for human activity, holds significant economic value; people are inclined to compete for control and ownership of desired parcels of land. Consequently, it is unsurprising that the drive to own and dominate land frequently leads to conflicts, particularly concerning land utilization. In numerous instances, individuals exploit land without regard for its carrying capacity or sustainability, potentially igniting disputes

such as claims over rights, land degradation issues, and environmental disruptions. (Fernando, Anditya, & 2023) Studies on agrarian reform indicate that land reform programs, which predominantly focus on rural areas, tend to overlook urban dynamics, where high population density and limited land availability exacerbate conflicts over land rights (Jr & Franco, 2012, pp. 34–59). This situation is further intensified by globalization and urbanization, which accelerate the emergence of these conflicts, posing new challenges for the sustainable management of land resources. (Zoomers, 2010, pp. 429–447)

Throughout the Dutch colonial era in Indonesia, a land policy was implemented that recognized the rights of local cultivators. This policy aimed to balance the interests of European capital enterprises (which were prioritized) with those of indigenous communities (which were protected to a certain extent to prevent excessive disadvantage that might otherwise impose financial burdens on the government). This approach to maintaining balance is reflected in the land legislation enacted in 1870, known as the *Agrarisch Wet* (also less commonly referred to as *Akkerwet*), which was promulgated on April 9, 1870, under Ind.Stb. 1870 No. 55. The *Agrarisch Wet*, originally declared to apply solely to Java and Madura, was purportedly grounded on a justification aligned with the principles of Javanese customary law, which states that the one who cultivates (the land) shall be regarded as the rightful holder of the land rights. (Wignjosoebroto, 2014, p. 76) This indicates that the right of cultivators was recognized and acknowledged since the period of Dutch colonial rule in Indonesia

The Basic Agrarian Principles in the Law No. 5 of 1960 and its accompanying regulations have played a fundamental role in shaping land status classifications in Indonesia. These regulations have established two primary categories of land ownership: titled land and state land. titled land Refers to land that has a formal, legal title or deed, indicating ownership with private property rights and is legally recognized and protected. (Kenfack Essougong & Tegua, 2019; Parange, 2018). While, state land refers to land under government ownership and administration. Such land may serve diverse functions, including conservation, resource exploitation, and recreational use (Li et al., 2017; Vitopoulou & Yiannakou, 2020). It is important to note that despite these distinctions, all land in Indonesia is ultimately considered state land due to the state's overarching controlling rights. This means that even land with specific titles falls under the broader category of state land (Harsono, 2003). To differentiate between the two categories, titled land is commonly referred to as state land in a narrower sense, while state land encompasses a broader scope. State land that lacks individual titles is often denoted as state land directly controlled by the state. This distinction helps in

delineating the different forms of land ownership and management within the Indonesian legal framework. Examples of titled land include privately owned farms or residential properties, whereas state land in the broader sense may encompass national parks or government-owned infrastructure. Understanding these distinctions is crucial for navigating land ownership and usage regulations in Indonesia.

In Government Regulation No. 8 of 1953 concerning the Control of State Land, state land in the narrow sense is referred to as restricted state land, while in the broad sense, it is known as unrestricted state land. In this context, state land or land under state control specifically refers to unrestricted state land, not restricted state land, which clearly cannot be owned by cultivators. Restricted state land is already subject to rights attached by the state, thereby limiting its availability. This discussion focuses on unrestricted state land in urban areas, which is widely cultivated by tenants. These tenants utilize state land and establish social communities on it, making a livelihood and passing down their cultivated land to future generations.

The phenomenon of state land control by cultivators in urban areas exists and has developed within society, where cultivators use the land according to its intended purpose and function, without regard to the presence of landholders. The government has primarily focused on rural agrarian reform and has not yet emphasized the importance of agrarian reform within an urban context, particularly in densely populated areas such as Jakarta. Whereas, agrarian formation is crucial for poverty alleviation, food security and sustainable agriculture (Jacobs, 2013). Agrarian reform can also stimulate progressive and tangible environmental improvement at the local level (de Melo, de Souza, & ..., 2020, pp. 45–67). Beneficiaries of land reform within an agricultural welfare system possess improved prospects for the advancement of their welfare and wellness, alongside with productive and reproductive capabilities (Chipenda, 2024).

In the context of agrarian reform, current challenges include the prevalence of land conflicts in urban areas. These issues involve extensive vacant land, land acquisition by certain groups, disputes over land use on state-owned lands where tenant farmers are carrying out the land's social function, and even violent acts such as forced evictions (Ariastita, 2017). Therefore, this study aims to assess the impact of agrarian reform on state land tenant farmers in DKI Jakarta and examine how such policies can improve their welfare.

This research employs socio-legal methodologies, utilizing an interdisciplinary approach that incorporates non-legal disciplines to enhance doctrinal analysis and better

understand the legal realities faced by all parties involved (Artaji, Sulistiani, Rajamanicam, & ..., 2024, pp. 107–136). The socio-legal study will begin by examining the legal features that align with the actions of citizens and officials, and by analyzing the meanings or features of those laws in relation to the understanding and actions taken by both citizens and officials (Firmanda, Wafi, Woodward, & ..., 2024, p. 150). A socio-legal study critically analyzes legal articles, regulations, and policies, explaining their meaning and implications, or consequences, concerning legal issues, including those affecting marginalized groups.

## **Results and Discussion**

### **Utilization of State Land by Land Cultivators Based on Justice**

In order to regulate and organize land-related issues, legal certainty is necessary. The government plays a crucial role in establishing various land laws, one of which is Law No. 5 of 1960 on Basic Agrarian Principles, which refers to the highest provisions of the 1945 Constitution, specifically Article 33, Paragraph (3). This article states that The earth, water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Since the enactment of Law No. 5 of 1960 (Basic Agrarian Principles), there have been generally three types of land in Indonesia, one of which is State Land, defined as land that has not yet been burdened with specific rights to the land.

Based on the provisions of Article 33, paragraph (3) of the 1945 Constitution, the term controlled by the state does not imply that the land must be wholly owned by the state. Rather, the concept of control grants authority to the state, as the highest governing organization of the Indonesian nation, to:

- a. Regulate and manage the allocation, utilization, supply, and maintenance of the land, water, and space.
- b. Determine and regulate the legal relationships between individuals and the land, water, and space.
- c. Determine and regulate the legal relationships between individuals and legal actions concerning the land, water, and space.

The model of land cultivation in Indonesia has been implemented by the government; however, it has not provided significant resolutions for land cultivators on state-owned land, nor has it fully addressed the implementation and objectives of the various land cultivation models in Indonesia. These models include:

#### **1) Land Redistribution Program**

This program focuses on the redistribution of land to small farmers who either lack sufficient land or do not own land at all. It aims to reduce disparities in land ownership and

empower small farmers to enhance their agricultural production. The land redistribution program is often accompanied by guidance and training to improve farming skills.

## **2) Business Use Rights**

This model is typically granted for a period of 35 years and can be extended for up to 25 years. It is usually applied to land suitable for large-scale agribusiness development, such as palm oil plantations or industrial timber forests. Holders of Business Use Rights must comply with strict regulations regarding the use and maintenance of the land to ensure environmental sustainability.

## **3) Management Rights**

Management rights is granted to institutions or bodies for the purpose of managing land for public interest or state development projects. Examples include the development of public facilities, infrastructure, or industrial areas. The purpose of Management rights is to ensure that land is used efficiently and responsibly for the benefit of the public.

## **4) Right to Use**

The Right to Use provides greater flexibility in the utilization of state land for various personal or organizational purposes, including the development of residential areas, offices, or educational institutions. The duration of the Right to Use may vary, and this right can be renewed in accordance with applicable regulations.

## **5) Land Reform Object Program**

The Land Reform Object Program aims to address issues related to unclear land ownership, which often lead to agrarian conflicts. This program also focuses on the legalization of land status for those who have long cultivated the land but do not possess official documentation.

## **6) Social Forestry**

Social Forestry is designed to bring communities closer to forest management, granting them the right to manage state forests in a sustainable manner. This program not only reduces rural poverty but also supports forest conservation and enhances environmental quality (Yaakob & Wook, 2015, p. 3).

The model of managing state land, as described above, tends to focus more on programs targeting rural or regional areas. The world is changing, thus altering the agrarian challenges faced by rural social movements and their perspectives on agrarian reform, land, and territory. Their cognitive evolution has occurred dialectically, influenced by changes in the external environment and the internal learning and exchange of experiences inside the movements as they engage with one another and the world (Rosset, 2013, pp. 721–775).

The state has the right to control land and regulate the granting of land rights to the public through mechanisms and procedures for land rights allocation. However, such rights cannot be granted to urban land cultivators. For instance, many cultivators work on land controlled by the state and are unable to apply for land rights. As a result, for many years, even across generations, the land remains classified as state-owned land. The values of Pancasila are universal and must be internalized in the life of the nation and state, including in the development of law. In relation to development, law serves as a guardian of order and security, a tool for development, a enforcer of justice, and an educator for the public.

The 1945 Constitution of Indonesia articulates the objective of establishing a government for the Republic of Indonesia that safeguards all Indonesian citizens and the entirety of the nation's territory, while also advancing the common good, fostering national education, and contributing to the maintenance of global order grounded in independence, perpetual peace, and social justice. The concept of justice is embedded in the fifth principle of Pancasila and in the creation of laws and regulations as part of legal development aimed at achieving national goals. These efforts must be grounded in the values of Pancasila, which have been overlooked by lawmakers. In this study, the author concludes that there is a need to reformulate the regulations regarding the utilization of state land by cultivators in Indonesia to ensure legal certainty and prioritize a justice-based approach to land use, specifically social justice as reflected in Pancasila as the foundation of the state (Imamulhadi & Kurniati, 2019, p. 462).

Based on the above, there is a need for regulation of land rights through urban agrarian reform, which aims to manage land rights more equitably, including recognizing the rights of communities to the land and property they have occupied for years. Agrarian reform is needed to restructure the control, ownership, use and utilization of agrarian resources (Anggono & Wahanisa, 2018). The necessity for land redistribution in this theory also includes efforts to redistribute land, where unused or unlawfully owned land can be allocated for public interest or to improve the welfare of the poor, so that the state does not allow state-owned land to remain without anyone holding rights to it. One of the objectives of urban agrarian reform is to improve access to land, ensuring that the community can develop decent and responsible housing. The development of infrastructure and services is also a key component of urban agrarian reform, which considers the development of infrastructure that supports settlements and sustainable environmental management. Additionally, public

participation in policy formulation is crucial in urban agrarian reform to ensure that the needs and aspirations of the community are met effectively and appropriately. Legal compliance and land use enforcement, specifically the regulation and law enforcement regarding land use in urban areas, are also essential elements in the implementation of urban agrarian reform.

### **Case Study of Cultivators Exploiting State-Owned Land in the DKI Jakarta Region**

In this article, the researcher conducted a study by selecting the research location based on rational and objective considerations aligned with the research problem. The first research area is the land cultivated in the neighborhood associations (*Rukun Tetangga* or RT) 006 and community associations (*Rukun Warga* or RW) 008 of the Cililitan Village, Kramat Jati District, East Jakarta Municipality. The study involved collecting as much information as possible from the land cultivators, focusing on interviews and surveys with the cultivators in the area. This research analyzes the applicable legal framework and, following the analysis, data interpretation was conducted in a descriptive manner.

In this case, the situation is described or depicted as it exists in the field, where land cultivators have lived for many years and have established families on the land they cultivate, without having legal ownership or land certificates. The land is used both as a residence and a place for business, serving as a social hub where the cultivating community forms local administrative units such as neighborhood associations (RT) and community associations (RW). From several informants, it was obtained that a number of Heads of Household have resided and cultivated land belonging to the government for decades. One informant, a retired teacher, has lived in the area for 48 years and has managed a plot of land measuring 150 square meters.

The residents of the area in question have stated that they have made and consistently make tax payments. According to the regulations, they are entitled to apply for ownership of a certificate in accordance with its designated use. This is in line with the provisions of Article 6, paragraph (1) of Government Regulation No. 18 of 2021, which states: State land may be granted to individuals or legal entities with a right to land in accordance with its designation and purpose, or granted with a Management Right. The Management Right over State land may be granted as long as the main duties and functions directly relate to the management of the land.

In this village, there are residents who have lived and managed a plot of land measuring 54 square meters for 53 years. Additionally, there is an informant who has occupied and managed a 150-square-meter plot for 26 years. In total, there are eight informants who have

occupied and managed land ranging from 46 to 130 square meters and have resided in the area for a period of 26 to 53 years.

From the various hopes and aspirations of the community, there is a strong desire to obtain land certificates as proof of legal and rightful ownership. (Agustina, 2018) This desire reflects the need for legal certainty regarding the land they have occupied and cultivated for many years. The community expects this land to be officially recognized as legal property rights, providing guarantees for its use by their families both now and in the future. All of this underscores the important role of the government in facilitating the issuance of land certificates for those in need. With government support, it is hoped that the community's aspiration to possess land certificates can be realized, offering legal protection and certainty in land ownership.

To obtain information and clarity regarding regulations and the policies implemented by the East Jakarta Municipal Government in addressing this issue, the researcher conducted an interview at the East Jakarta Mayor's Office, Building A, 3rd Floor. The informant for this research was Dedi Efrizal, S.H., M.H., who serves as the Head of the Legal Division. Based on the interview, it was found that there are cultivated lands in the areas of Cililitan, Balekambang, and Ciracas, which currently do not have a Regional Regulation concerning their utilization. Lands that have been cultivated for 20 years can apply for land rights through the National Land Authority in accordance with Government Regulation No. 24/1997, provided the application is in accordance with the land zoning outlined in Government Regulation No. 18/2021. The DKI Jakarta Provincial Government does not have any operational guidelines or authority to provide recommendations for state land rights to individuals, as the previous regulations have been revoked.

In addition, the village administration does not have the authority to issue land certificates without instructions from the central government. Until now, coordination among agencies related to the cultivation of state land has not occurred. One of the issues is the lack of legal access for cultivators in DKI Jakarta, where the Governor's Decree No. 353 of 1977 and Government Regulation No. 18 of 2021 play a significant role. These regulations clarify that land cultivation does not grant legitimate ownership rights; however, they still provide former cultivators with the opportunity to acquire land rights legally through the applicable legal procedures. However, the implementation of these policies has posed challenges, such as confusion in managing land rights and the absence of coordination among agencies regarding who has the authority to issue certificates for land cultivated by individuals for many years, which is a formal requirement for applying for land ownership certificates.



The informants believe that a cultivator who has occupied land for more than 20 years is entitled to apply for land rights directly to the National Land Authority without the need for a recommendation from the village head. To address this issue, policies from the central government and the Minister of Agrarian Affairs and Spatial Planning are required to provide a legal framework for the rights of cultivators. Regulations from the central government must be followed by the governor's decision, which designates the cultivated land areas eligible for land rights applications. A fair legal reform and effective coordination between relevant institutions are crucial to resolving the land cultivation issues in DKI Jakarta.

### **Future Regulations for the Utilization of State-Owned Land: The Need for Urban Agrarian Reform**

There is a necessity for future regulations based on justice in the utilization of state-owned land by cultivators in Indonesia, ensuring that the land fulfills its social function. Additionally, a reformulation of the Agrarian Law is required, particularly in the interpretation of cultivators as subjects and the classification of cultivated land as objects, which have yet to be adequately defined. The use of state-owned land by cultivators should be reformed with a focus on justice, where priority for certificate applications should be given to urban cultivators who have lived for many years managing the land, paying taxes to the state, and forming social communities on their cultivated land. The land law to be reformed must refer to the Basic Agrarian Principles, and all subordinate regulations must also adhere to the highest legal hierarchy, as stated in Article 33, paragraph (3) of the 1945 Constitution of the Republic of Indonesia: The earth, water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

The provisions of the Job Creation Law, Law No. 11 of 2020 concerning Job Creation, Article 107, paragraph 3, page 317, should be revised in the future, as cited below:

"In the event that land directly controlled by the state, as referred to in paragraph (1), is being worked by the community, the right to the land shall be granted after the housing and settlement developer, as the applicant for the land rights, has settled compensation for all community cultivations based on an agreement."

The government must not be biased toward the interests of capitalist ideology and should protect citizens with justice, in line with the nation's goal of promoting public welfare. This includes providing opportunities for land workers to register their land in accordance with the land registration provisions under the National Priority Program, specifically the Accelerated Registration of Complete Systematic Land. Land workers on state-owned land

are the parties who manage and control the land and pay taxes to the state. They should be given a fair opportunity and prioritized to apply for land rights over the land they cultivate through the process of land registration for the first time, which is conducted simultaneously and covers all land registration objects not yet registered within a particular village or urban area. Through this program, the government ensures legal certainty and land rights for citizens, especially for land workers on state-owned land in urban areas, without the state losing its rights over the land. This is done by granting land rights in the form of Building Use Rights certificates to those working the land.

### **Facilitation of Access to Land Rights Applications for State Land Cultivators in DKI Jakarta as Urban Agrarian Reform**

One of the issues in society and land disputes is the lack of certainty regarding land rights, which is a key problem faced by state land cultivators (Ginting, 2021). As the authority over state land, the government has the right to determine the allocation of rights to the public, under the jurisdiction of the Ministry of Agrarian Affairs and Spatial Planning/National Land Authority, which is responsible for issuing land certificates. The bureaucratic process is complex, and the lack of accessible land registration options pose significant obstacles for state land cultivators to obtain proof of land rights. Despite the introduction of the e-certificate system as a government strategy to simplify land registration bureaucracy, it is expected to provide more accessible and specialized options for state land cultivators. Cultivators can directly access the requirements for certificate applications without the need to visit the National Land Agency in their area. The cultivators are provided with comprehensive and clear information through online resources, and the Ministry of Agrarian Affairs and Spatial Planning/National Land Authority's current e-certificate program serves as a solution for the easier issuance of land certificates.

The advantages and disadvantages of the e-certificate system remain an issue; however, it has the potential to minimize land disputes regarding the authenticity of certificates and procedural defects in the issuance of certificates. Indonesia's government strategy concerning electronic land certificates is an effort to leverage advancements in digital information technology in the land sector to reduce bureaucratic processes in land certificate management. Furthermore, the electronic land certificate service system is also expected to prevent land certificate fraud, as well as collaboration and corruption in the management of land certificates (such as issues with duplicate certificates) (Permadi, 2023, p. 10).

The right to grant certificates is an appropriate solution for those cultivating state-owned land, and the provision of such rights can help avoid land disputes. Additionally, the

convenience of digital land registration can provide legal certainty for state land cultivators who are integrated into the system. It is expected that the digital land certificate system can also be implemented for those cultivating state-owned land, who seek easier access to land registration. Enhancing the formal legal framework and the land registration system is essential.(Ginting, 2021) Utilising digital land certificates as evidence in court proceedings helps augment legal certainty in Indonesia's land ownership systems by refining the land registration process and facilitating dispute settlement. The current "negative publication with positive aspects" method, which Indonesia uses to prove land ownership, can be transformed into a positive publication system through the use of digital certificates (Permadi, Maharani, & Ayub, 2023, pp. 707–752).

The government's commitment to implementing agrarian reform will have an impact on the local economy and the welfare of farmers. Socially, it will bring changes in the social structure and strengthen local communities (Muntaqo, Febrian, & Pratama, 2024). Environmentally, it will affect the management of natural resources and the environment in DKI Jakarta. When discussing an individual's right to control or own land, the legal basis for this is Article 28 H, paragraph (4) of the 1945 Constitution of the Republic of Indonesia, which states: "Every person has the right to own personal property, and such property shall not be arbitrarily taken over by anyone." It is not easy for every individual to control or own land. On one hand, land is a limited natural resource, while on the other hand, the imbalance of bargaining positions between those with strong economic and political resources and those with limited access to these resources results in a situation where justice in acquiring and utilizing land remains out of reach (Imamulhadi & Kurniati, 2019, p. 462).

The rights possessed by every individual, as guaranteed by the constitution, must be actively fulfilled by the state. To achieve agrarian justice, the state is obligated to pursue this goal through various means. However, every effort must be grounded in legal principles (Sumardjono, 2018, pp. 104–116). Pancasila, as the foundation of the state, serves as the source of all legal norms, giving rise to various regulations and laws. Furthermore, Article 28I paragraph (2) of the 1945 Constitution of the Republic of Indonesia provides a constitutional basis, mandating that every person has the right to be free from discriminatory treatment for any reason and is entitled to protection against such discriminatory treatment (Afid Mahfud & Chin, 2024).

## **CONCLUSION**

The issue of legal access for cultivators of state land in the Special Capital Region of Jakarta reflects a disparity between national agrarian policies primarily focused on rural areas and the reality of land control in urban settings. Although cultivators do not hold ownership rights, there is no clear and coordinated mechanism to grant them legal access to the land they manage. The lack of interagency coordination, regulatory ambiguity, and the capitalist bias embedded in Article 107 paragraph (3) of the Job Creation Law exacerbate urban agrarian injustice. Therefore, urban agrarian reform in Jakarta is urgent and must be supported by central government policies and regional regulations that guarantee fair priority rights for cultivators over the land they have worked.

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