

# THE PARADOX OF LAND OWNERSHIP AFTER THE ERA OF DEMOCRATIC ECONOMY-BASED REFORM ACCORDING TO AGRARIAN LAW IN INDONESIA

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## ABSTRACT

*Indonesia is ranked 4th as the country with the largest population in the world. As a result, land needs continue to increase, both as a place of residence, place of business and agricultural land. The problem at the moment is how to control the ownership and ownership structure of the land. The balance between the private sector and the interests of the community or individuals can be maintained. Following the mandate of the constitution and the mandate of the 1998 reform, land use must return to defend the people's economy. But why is the paradox of land tenure and ownership still happening today? This study aims to analyze land ownership based on people's economy according to land law in Indonesia. This study used a normative juridical method with a legal statement approach, a historical approach, a political law approach to land law, and an economic approach. The results of this study are policies on the control and ownership of land rights that have responded to the demands for reform, namely the welfare of the nation's children, which is regulated in the 1999 National Guidance and Decree of the Republic of Indonesia Number IX Year 2001 Presidential Decree Number 34 the Year 2003. It's just that the implementation has not been followed up because political dynamics at the time so that the opportunity and equality to obtain fundamental land rights for someone in developing a people's economy had not yet moved. Because agrarian reform regulated by Government Regulation Number 68, the Year 2019 has not been followed up.*

**Keywords:** Land Ownership, People's Economy, Agrarian Law and Welfare.

## INTRODUCTION

The land is a limited natural resource that is a gift from God, so it must be utilized optimally by the government to realize the politics of land law, namely the nation's children's welfare. Land use is in line with the Agrarian Law's spirit, which lay the foundations of land use and uses based on sustainable planning and spatial planning (Cole, 2012).

One of the Agrarian Law's objectives or national land law is to end landowners throughout the archipelago. Still, existing data shows that land tenure and ownership are very lame (Zhou,2009). According to data from the National Land Agency in 2016, the total area of concessions for plantations is 15 million hectares, while the agricultural census by the statistical agency shows that in the farming area there are 2,452 large-scale agricultural business entities with an average landholding of approximately 6,117 (six thousand one hundred and seven twelve) hectares, while farmers only own land less than 0.5 hectares/person. This condition is very ironic when we have been 74 years independent compared to the average land area of farmers in Vietnan 986 M2, China 1,120 M2, India 1590 M2 and Thailand 5230 M2 (Zhang, 2019). Judging from the lack of land owned by Indonesian farmers, even if farmers work hard, they remain low, because the land owned is far from ideal. This is one of the adverse effects of government legacy under the old order regime, and the new order regime made the same mistake of betraying the people's trust and disregarding the mandate of suffering that has been colonized by almost 3.5 centuries of a foreign nation which is authoritarian and centralistic in nature (Mubyarto, 2004). And to this day the Reform Government has not been able to improve.

The reform era government, which was born in 1998, abandoned the concept of centralistic power by prioritizing regional autonomy at the district and city level so that the authority of the provincial government was strengthened in the regulation of the land and natural resources, especially in

granting licenses to use natural resources including land. The implication of giving autonomy to districts or cities raises several crucial problems, including inequality in ownership and land ownership, which is getting worse, increasing land and agrarian conflicts, and ignoring the environment. Even though it has been stimulated in the National Long-term Development Plan for 2005-2025, normatively it is emphasized that: poor people face the problem of inequality in tenure and land ownership structures and uncertainty in tenure and ownership of agricultural land. The life of a farmer's household is greatly influenced by his access to land and the mobilization of his family members to work on agricultural land (Choi, 2020). The problem is getting worse with an unequal tenure structure because most smallholders do not formally control land ownership rights.

Fundamental issues in the land sector above can have a broader impact on national development because national development itself is a systemic movement in all nation components in all lines of life that affect each other if one sector is stagnant. This should not have happened if the government can consistently exercise its authority through the instrument of state control in managing all natural resources, including land, to realize the people's welfare (Lemmen, 2015). Does the question arise as to why these goals are further and further away from the ideals mandated by the agrarian law and the mandate after the reform era in May '98? This means that the balance of land control between the people and the businessman is getting further away even though the government has the authority and strategic role in realizing this through the existing management.

In the era of political reform, the government has decided that national development must re-empower the marginalized people during the New Order regime with the concept of widespread economic growth (Milczarek, 2018). The idea was finally outlined in the Decree of the People's Consultative Assembly No. 4 of 1999, concerning the National Development Outline. To follow up on the National Development Outline, specifically in agricultural development and renewal of natural resources is regulated in the Decree of the People's Consultative Assembly Number 9 of 2001 yunto Presidential Decree number 34 of 2003. However, legal policies in agrarian law reform, mostly inland, have not followed up. But the formation of sectoral laws in the field of agricultural proceeds without regard to its parent Agrarian Law. Thus the efforts to marginalize Agrarian Law continue so that the land sector's development that approaches the people's economy is almost not connected to the spirit outlined in the National Development Outline. At the same time, the concept of populist economics is the goal of agricultural law politics. This means that the people are the heart of the nation, then the people's welfare becomes a measure of the government's high and low levels (Li, 2016). Sukarno-Hata's founding fathers said if the people's economy is good, the nation is authoritative if the people's economy declines, the government can sink.

Departing from the popular economy concept provides the broadest opportunity for the people to become actors or subjects of economic growth, not used as objects of development. Therefore, it is fitting that the motto "from the people, by the people, for the people" must measure the high and low levels of this nation. Considering the importance of the people's position in development, the mastery and ownership of land primarily for farmers are very strategic to be studied and acted upon to encourage the achievement of their welfare (Li, 2020).

It can be freely formulated that a people's economy is an economic system built on the strength of the people's economy. People's economy is an economic activity that can provide an opportunity for all communities to participate, including the ideal farmers who must have a minimum land area, so that the economy can be implemented and can develop properly. To examine why the structure of community-based land tenure is increasingly lame after 20 (twenty) years of reform, the researcher will find out the root of the problem comprehensively and provide a solution or solution.

The above description will be examined on how the policies are taken by the government and their implementation so that the inequality of ownership and ownership of land is further from the ideals of an independent Indonesia. In connection with this, the purpose of this study will discuss two things, namely: how is the government policy in carrying out the mandate of the reform era of May '98 specifically in the field of community-based land economy, and what efforts should be done so that the mastery and land ownership of farmers can realize the democratic economy.

## METHODS

As a pluralist state of law, Indonesia must be able to accommodate the interests of ethnic groups that we know by the term Unity in Diversity. This reflects how difficult it is to build laws that can be accepted by all groups of society. More specifically, the land direction is a law that is not neutral because it is significantly influenced by customs that are spread as a manifestation of that pluralism. This means that national land law development must absorb the aspirations of indigenous peoples, each of which has unique characteristics. During difficulties in developing federal land law, the writer in conducting formative research must examine the positive legal principles and existing legal regulations by verifying and evaluating legal norms relevant to land law theories. This verification and evaluative study of positive law were conducted to identify the legal substance that needs to be harmonized with law dogmatics through legal theory and legal philosophy.

This research seeks to find the basic concepts of reforming national land law associated with national agricultural law policies, specifically in the land arrangement, control, and ownership in the reform era that prioritize the people's economic interests. The legal issues studied are how the use and use of land to strike a balance between the owners of capital with the community or individuals, meaning that high economic growth must contribute to the development of the welfare of the nation's children. Efforts to achieve these goals are primarily determined by how the implementation of the state's right to control the land is a legal instrument that gives authority to the government to make policies to be implemented so that it approaches the people's economic mandate for farmers.

In this study the following steps were carried out: 1) identifying existing legal facts; 2) collecting traditional materials deemed relevant to the current arrangement of land tenure and ownership associated with efforts to improve people's economy; 3) conducting a legal study on legal issues based on legal theory and the theory of the state's right to control land and the concept of people's economy; 4) draw conclusions and recommendations, provide a prescription or what should be done based on the arguments that have been built in the analysis.

The approach taken in this research is the statutory approach, the history of the law approach, and the political law approach to land law. The legislative process and traditional historical method in the form of existing, current and future legislation products, especially regarding how the government's efforts to realize the mandate of reform that requires Government Policy must encourage the achievement of a people's economy as described above. From the legal materials and the approach taken, it is followed up by doing a juridical analysis and interpretation and prescribing what should be, about the substance of Government Policy in realizing the people's economy.

## RESULTS AND DISCUSSIONS

### **The Dynamics of Agrarian Law in Indonesia**

The land is one of the most strategic components of ecosystems for human survival and is a significant physical development factor. This means that land is utterly inseparable from human life because, with land, humans can live by processing to get food and so on. Physical development activities require land or land to build infrastructure for both the Government and the private sector and individual farmers. But it must be remembered that the relationship between development and land covers legal aspects and involves economic and political, social and strategic elements for the country (Ginting, 2016).

For development to be directed, a legal system is needed to regulate it. Hart stated that the character of a legal system is the double collection of primary and secondary regulations. Primary rules are norms of behaviour, while secondary rules are norms about deciding something is valid or accurate. Both of these regulations are the output of a complementary legal system (Hart, 1997).

Theberge further said that law, as a system has a primary function in economic development, must be able to maintain 'stability', 'predictability' and 'fairness'. The process of stability is to support and sustain harmony, harmony and balance in the life of the state and society. Predictability function or predict policies taken by the Government to be directed and achieve goals. While fairness or fairness must regulate the same equality and standard behaviour patterns, the

Government needs to maintain market mechanisms and prevent excessive bureaucracy (Theberge, 1990). What Theberge said above, was further developed by Rawls in the 20th century as fairness justice. Fairness justice is a combination of substantive justice with procedural justice (Rawls, 1995). The three concepts and theories above will be used as a knife for analyzing the role of law in maintaining the balance of ownership and subsequent land ownership.

The pressure of population growth and various human activities on the land naturally make land the central problem, in other words, land occupies a particular position as a factor of production, meaning that land is so vital that it can be said to be a significant essence in creating people's welfare. Furthermore Kate Green (Green, 2001) states: "In any society, our technological event, high-speed one, the use of land is of the utmost importance, where the supply is limited as in England and Wales".

This is where the importance of optimizing the use and maintenance of land to a sustainable welfare state. In the concept of a current legal condition, the authority, duties and functions of Government are increasingly broadened to mean security guards and sovereignty of the state and more broadly where the Government is tasked with and responsible for carrying out public welfare. Sjachran Basjah asserted that implementing the general interest to achieve a just and prosperous society both materially and spiritually. Public service which is the government's duty is so broad that it includes services in the field of land including but not limited to regulation, implementation of authority in the area of land to law enforcement (Sjachran, 1985).

In exercising its power in the context of the welfare state, the Government has the authority to manage all natural resources, including land for the welfare of the people. Related to this authority in the national land law is known as the principle of the state's right to control land. The right to control the state aims to give power to the Government to formulate policies in the form of regulations in managing the designation, use, utilization and maintenance of land, including determining the legal subjects that are entitled to control and own the land and the forms of transactions or transfer of rights that are possible against the object. The policy taken must be derived in more real regulations to be implemented in the field (Gould, 2006).

Seen from the authority regulated in the right to control the state is the Government's effort to realize the state's goals and ideals as mandated in the opening of the 1945 Constitution that is, welfare in a broad sense. One form of interest can be seen from the economic aspects, which in Article 33 of the 1945 Constitution is a popular economy based on togetherness. This concept during the New Order regime had been ignored because what was being pursued was economic growth. As a result, the gap between the rich and the poor increasingly farther up included farmers. So that after the fall of the regime in 1998, the mandate of the reform emphasized returning to the people's economy. To realize the people's economy, all Government policies starting from the central government and the regions must create a people's economy. This means that all the children of the nation are allowed to participate in the processing and utilizing the land to encourage the fulfilment of the needs of the middle-class people and more specifically small farmers in getting the opportunity to receive the distribution of land carried out by the Government through agrarian reform institutions.

It is expected that from these efforts opportunities for the poor who have been marginalized have been more open and can be monitored by parliament and the community through non-governmental organizations because all government public services are now regulated based on a system and transparent. This is in line with economic democracy that provides opportunities for all children of the nation, both poor and rich, to participate in the development and enjoy the results of action, especially inland (Mann, 2009).

Judging from the strategic role of the right to control the state is part of the Government's tasks carried out by the ministry of agricultural and spatial planning, realizing the vision and mission of the President-elect, now known as the Advanced Indonesian Cabinet. The right to control the state has been given many scientific analyses of the law to give birth to the theory of the right to control the condition. In several legal references, arguments are found that the view of the right to control the state is a derivative of the theory of sovereignty (Ardhiwisastro, 1999). Mr Sovereignty Theory,

Jean Bodin, said that freedom is a particular attribute or feature even becomes the main thing for any sovereign unit known as the state. Further explained that there is no other higher power that can limit state power. While sovereignty contains elements: 1) Original, meaning that it is not derived from another authority; 2) The highest, there is no other higher power that can limit ability; 3) Are eternal or eternal; 4) cannot be divided up because there is only one supreme power; 5) Cannot be transferred or handed over to another body.

The state's presence as an organization of power derived from popular sovereignty has power in two respects. Namely, administration born based on freedom and power taken based on energy derived from the people. The power that is conducted based on sovereignty implies intrinsic meaning. Each state has autonomy, regardless of the basis of whether freedom is exercised or not. The born energy comes from the people structurally, and the form is more dominant than any group in society in that country. In this sense, the state has an institutional character authorized to regulate or has the power to control (Erwiningsih, 2009).

The etymology of the word controlled by the state is directed to the object of control as referred to in Article 33 of the 1945 Constitution which is essentially in paragraphs (2) and (3) that all natural resources must be used welfare of the nation's children. This means that to get the opportunity to acquire land and cultivate it in support of the economy is all citizens' right. The article is our nationalist stronghold of the economy so that when it has not yet come close to reality, the constitutional order is ignored (Swasono, 2010). Whereas in paragraph (4) emphasizes economic democracy, economic democracy is a term that only exists in the Indonesian Constitution. This means that all Indonesian citizens are given an active role in the financial sector. In contrast, for disadvantaged people, the Government must provide specific policies to participate in the process of achieving prosperity through the people's economy referred to by the Decree of the People's Consultative Assembly. The normative mandate above is an order that the Government must carry out in realizing prosperity or welfare of the nation's children is the responsibility of the state.

How to strive to achieve a balance in the structure of land ownership between capital owners and individuals in the context of the Government's authority is none other than to carry out agrarian reform consistently with due regard for the principles of renewal of national land law. I need to emphasize that in public land or land is the only asset of farmers to earn income. However, with minimal land ownership tends to increase inequality, one of the efforts to increase farmers' income to prosper is through improving land ownership structures and supported by capital, marketing, management and so on.

The problem now is why the efforts to reform national land law are so slow, especially agrarian reform. Theoretically, legal development must have priorities, as stated by Mochtar Kusumaatmadja, a classic story must start with neutral laws, so there are not too many obstacles and challenges (Kusumaatmadja, 1976). The next question is whether the national land law is neutral or not?

According to researchers in the field of land, the law has a character that is less neutral or can be said to be not neutral because the substance of land law is closely related to the rights of indigenous peoples who are spread throughout the archipelago in the form of customary rights, while the subject is indigenous peoples. From the arguments above, land law development must be meticulous in drawing up regulations (Ginting, 2015). In line with the above statements, it can be understood why national land law's growth lags behind other laws.

But it must be remembered that development must bring change in a positive direction. How the development results reach disadvantaged communities; this is where the Government's role is to protect individual rights to land through pro-people policies. Thus land tenure and ownership must consider several principles, for example, 1) the principle of justice; 2) the direction of land should not be made into a commodity object; 3) the principle of certainty; and 4) the principle of democracy and sustainability.

In economic activities, the Government must make policies so that all interests can be accommodated and have access to limited land-related capital without ignoring legal certainty. An unequal position between investors and the community requires policymakers' authority to design

the interests of small communities. In the context of land tenure and utilization associated with a wave of liberalization of the trading system, it is necessary to respond to various policies that do not harm the people but still provide facilities and legal certainty for the private sector or investors business. Besides, the policy must provide benefits to the people by providing access or opportunities for the people to strengthen their bargaining position, provided that land use for the private sector or investors must pay attention to the principle of expediency, the focus of transparency, the focus of accountability, the focus of functional, and the direction of legal certainty (Williamson, 2010). This means that the presence of the private sector must be able to encourage democratic economic development, as well as realize the welfare of the community equally and independently in a highly competitive financial system.

### **Strategic Position of Right to Control the Land in Welfare of the People**

One approach to improve farmers' welfare to get out of poverty traps is to increase access to land tenure by farmers. In realizing this, the Agrarian Reform program is critical. Agrarian reform is the restructuring of ownership, control, and land use for the benefit of poor farmers and farm labourers. This arrangement is a form of government authority through the right to control the state over all natural resources.

In the national land law, the principle of state control over land states that the state or government is not the landowner, but has the authority to regulate the designation, use, utilization and maintenance of soil fertility. Likewise, it gives the government control to handle legal subjects and legal objects related to land and legal actions or the basis of rights that can be carried out on the ground. As an organization of power based on popular sovereignty, the state must exercise the authority mentioned above and a supervisor. In other words, in the state's right to control the land, there are 3 (three) Government authorities, namely, making plans, carrying out implementation and finally supervising the execution. In this concept, the government as regulation and regulator, so its performance can be biased.

In exercising the right to control, the government must pay attention to the norms mandated by land law politics set out in the constitution as well as the mandate of the reform era of May '98 which prioritizes the use and utilization of land must be oriented to the welfare of the people with justice. The concept of justice must provide opportunities for farmers to obtain assets and access to manage the land. The idea of the fairness of justice proposed by John Rawls combines substantive justice with procedural justice. This means that justice in land ownership for farmers must be based on the political spirit of national land law and regulated based on regulations that can respond to the needs and challenges of farmers' lives through agrarian reform.

Besides, state control over land must pay attention to national, regional and local spatial plans and the decentralization of policymaking. Spatial planning as an instrument of implementing development policies contains directions for providing land space needed to achieve development goals. In making land policy in the reform era, it has shifted from a centralistic paradigm to a decentralized system. Even so, specifically in land affairs, the central government holds the control, while the regional government is only the executor. But all these Government Policies must pay attention to the principle of balance of rights and obligations of the state, central government and regional governments. The balance includes balancing the allocation of funds and managing natural resources, including land between the central and provincial governments. Allocation of funds must be used to implement national development in realizing the welfare of the nation's children.

Implementation of state authority originating from the right to control land through agrarian reform must pay attention to individual rights to the land where the state recognizes and provides protection of individual rights to the ground by taking into account demands for reform and designing new regulations towards the balance of tenure and land ownership, through the Draft Land Law which is being finalized in Parliament.

The right to control the state has a strategic role in development, including realizing the agrarian reform. It's just that in operationalizing is very dependent on the political courage of the ruling government. Because every policy that disturbs the interests of the group of capital owners usually

does not remain silent, they will react and collaborate with political parties that control the majority of votes in Parliament to prevent agrarian reform. This is one of the negative impacts of the political and multi-party system in national elections. This is very relevant to Mahfud MD's opinion, who said the political configuration in Parliament could determine the legal products that are produced. Because Parliament is a political institution, decisions are often based on lobbying. In the end, the people's interests are often overlooked, and the follow-up to agrarian reform goes on the spot. This means that there is no follow-up to agricultural reform.

Thus the process of achieving people's welfare and prosperity is neglected. People's capital has a narrower understanding than people's interest because people's wealth is more oriented to their economic capacity. This means that the measure of people's prosperity has always been the benchmark for financial capability. According to Zhang [3], capital is a term that is measured through the fulfilment of human needs economically in necessary conditions. According to the author, basic human needs are not only related to clothing, food, education, health, and recreation but also to the people's ability to be creative and work in achieving happiness.

### **Aspects That Need to be Considered in Utilizing Land to Support Community Economy**

The land is a means of development aimed at the people's welfare, meaning that land is a central point in creating general interest. At the same time, specifically, it is needed to support individual activities in the service or agricultural sectors. The implication of the importance of land in people's welfare is that its value gets sexier because of its limited availability. Eventually, everyone is fighting over it (Choi, 2020). Consequently, the land dimension continues to develop, among others, the social, juridical, political, economic and strategic dimensions. However, in this paper, the authors only describe some of the measurements that will determine the future development of land law and land values, among others:

#### **Political aspects**

The old and new order governments in the agricultural field faced various problems to make regulations for implementing the Agrarian Law. In reality, the government is slow in anticipating community needs for land to enforce rules. The political aspect that influences land regulation is the emergence of tensions between the authority of the Central Government and the Regional Government. The Central Government did not give up full control to the Regional Government for strategic reasons to maintain the Republic of Indonesia's integrity. Besides, one of the obstacles in the formulation of policies in national land law is inseparable from non-neutral land law, because it is very thick with the influence of customs that are spread throughout the archipelago. The government uses this condition to make policies to encourage economic growth by inviting foreign or domestic investors. This is inseparable from the concept of legal development which is illustrated that political configuration influences the traditional products produced, finally, due to the muscular government producing traditional products that marginalize the people. The policy implications above, the ideals and goals of Agrarian Law, one of which is to end landlords in Indonesia, is getting further from expectations. Control and ownership of land are increasingly out of control, coupled with the rise of land mafia.

After the fall of the new order regime, we expect a lot with the birth of the Reformation Era's spirit, which in the policy of promoting the concept of popular economic development that has been outlined in the Decree of the People's Consultative Assembly No. IX / 2001. The current ruling government must carry out the mandate of this reform to prosper the people through the agrarian reform program that has been regulated in Government Regulation number 68 of 2018. We hope that the legislative body members currently have a conscience so that the substance of the land law prioritizes national interests, including farmers who are the backbone in maintaining future food self-sufficiency. This means that agricultural reform aspects must be given space or norms as a text box to prepare future restrictions on land tenure and ownership.

Even though the concept of policies that defend people's economy often faces challenges in political institutions, significantly changing the imbalance of land tenure structures and giving birth to land

disputes, it must be changed to lead to a policy concept that is people-oriented, promotes justice, is integrative, sustainable and sustainable in its management.

### **Economic aspects**

In principle, the land is valued based on the prices prevailing between supply and demand. This means that in this condition, the land is made as a commodity object, in terms of the concept of land law, we emphasize that ground is not justified as a business object. Land as a natural resource is a source of livelihood for most people. Therefore, the exploitation process must pay attention and place the local community's interests, not merely pursuing profit and economic growth. Rising land prices as a result of high demand pressures lead to other social problems. As a result, poor farmers are increasingly displaced because they cannot reach land prices that continue to rise. Besides, the increase in land prices stimulates capital owners to speculate to hoard land, which becomes displaced land. Including land mafia actions that make it difficult for the government to get land at affordable prices.

Implications of land ownership inequality are currently one of the causes of social jealousy, thus complicating land issues whose availability is increasingly limited. The birth of the reform era brought about fundamental changes in the national development policy in the field of economy as outlined in the Decree of the People's Consultative Assembly Number 4/1998, which emphasized that national development needed economic politics that gave more support to the people's economy which included small, medium and medium businesses. Cooperative. The above regulation stipulates that national development must reflect economic democracy which prioritizes the people's interests and is used for the greatest prosperity of the people.

Small, medium and cooperative entrepreneurs as economic facilities must have the opportunity to cooperate with state and regional companies. Also, have the rights and obligations to manage natural resources in a good way and create harmonious working relationships. Besides, the "land" as the main base of agriculture must prioritize the use and use to grow people's agriculture that can increase the prosperity of the nation's children, tiny, medium entrepreneurs and cooperatives. So that the people, especially farmers, can play an active role as actors or subjects of development, a minimum of 2 (two) hectares per family must be given land through agrarian reform, based on the orders of the Ministry of Villages, Disadvantaged Regions, Transmigration Number 10 of 2018, so that they can develop community agriculture, smallholder plantations, smallholder fisheries (Ruslina, 2002). It all provides jobs and a very comprehensive source of life to the community. So the government should be brave and able to control land price because it has the authority and authority given by the state. For example, with the establishment of a land bank. Don't lose to speculators and land mafia

### **Law Aspect**

Law is a political product, meaning that it is discussed in political institutions, namely the parliament, in the process of its formation. Still, the legal substance built must be in harmony with the political mandate of the applicable land law. In the old order era the political situation in Indonesia reflected democracy which gave birth to law with responsive character, but at the end of the old order developed an authoritarian politics that gave birth to an orthodox name. In contrast, in the new order era, a non-democratic severe political condition gave birth to a traditional character law. Only after the reform era in '98 was a democratic government born, so its legal products were responsive.

From the description above it appears that at the beginning of the old order and the new order the government system was democratic so that the law was responsive even though the two eras reflected guided democracy so that the legal product was conservative. Whereas in the age of reform '98 a direct democratic government emerged so that its standard products were very responsive to society's demands. Political problems that arise in the formation of law in parliamentary institutions end with a solution after lobbying by political parties in parliament.

From the legal aspects that need to be emphasized, the role of law must be able to maintain balance stability in the control and ownership of land. The law must then be able to provide future predictions so that any government action in exercising the state's right to control the land does not marginalize the interests of the people (Steinhäüßer, 2015). But we hope that the content of the formation of laws or land laws that will come to pay attention to the national or economic interests of the people means: "equality of law can only be accepted if based on equality of circumstances and needs if not, uniformity of law will be felt as painful injustice".

This is the concept of justice according to customary law which is the source of national land law. We must continue to fight for this concept of justice. Efforts to achieve this can only occur if Government Regulation No. 68 of 2018 concerning agrarian reform is followed up consistently by paying attention to the principles known in national land law. This means that as long as the Agrarian Reform is not carried out always, it will continue to cause various problems that remain unequal land ownership structures and the fragility of the nation's economic network. As a result of its continued downstream will lead to social injustice and poverty and human rights violations, we must prevent this. So, the difficulty in formulating the legal aspects is usually how to harmonize political interests and economic interests that prioritize a people's economy acceptable to all groups. In positive legal theory, the law contains a sense of justice because it has fulfilled juridical, sociological and philosophical aspects.

### **Efforts Needed To Be In Realizing Land Ownership And Mastery Based On People's Economy**

Judging from the data described above, Indonesia still has a populist economy that needs to be developed. There are still many farmers, farm labourers and fishermen who need to be protected. Because economic problems are about business and investment, the financial situation involves human beings who also drive the democratic economy (Cai, 2017). To accelerate the empowerment of the people's economy, Government Policy must fight for it in the form of regulations that are responsive to the mandate of reform '98. Do not get through the Work Creation Law Plan, which invests a king, ignoring labour rights and marginalizing farmers again. Pope Francis emphasized that the Government's main task is to put the economy in humans' service. This means that every human being, including state leaders and investors, are called "servants" not serving themselves but others with an open mind and heart.

From the opinion above emphasized that the people's economy can only be realized when the Government and the private world policy must care and respond to the nation's children who are still many people have not been lucky or poor. More specifically, our farmers have an average land area of fewer than 0.5 hectares. This means that farmers still lack even though they work hard because the land area is not ideal and does not have the capital and government access. While many people who can economically and corporate control and own land hundreds of hectares and even millions of hectares (Ondetti, 2016). What further questions do governments need to do in these conditions? According to the writer based on the politics of agricultural law and national land law and the mandate of reform 98, the policy taken must reflect justice according to the concept of customary law from Supomo that has been described above, through the consistent implementation of agrarian reform. We combine it with fairness John Rawls, which combines two justice concepts: substantive justice and procedural justice. It provides opportunities for farmers to free themselves from ignorance, backwardness, oppression, the narrow space of life and dependence, and fear.

And for that, people must have assets that can be managed and have access to empower their assets. Farmers must own land with a minimum area of 2 hectares and have access to capital, technology, markets, management and so on. Thus the government policy needs to think about efforts to limit the control and ownership of agricultural land by amending Law number 56 / PRP / 1961, which is outdated, meaning that the regulation must be at the low level because it limits a person's rights. The community should be involved in the development process because development is carried out not in a vacuum but contact with people's lives. Land must be placed as a means of empowering farmers to escape poverty (Xu, 2018). This does not mean that large-scale land use is prohibited,

but economic development policies oriented towards equity must emphasize the arrangement of land tenure and ownership structures. The agreement needs to be done because the land is one of the leading production factors and places of conducting business activities spread throughout the archipelago. Thus the farming community has a space to prosper themselves (Marbun, 2004).

Besides, to strengthen the people's economy, there must be a commitment from the Government to implement agrarian reform and ultimately regulate the limitation of large-scale businesses, meaning that monopoly production activities in agrarian must be prevented. Then it is necessary to handle the separation of the areas of management of smallholder farmers with the space of control of the state and business world.

## CONCLUSION

From the analysis that has been done, conclusions can be drawn to answer the research objectives, which are as follows: 1) Government policy to carry out the reform of the land sector has responded to the demands of the 1998 reform mandate, as outlined in the People's Consultative Assembly Decree of the Republic of Indonesia Number 4 of 1999 concerning The Great Gais of National Development and the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX of 2001 and Presidential Decree Number 34 of 2003. Only the follow-up of political policy stopped without an apparent reason. Finally, policies on natural resources proceed with individual abandonment of the people's economic spirit. In 2018 the government was set Government Number 68 the Year 2018, regarding agrarian reform while still observing the principles in Agrarian Law and the regulations mandated by the reform era include the focus of togetherness, the focus of transparency, the direction of economic democracy, the protection of human rights and justice. These policies have the acceleration of the formation of national land law and the approach of following up on regulated agrarian reform; 2) Efforts that need to be done to change the structure of land tenure and ownership are to immediately follow up on agrarian reform consistently while encouraging the enactment of the Land Bill, the substance of which promotes the spirit of restriction and equal distribution of land ownership and ownership. It needs to be followed up to form a law restricting agricultural land ownership by amending Law number 56 / PRP / 1961 which has been outdated. Determine that farmers must have at least 2 hectares of land per family and provide access to capital and marketing. Involving the people in the development process and preventing the monopoly of production businesses in the agricultural sector. Then it is necessary to regulate the separation of people's management areas, farmers with state control and business world.

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