

The Dynamics of Social Justice within the Framework of Constitutional Law: Synergy of Agrarian Policy, Environmental Protection, Human Rights, and Bureaucratic Integrity in the Digital Era

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Abstract

This article comprehensively examines the role of the state in realizing social justice through the harmonization of law and public policy in Indonesia. The main focus of this research is on agrarian policy, specifically examining the problems of *absentee* land ownership (*guntai*) which clashes with the social, economic, and bureaucratic realities of the State Civil Apparatus (ASN). Through a juridical-normative and comparative approach, this article explores the effectiveness of the Complete Systematic Land Registration (PTSL) program and a review of Islamic law (*Maslahah Mursalah* and *Maqashid Syariah*) in responding to agrarian inequality. The analysis is then expanded across themes by examining the negligence of bureaucratic governance following the abolition of the State Civil Apparatus Commission (KASN) ahead of the 2024 Regional Elections. As a conceptual bridge, this research also integrates the issue of protecting vulnerable groups within the framework of the Sexual Violence Crime Law (TPKS), as well as the ecological dilemma resulting from resource exploitation (nickel downstreaming and the implementation of PLTSa to reduce carbon emissions). This paper concludes that substantive justice can only be achieved if the state is able to eliminate discriminatory regulations, tighten bureaucratic oversight, prioritize human rights, and adopt precise technological integration (such as Artificial Intelligence in maritime governance and land registration).

1. Introduction

The Republic of Indonesia was founded on the foundation of a welfare state in which the government not only acts as a guardian of order, but is also required to manage and advance the general welfare (*bestuurzorg*) (Djakaria, 2016a). This constitutional mandate is expressly mandated in Article 33 paragraph (Badi'ah & Hafiz, 2025) of the 1945 Constitution, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people (Badi'ah & Hafiz, 2025). The realization of this constitutional mandate is manifested, among other things, through Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), which initiated the *land reform* program to end the feudal and colonial systems that oppressed farmers (Solski, 2021). However, over time, this ideal of social justice faced various clashes. In the agrarian sector, the prohibition on absentee land ownership namely, ownership of agricultural land by subjects domiciled outside the sub-district where the land is located remains an unresolved legal controversy, particularly due to the exclusive exceptions for bureaucrats and State Civil Apparatus (Hermawan et al., t.t.). This bureaucratic privilege not only triggers inequality in the land ownership structure, but also reflects broader issues of state apparatus integrity, such as those currently occurring in the dynamics of monitoring ASN neutrality following the abolition of KASN ahead of the 2024 Simultaneous Regional Elections (Mujtahidah, t.t.).

Furthermore, the state's role in safeguarding people's prosperity is also being tested in the realm of environmental management and the fulfillment of Human Rights. The downstreaming policy of natural resources such as nickel (Nuradini & Aminah, 2023) and efforts to transition energy through Waste-to-Energy Power Plants (Syaifullah, 2025) often sacrifices the ecological rights of communities. On the other hand, protection for vulnerable groups, such as women who are victims of forced marriages in the name of culture, also demands progressive legal intervention through the Law on Sexual Violence Crimes (Perkasa

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et al., 2024). These various issues, which at first glance seem separate, are actually linked by a common thread: the extent to which the state is able to formulate, harmonize, and enforce laws that guarantee substantive justice for all its citizens without discrimination. This article aims to comprehensively examine this dynamic. The discussion begins with an in-depth analysis of *absentee* land law and its registration program, followed by a critical review of bureaucratic privilege, ecological and energy debates, and how technological innovation and progressive law can bridge the resolution of conflicts in these various sectors.

2. Method

This scientific article is the result of a comprehensive synthesis compiled using a mixed-method research method, which substantially collaborates legal research juridical-normative (doctrinal) and legal-empirical research juridical-empirical (socio-legal research) (Al Hafiz & Harry, 2026; Hafiz et al., 2025; Perkasa et al., 2024). The juridical-normative approach focuses on reviewing library materials and analyzing the synchronization of various laws and regulations to discover legal principles and doctrines (Djakaria, 2016b; Hafiz & Badi'ah, 2025; Jannah et al., 2023), while the empirical approach is used to examine the effectiveness and operation of these legal instruments amidst the sociological realities of society (Tristanto, 2019; Widiyanto & Handayani, 2025).

To dissect the complexity of cross-sectoral issues, this research applies several legal approaches simultaneously:

- 2.1 Statutory Approach: Used to analyze, criticize, and examine inconsistencies in norms in various applicable regulations (Hafiz, 2025; Ikrardini, 2022; Mujtahidah, t.t.; Rustiana & Hidayat, 2022). This approach is applied, for example, to highlight the overlap between Article 10 of the UUPA and PP No. 224 of 1961 and PP No. 4 of 1977 regarding the exception of *absentee* for ASN (Hafiz & Badi'ah, 2025; Jannah et al., 2023), as well as examining the TPKS Law, the Presidential Decree on PLTSa, and the implementation of international frameworks such as UNCLOS and the Paris Agreement (Hermawan et al., t.t.; Solski, 2021).
- 2.2 Conceptual Approach: Used to build arguments by relying on legal views and doctrines (Badi'ah & Hafiz, 2025; Rizqi et al., 2026). This study uses various theoretical analysis tools, including Gustav Radbruch's Theory of Justice to examine discrimination in agrarian regulations (Syaifullah, 2025), Feminist Legal Theory (FLT) to dissect gender bias in the formulation of articles on forced marriage (Saripudin, t.t.; Syaifullah, 2025), and the concept of Islamic law (*Maqashid Syariah* and *Maslahah Mursalah*) to assess the urgency of protecting property, food security, and community welfare from exploitative land ownership practices (Ikrardini, 2022; Saripudin, t.t.; Solski, 2021).
- 2.3 Case Approach: This approach analyzes cases or court decisions that reflect the empirical manifestation of legal conflicts in the field (Hafiz, 2025; Hafiz et al., 2025; Perkasa et al., 2024). The cases discussed include Supreme Court Decision Number 256/Pdt.G/2018/PN.Dpk concerning the dominance of land ownership by bureaucrats (Al Hafiz & Harry, 2026), the practice of cultural violence of "capture marriage" in Sumba (Nuradini & Aminah, 2023), and the ecological impact of PT IWIP's nickel downstreaming in Halmahera (Hermawan et al., t.t.).
- 2.4 Comparative Legal Approach: Applied to examine policy relevance by comparing the Indonesian legal system with other countries and between legal systems. This is seen through a comparison of the success of the elimination of *absentee* land through agrarian reform in Japan (Ikrardini, 2022), a comparison of technology implementation in developing countries (Rizqi et al., 2026), and a comparison between positive legal instruments (UUPA) and Islamic law in addressing the concept of ownership and distribution of rights (Mujtahidah, t.t.).

This research is primarily sourced from secondary data consisting of primary legal materials (such as the 1945 Constitution, the Basic Agrarian Law (UUPA), related laws and regulations, and international treaty documents), secondary legal materials in the form of academic literature, books, draft academic papers, and scientific journals, and tertiary legal materials such as legal dictionaries (Al Hafiz & Harry, 2026). To support the socio-legal analysis, this research also integrates primary data obtained through field observations and in-depth interviews with key stakeholders, such as village/sub-district officials, the National Land Agency (BPN), landowners, and representatives from the National Commission on Violence Against Women (Hafiz & Badi'ah, 2025; Ikrardini, 2022). All materials and data collected through library research (Al Hafiz & Harry, 2026) are processed through editing, coding, reconstructing, and systematizing stages so that legal issues can be explained logically and structured (Hafiz & Badi'ah, 2025). Next, the data was analyzed using a qualitative descriptive method (Fakhrizal, 2017) to provide a comprehensive legal

explanation, connecting the common thread of legal anomalies across themes, and producing prescriptive conclusions for more just and adaptive legal reform in the modern era.

3. Result and Discussion

3.1 Ratio Legis and the Philosophy of the Absentee Land Prohibition in Agrarian Reform

Absentee land ownership (*guntai*) is the ownership of agricultural land by someone domiciled outside the sub-district where the land is located (Jannah et al., 2023; Syakur et al., 2026). This practice is implicitly prohibited by Article 10 paragraph (Jannah et al., 2023) of the Basic Agrarian Law, which requires that agricultural land be actively cultivated or managed by the owner to prevent extortion (Widiyanto & Handayani, 2025). The Basic Agrarian Law recognizes that land ownership that exceeds reasonable limits will harm the public interest and smallholder farmers who rely heavily on agricultural land as their primary source of livelihood (Jannah et al., 2023). Food security, a pillar of national sustainability, is highly dependent on the active role of farmers, therefore absentee land ownership is considered a major obstacle to achieving food sovereignty (Nuradini & Aminah, 2023). From a comparative legal perspective, this prohibition policy is not unusual. In Japan, post-World War II agrarian reform was successfully implemented firmly, with the practice of absentee land ownership being completely abolished to distribute land to sharecroppers (Mako & Saleh, 2023). Unfortunately, in Indonesia, the effectiveness of this prohibition is often blunted by limited supervision and sanctions that do not have a deterrent effect, thus triggering the emergence of a new class of "landlords" from urban areas who make land in villages merely a speculative commodity (investment), not a factor of production.

Doctrinally in Islamic Law, the prohibition of *absentee* land is very much in line with the concept of *Maslahah Mursalah* and *Maqashid Syariah*. Land is a gift that has a social function that should not be neglected. Islamic law recognizes individual property rights, but with the limitation that such ownership should not cause harm or monopoly (concentration of wealth in a handful of elites). Protection of property (*hifz al-mal*) and life (*hifz al-nafs*) for farmers requires that land be cultivated productively. Allowing productive land to become frozen *absentee* land is categorized as *idha'at al-mal* (wasting property), which is very contrary to the principle of the welfare of the people. (Ikardini, 2022) Therefore, the policy of PP Number 224 of 1961 which prohibits this ownership is in line with the values of Islamic law which prioritizes justice and public benefit above the interests of a handful of speculators (Widiyanto & Handayani, 2025). However, legal problems often arise in inheritance cases. The transfer of agricultural land rights to heirs domiciled outside the sub-district automatically creates new, legally absentee ownership (Hafiz, 2025). Heirs are supposed to receive legal protection, but based on Article 3a of Government Regulation No. 41 of 1964, heirs are given one year to transfer these rights to local residents or relocate to the area where the land is located. Unfortunately, this has sparked both pros and cons, with some viewing this obligation as absolutely revoking the heirs' civil rights, creating a conflict between the absolute nullity theory of administrative law and absolute inheritance rights.

3.2 Effectiveness of Complete Systematic Land Registration (PTSL) and its Administrative Constraints

To ensure legal certainty and protection for land rights holders, the state initiated the Complete Systematic Land Registration (PTSL) through Regulation of the Minister of ATR/BPN Number 6 of 2018 (Badi'ah & Hafiz, 2025). PTSL aims to map and register all land parcels in Indonesia simultaneously. In the PTSL scheme, *absentee* land is classified into Cluster 3 (K3), namely land parcels whose physical and legal data cannot yet be recorded as a land title certificate because they do not meet the legal subject requirements. Although PTSL is a strategic step, its implementation for *absentee* land encounters several serious obstacles. First, the identification of the subject and object of the land is often unclear because underhand sales transactions are not reported, so the land is not administratively recorded as having been transferred. Second, many capital owners circumvent the law (legal smuggling) by falsifying documents, such as using duplicate Resident Identity Cards (KTP). (Djakaria, 2016b) Although the Population Administration Law requires a single electronic ID card (e-KTP), system manipulation still occurs. Third, the reluctance of village/sub-district officials to report the real status of land cultivators due to the strong influence of capital from owners from the city. This weakness in cross-sectoral data integration is what often paralyzes the enforcement of the law prohibiting *absentee* ownership in the field (Syaifullah, 2025).

3.3 Bureaucratic Privilege: Discrimination Against Civil Servants and Its Relation to Legal Justice

One of the most striking anomalies in the *absentee* land policy is the exclusive exception for Civil Servants (PNS/ASN) and the TNI/Polri, as stipulated in Article 3 paragraph (Solski, 2021) of PP No. 224 of 1961 and PP No. 4 of 1977. (1) This regulation provides flexibility for ASN to own *absentee* land (a maximum of 2/5 of the maximum limit) as a form of "old age security". When examined using Gustav Radbruch's theory of justice, this policy fundamentally violates the principle of justice itself. Radbruch stated that if formal law is in clear conflict with substantive justice, then the law is not worth maintaining (Hermawan et al., t.t.). Giving privileges to state officials to own land outside their domicile, while civilians are prohibited, is a clear form of structural discrimination. Sociologically, this exclusion triggers elite capture, where state officials transform into a new class of landowners who control fertile land in rural areas or buffer zones (as in the case of the dispute at the Depok District Court), which then marginalizes smallholder farmers. This situation results in a conflict of norms between the egalitarian UUPA and its elitist derivative regulations (PP). Through the principle of *lex superior derogat legi inferiori*, the exclusion in the PP should ideally be set aside because it violates the essence of justice in the UUPA (Hermawan et al., t.t.).

This bureaucratic privilege provides a gateway to examining the fundamental problems of ASN governance in Indonesia. Weak oversight of ASN behavior is not limited to land ownership but also extends to political integrity. This is clearly evident in the enactment of Law Number 20 of 2023, which abolishes the State Civil Service Commission (KASN) (Badi'ah & Hafiz, 2025). The elimination of this independent supervisory institution has had a very worrying impact in the lead-up to the 2024 Simultaneous Regional Head Elections (Pilkada). Without the KASN, which has been a bulwark guarding the merit system and neutrality, ASN is very vulnerable to being co-opted and politicized by incumbent regional heads for electoral interests (Rizqi et al., 2026). When the bureaucracy loses external supervision, all forms of abuse of power from mobilizing political support to monopolizing agrarian assets in the region will become increasingly difficult to control. Therefore, the reconstruction of bureaucratic supervision is very urgent in order to restore the integrity of state officials in various sectors of life (Al Hafiz & Harry, 2026).

3.4 Ecological Exploitation: Between Mining Downstreaming and Energy Transition (PLTSa)

Beyond agriculture, corporate land acquisition for extractive purposes has created massive ecological problems. The strategic nickel downstreaming program, despite significantly increasing state revenues, is often implemented under the guise of development without regard for the community's right to a healthy and healthy environment (Tristanto, 2019). Giant companies like the Indonesia Weda Bay Industrial Park (IWIP) in Halmahera are triggering excessive deforestation, land grabbing, and water pollution that are destroying the living spaces of indigenous communities and local farmers (Tristanto, 2019). This is the antithesis of the UUPA's goal of prosperity, where land that should be managed for the people's sovereignty is instead transformed into an instrument of corporate oppression. In urban areas, the problems of land conversion and waste have triggered the urgency of new policies. The accumulation of waste produces methane (CH₄) emissions that exacerbate climate change. As a ratifying country of the Paris Agreement, Indonesia is striving to achieve Net Zero Emissions by promoting Waste-to-Energy (PLTSa) power plants (Waste to Energy) through Presidential Regulation No. 35 of 2018 (Syakur and Slamet, 2026; Syaifullah, 2025). However, the implementation of PLTSa (such as in Solo and Surabaya) has raised controversy. The use of incinerator technology in PLTSa produces dioxin and furan emissions which are highly carcinogenic and toxic to humans. Other obstacles are the tipping fee costs which are a heavy burden on the Regional Revenue and Expenditure Budget (APBD), as well as the low level of air quality standard monitoring because laboratory tests are only required once every five years (Fakhrizal, 2017). This policy paradox shows that the state's intention to solve the waste problem and meet carbon emission targets actually has the potential to create new ecological disasters and public health crises, if not accompanied by holistic environmental protection instruments.

3.5 Protection of Vulnerable Groups and the Intersection of Law and Culture

State law often confronts local cultural customs or excuses that violate human rights. Similar to the practices of landlords exploiting farmers, the dominance of patriarchal culture also marginalizes women. The practice of "*Kawin Tangkap*" (capture marriage) in Sumba, East Nusa Tenggara, and various other forms of forced traditional marriage (such as "lili" marriage or marriage resulting from rape) are long-standing cultural human rights violations (Nuradini & Aminah, 2023). Indonesian legal dynamics have made progress with the enactment of Law Number 12 of 2022 concerning Criminal Acts of Sexual Violence (UU TPKS), which criminalizes forced marriage (Rizqi et al., 2026; Syakur, 2026). The process of formulating this regulation was fraught with the tug-of-war of political interests, religious doctrine, and culture, with several factions in parliament initially rejecting the inclusion of the article on forced marriage on the grounds that it would criminalize parents. However, with strategic intervention and lobbying analyzed using Feminist Legal Theory (FLT), activists and state institutions such as the National Commission on Violence Against Women are able to reconstruct the law to be more gender-just and to break down patriarchal power relations. This proves that the state, if it has the political will, is able to intervene in exploitative traditions in order to uphold protection for vulnerable groups.

3.6 CROSS-THEMATIC ANALYSIS: SYNTHESIS OF JUSTICE AND TECHNOLOGICAL INNOVATION IN LAW

From the various sub-themes discussed from *absentee* land domination, the weakening of civil servant bureaucratic oversight, environmental exploitation due to nickel mining and waste-to-energy plants, to the protection of women from forced marriage there is a single conceptual bridge that connects them: systemic failure due to the absence of data integration and precise oversight instruments at the state level. In the context of international maritime law, territorial violations and conflicts in the South China Sea are addressed through the legal framework of UNCLOS 1982 (Solski, 2021). Given the vast maritime scope, conventional oversight is no longer adequate. Therefore, the integration of Artificial Intelligence (AI) is proposed to track real-time vessel movements through satellite data, filter violation patterns, and digitize arbitration documents so that legal certainty can be objectively upheld (Syaifulah, 2025).

This logic of integrating AI and advanced technology is truly highly relevant and urgent to be adopted into Indonesia's domestic legal governance system (as a synthesis of cross-sectoral resolutions):

- 3.6.1 For Agrarian Affairs (*Absentee* Land & PTSL): The use of AI and synchronization of big data databases between the Ministry of ATR/BPN, the Population and Civil Registration Office (Disdukcapil e-KTP), and tax agencies is absolutely necessary (Badi'ah & Hafiz, 2025). If the land registration system is fully digitized, the state can automatically track land ownership across sub-districts, block attempts by civil servants to accumulate land beyond the reasonable 2/5 limit, and immediately take action against indications of underhand sales without having to wait for physical reports (Tristanto, 2019).
- 3.6.2 For Ecology and Energy Transition: AI and Internet of Things (IoT) sensor technology can be used to monitor the emission standards of nickel processing plants and toxic dioxin gas from waste-to-energy plants (PLTSa) on a daily and real-time basis, addressing the regulatory weakness that only requires emission testing every five years (Ikrardini, 2022; Mujtahidah, t.t.; Rustiana & Hidayat, 2022).
- 3.6.3 For Bureaucratic Oversight (Regional Elections): Following the dissolution of the National Civil Service Agency (KASN), AI-based applications for tracking anomalies in bureaucratic job transfers, tracking ASN digital footprints on social media during the campaign period, and reporting whistleblowing can serve as an effective digital oversight barrier to prevent ASN from becoming a practical political instrument of incumbents (Ikrardini, 2022; Solski, 2021; Widiyanto & Handayani, 2025).

The law does not operate in a vacuum. Social justice for farmers, protection of vulnerable groups (women, indigenous peoples), and the nation's ecological future require a state that is present not merely as a regulator but as an adaptive law enforcer. Privileges, such as those demonstrated through the exclusion of ASN from agrarian affairs or the elimination of KASN, demonstrate that reform must begin by cleansing the bureaucratic system of conflicts of interest, so that the law can be enforced based on the principle of Radbruch justice (Saripudin, t.t.).

4 Conclusion

The realization of the ideals of a welfare state based on Pancasila and the 1945 Constitution demands harmony between legal certainty and substantive justice. The policy of prohibiting *absentee* agricultural land is essentially very noble because it is aimed at preventing land monopoly, protecting food security, and guaranteeing the economic rights of sharecroppers, in line with the principles of *Maqashid Sharia* and the concept of agrarian justice. However, overlapping regulations that pamper the bureaucracy (ASN) with various exceptions, actually sabotage the effectiveness of *land reform* itself, create new inequalities, and demonstrate a tendency for elite class repression against the common people. At the same time, the state's inconsistency is also reflected in the weakening of internal supervision (the elimination of KASN) and pro-investment policies that often ignore ecological safety (the impact of nickel and PLTSA damage). To re-stitch the tangled threads of the law, the state is obliged to revise overlapping legislation, enforce institutional bureaucratic neutrality, and adopt digital technology (Artificial Intelligence and Big Data integration) to monitor legal compliance, both in the land registration system (PTSL), emission pollution thresholds, to the prevention of gender-based violence and the political autonomy of its apparatus.

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