



## Land Use Policies and Tenure in Economic Liberalization Regime: Land Law in Agro-Industrial Context

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**Abstract.** The Basic Agrarian Law (BAL) in Indonesia serves as the constitutional foundation for ensuring state control over land, water, and natural resources for the collective welfare of its people. However, the growth of capitalism and the free-market system has had a significant impact on land tenure and utilization by corporations in the country. This paper explores the consequences of economic liberalization, the role of foreign investment, and the resulting disparities between large corporations and local communities in land ownership. It also delves into the need for a balanced legal framework that prioritizes social justice, with a focus on equitable land use that benefits both industries and the broader community. The study adopts a socio-legal research approach to comprehend the practical implications of legal systems in society. By highlighting the interconnectedness of land, humanity, and the divine, and emphasizing Pancasila principles, the findings propose strategies to achieve a harmonious balance between corporate interests and community welfare.

**Keywords:** Land law, Land use, Land tenure, Economic liberalization, Indonesia

**Abstrak.** Undang-Undang Pokok Agraria di Indonesia memiliki peran penting sebagai landasan konstitusional untuk memastikan penguasaan negara terhadap tanah, air, dan sumber daya alam demi kesejahteraan bersama rakyatnya. Namun, perkembangan kapitalisme dan sistem pasar bebas telah memberikan dampak yang signifikan terhadap penguasaan dan pemanfaatan tanah oleh perusahaan di negara ini. Tulisan ini menjelajahi akibat dari liberalisasi ekonomi, peran investasi asing, serta kesenjangan yang muncul antara perusahaan besar dan komunitas lokal dalam kepemilikan tanah. Selain itu, kami juga akan menggali tentang perlunya kerangka hukum yang seimbang dengan fokus pada keadilan sosial, dan bagaimana pemanfaatan tanah yang adil dapat memberi manfaat bagi baik industri maupun masyarakat luas. Penelitian ini menggunakan pendekatan sosial-legal untuk memahami dampak nyata dari sistem hukum dalam masyarakat. Dengan menyoroti keterkaitan antara tanah, kemanusiaan, dan hal yang Ilahi, serta menekankan prinsip-prinsip Pancasila, penelitian ini akan menyajikan strategi untuk mencapai keseimbangan harmonis antara kepentingan korporasi dan kesejahteraan masyarakat.

**Kata kunci:** Hukum pertanian, Tata guna lahan, Kepemilikan lahan, Liberalisasi ekonomi, Indonesia



## 1. Introduction

The Basic Agrarian Law (BAL) forms the constitutional backbone of Indonesia, grounded in Article 33, paragraph (3) of the 1945 Constitution. Its core purpose is to ensure the state's control over land, water, and natural resources for the collective welfare of its people. This vision fosters a joint effort towards prosperity, with critical industries under state supervision to avoid power concentration and oppression, while less impactful businesses may be privately owned. The essence of BAL lies in managing vital resources like earth, water, and natural wealth for the greater benefit of the entire nation.<sup>1</sup> Furthermore, the BAL serves as the foundation for national agrarian law, aiming to promote well-being, happiness, and justice.<sup>2</sup> The global march of capitalism fuels the phenomenon of globalization, advocating for an unfettered free market mechanism worldwide.<sup>3</sup> The influence of capitalism on modern legal systems traces back to Western Europe during the 19<sup>th</sup> century, where philosophical positivism emphasized concrete laws and their enforcement through orders and sanctions.<sup>4</sup>

The growth of industrialization and capitalism in Western Europe fostered a formal-rational legal system that adheres to positive law.<sup>5</sup> According to Satjipto Rahardjo, this legal framework emerged as a response to the capitalist economic production system, facilitating predictability, efficiency, and rationality.<sup>6</sup> Capitalism thrives on stable and predictable legal structures, ensuring written regulations offer legal certainty to support economic stability.<sup>7</sup> In a capitalist realm, economic and state affairs operate separately, with the state refraining from intervening in economic matters.<sup>8</sup> Capitalism celebrates individual rights, provided they do not encroach upon the rights of others. Production pivots around human needs, adapting to demand and driven by market dynamics. Notably, investment plays a

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<sup>1</sup> Boedi Harsono, *Hukum Agraria Nasional: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya* (Jakarta: Djembatan, 2008), 15.

<sup>2</sup> Zainuddin, "Right to Own Land By The State In The Frame Of Constitutional Law," *Randwick International Of Social Science Journal* 2, no. 2 (2021): 47.

<sup>3</sup> FX Adj Samekto, *Kapitalisme, modernisasi & kerusakan lingkungan* (Yogyakarta: Pustaka Pelajar, 2005), 46.

<sup>4</sup> Fritjof Capra and Ugo Mattei, *The ecology of law: Toward a legal system in tune with nature and community* (Oakland: Berrett-Koehler Publishers, 2015), 2.

<sup>5</sup> Jack Goody, *Capitalism and modernity: The great debate* (Hoboken: John Wiley & Sons, 2013), 7.

<sup>6</sup> Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Publishing, 2009), 26.

<sup>7</sup> Sofia Ranchordás, "Sunset clauses and experimental regulations: blessing or curse for legal certainty?," *Statute Law Review* 36, no. 1 (2015): 29.

<sup>8</sup> Barry Buzan and George Lawson, "Capitalism and the emergent world order," *International Affairs* 90, no. 1 (2014): 71.

pivotal role in strengthening a country's economy and propelling industrial development. Nowadays, nations worldwide, including Indonesia, pursue aggressive policies to boost investment for both economic growth and industry expansion.<sup>9</sup>

In Indonesia, the country's fertile land and abundant natural resources present an attractive prospect for investors seeking lucrative opportunities.<sup>10</sup> As a result, land tenure plays a pivotal role in the realm of investment. The allure of Indonesia's vast markets, rich raw materials, and available labor force captures the attention of capitalist countries around the world. This interest has led to the establishment of numerous businesses across various sectors, with a particular emphasis on large-scale plantations that heavily depend on land resources.<sup>11</sup> The government recognizes the necessity of augmenting foreign exchange reserves due to declining oil and gas revenues, non-renewable resources.<sup>12</sup> To address this, the government adopted a policy to boost plantation sector production. However, this approach had unintended negative consequences, as large companies seized land previously owned by local communities under the pretext of development interests.<sup>13</sup> As of 2009, Indonesia's oil palm plantations encompassed 9.1 million ha, with an annual planting rate of 340,000 ha from 2001 to 2009. These plantations were primarily controlled by 27 large groups, with 50% owned by the private sector, 33% by small farmers, and 17% by State-owned Enterprises (SOEs). Malaysia holds significant control over oil palm plantations in West Kalimantan (70%) and Riau (60%).<sup>14</sup>

To facilitate the expansion of large-scale private plantations, the government introduced *Hak Guna Usaba* (HGU) rights, allowing cultivation for up to 25 years. These rights are transferable and extendable to a maximum of 35 years, providing continuity for the right holders. Nevertheless, a violation of Law Number 25 of 2007 concerning Investment occurred on April 26, 2007, with the aim of boosting

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<sup>9</sup> Kwame Sundaran Jomo, *Southeast Asia's misunderstood miracle: industrial policy and economic development in Thailand, Malaysia and Indonesia* (New York: Routledge, 2019), 4. See also, Kyunghoon Kim, "Indonesia's restrained state capitalism: Development and policy challenges," *Journal of Contemporary Asia* 51, no. 3 (2021): 419.

<sup>10</sup> Ulrich Volz et al., *Financing the green transformation: How to make green finance work in Indonesia*, (London: Palgrave Macmillan, 2015), 9.

<sup>11</sup> Shivakumar Srinivas et al., "A review of Indonesian land-based sectors with particular reference to land governance and political economy." In *Annual World Bank Conference on Land and Poverty* (The World Bank, Washington DC, March 23-27, 2015), 12.

<sup>12</sup> Musleh Herry, "Dampak Liberalisasi Ekonomi Terhadap Hukum Pertanahan di Indonesia," *De Jure: Jurnal Hukum dan Syar'iah* 1, no. 1 (2009): 43.

<sup>13</sup> Paul K. Gellert, "Palm oil expansion in Indonesia: land grabbing as accumulation by dispossession," in *States and citizens: accommodation, facilitation and resistance to globalization*, ed. Jon Shefner (Bingley: Emerald Group Publishing Limited, 2015), 65.

<sup>14</sup> Statista Research Department, "Total land area of oil palm plantations in Indonesia from 2012 to 2021," May 2, 2023, <https://www.statista.com/statistics/971424/total-area-of-oil-palm-plantations-indonesia/>.

national economic development and sovereignty. The Law Investment provisions cater to investors' needs, including facilitating land rights, immigration services, and import licensing. On October 17, 2014, the President also signed Law Number 39 of 2014 concerning Plantations.<sup>15</sup>

Data from the Commission on Human Rights and Sawit Watch reveals that, until 2006, the government issued HGU for a vast land area of 4,953,882.39 ha. Embodying Indonesian philosophy, the connection between land and humans underscores an inseparable unity, wherein land ought to serve the collective needs of the community rather than merely individual interests.<sup>16</sup> The principle of agrarianism, with its foundation in "for the greatest prosperity of the people," gives rise to pertinent questions regarding justice in land tenure and usage, particularly concerning the disparity between large corporations and local communities.<sup>17</sup> Consequently, the actual impact of land policies on societal justice remains to be observed and evaluated. In this context, this paper aims to explore and address critical questions in the context of Indonesia's land tenure and utilization by corporations, considering the influence of capitalism and the free-market system. Two key questions guide this investigation. Firstly, the paper seeks to understand the implications of capitalism and the free market on corporate control and use of land in Indonesia. Secondly, it aims to identify strategies that can harmonize corporate interests in land tenure and usage while safeguarding the welfare of the community based on the principles of Pancasila.

The motivation behind this research is driven by the urgent need to gain comprehensive insights into the following aspects. Firstly, it is essential to thoroughly investigate, depict, and analyze how capitalism and the free-market system affect the way corporations acquire and utilize land in Indonesia. This exploration will shed light on the extent of corporate influence over land resources and its impact on society. Secondly, the study delves into the delicate task of finding a balanced approach that caters to both corporate interests and the well-being of the community. It aims to examine how a sustainable equilibrium can be achieved, allowing corporations to use land for their economic endeavors while ensuring that the benefits are shared and contribute to the greater welfare of society as outlined in the principles of Pancasila.

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<sup>15</sup> Achmad Surambo, Andiko, Bondan Andriyanu, Edi Sutrisno, Eep Saepuloh, Jefrie Saragih, Nurcholis, and Norman Jiwan, *Hak guna usaha dan hak asasi manusia*, (Jakarta: Komisi Nasional Hak Asasi Manusia and Sawit Watch, 2010), 37.

<sup>16</sup> Surambo et al., *Hak guna usaha*, 37.

<sup>17</sup> Liz Carlisle, "Critical agrarianism," *Renewable Agriculture and Food Systems* 29, no. 2 (2014): 135. See also, Eric T. Freyfogle, *The new agrarianism: land, culture, and the community of life* (Wahington: Island Press, 2001), 8; John CH Fei and Gustav Ranis, "Agrarianism, dualism and economic development." *Center Discussion Paper, no. 2*, Yale University, Economic Growth Center, New Haven, CT, 1966, 4.

By addressing these questions, the paper aspires to unravel the complexities of land use policies and tenure in an agro-industrial context within Indonesia. It acknowledges that the influence of capitalism and the free-market system on land control can have significant implications for the social, economic, and environmental fabric of the nation. Moreover, the research recognizes the importance of finding viable solutions that align corporate objectives with societal interests. Striking a harmonious balance between corporate land use and community welfare, guided by the ethical principles of Pancasila, can pave the way for sustainable and equitable development. Through this exploration, the paper endeavors to contribute to a deeper understanding of the interplay between economic interests and social responsibility in the realm of land utilization. Ultimately, it aspires to offer insights that could inform policymakers, businesses, and stakeholders in their efforts to foster a more inclusive and sustainable approach to urban industrial development in Indonesia.

## **2. Methods**

The research adopts a socio-legal research approach, which is an interdisciplinary and hybrid study, merging law and legal studies with a societal perspective. This approach aims to provide a more meaningful theoretical understanding of legal issues while shedding light on the practical operation of the law in citizens' daily lives.

By tracing the existing reality, the study endeavors to assess whether the positive laws or laws born from societal interactions are fair or unjust. If any unfairness is identified, the study aims to explore strategies for promoting justice through potential changes in the legal framework. The object of study lies within the socio-legal domain, indicating that it goes beyond merely interpreting law as a norm, but also seeks to understand law as behavior. In this context, empirical research plays a pivotal role in socio-legal studies by exploring external factors such as social, economic, political, historical, and cultural aspects. Understanding the influence of these factors on behavior towards the application of the law is a key focus of the research.

## **3. Results and Discussion**

### **3.1. The impact of capitalism and the free market system on the control and utilization of land by corporations in Indonesia**

The New Order regime's (1966-1998) economic programs were strongly supported by Western countries through low-interest loans, thereby enabling

Indonesia to access international funds and loans at highly favorable rates.<sup>18</sup> To garner this support, the government deliberately opened its doors to foreign investment, ratifying laws pertaining to both foreign and domestic investment. These progressive policies successfully attracted foreign capital and facilitated a relaxation of market mechanisms, significantly contributing to Indonesia's robust economic growth.<sup>19</sup>

As economic development emerged as a topmost priority during the New Order era, the attainment of political stability and security became indispensable supporting pillars.<sup>20</sup> Investment, including the acquisition of land, assumed paramount importance in meeting the country's economic imperatives. In this context, the government introduced the groundbreaking concept of *Hak Guna Usaha* (HGU), which bestowed cultivation rights upon companies over state-controlled land for agricultural, fishery, or animal husbandry purposes.<sup>21</sup> While the HGU system enabled foreign investment and fostered industrial growth, it also prompted apprehensions concerning social justice and land rights.<sup>22</sup> The land law policies promoting industrialization exhibited a clear prioritization of economic interests, which led to evident disparities between traditional farmers, who possessed land ownership, and industrial entrepreneurs.<sup>23</sup>

The issuance of location permits for industrial and plantation purposes marks a pivotal juncture in the process of land acquisition.<sup>24</sup> Presently, the mechanism for granting location permits, under the control of regional heads, tends to incline towards favoring the interests of investors at the potential expense of the broader community. Therefore, an imperative course of action is to adopt a more responsive approach, one that entails participatory decision-making and thoughtful consideration of the interests of local communities. Global principles prevailing in industrial society have substantially shaped land law policies, placing land predominantly as an economic asset and thereby further distancing it from the

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<sup>18</sup> Ahmad Helmy Fuady, "Aid and policy preferences in oil-rich countries: comparing Indonesia and Nigeria," *Third World Quarterly* 36, no. 7 (2015): 1349. See also, Pierre Van der Eng, "Send Them a Shipload of Rice": Australia's Food Aid to Indonesia, 1960s–1970s," *Australian Journal of Politics & History* 67, no. 1 (2021): 50.

<sup>19</sup> Wahyu Budi Nugroho, "Konstruksi sosial revolusi hijau di era orde baru," *Journal on Socio-Economics of Agriculture and Agribusiness* 12, no. 1 (2018): 54.

<sup>20</sup> Ian Douglas Wilson, *The politics of protection rackets in post-New Order Indonesia: Coercive capital, authority and street politics* (London: Routledge, 2015), 23.

<sup>21</sup> Surambo et al., *Hak guna usaha*, 2.

<sup>22</sup> Surambo et al., *Hak guna usaha*, 2.

<sup>23</sup> Pidari Sinaga, "Konflik Dan Reformasi Agraria Di Indonesia: Tantangan Dan Harapan," *Journal of Government (Kajian Manajemen Pemerintahan dan Otonomi Daerah)* 6, no. 1 (2020): 58.

<sup>24</sup> Gavin Shatkin, "Financial sector actors, the state, and the rescaling of Jakarta's extended urban region," *Land Use Policy* 112, no. 6 (2022): 1.



concept of social justice.<sup>25</sup> The substantial flow within the economic subsystem, a direct outcome of economic liberalization, has significantly influenced other subsystems, including policy-making, which may lean towards prioritizing economic interests over social values.<sup>26</sup>

The consequence of economic liberalization has placed the onus on the government to provide land for development, consequently leading to diminished access to land for the general community.<sup>27</sup> The impact of a liberal economic environment on land control and use becomes evident as bureaucratic interests tend to align with those of capital owners. This situation has culminated in a notable inequality in the control and utilization of land between industries and the local community, thereby challenging the essence of social justice.<sup>28</sup> Industrialization has fundamentally transformed the role of land, turning it from a mere substance production tool for the populace into a production tool for industrial entrepreneurs.<sup>29</sup> This shift has underscored a stark disparity in land ownership between farmers and industrial entrepreneurs, with farmers increasingly grappling with escalating land demands to ensure substance production and food security.

The cybernetic theory analysis succinctly highlights the prevailing imbalance between the ascendancy of economic interests, driven by the high energy flow, and the significance of social values, often resulting in policies that primarily favor economic pursuits.<sup>30</sup> Consequently, the interests of the wider community may, at times, be inadvertently overlooked in favor of fostering investment and stimulating economic growth.<sup>31</sup> The prevailing land law policies, which steadfastly prioritize industrial expansion, have far-reaching implications for land rights, access, and social justice.<sup>32</sup> Effectively addressing this challenge necessitates the adoption of a more equitable approach, one that thoughtfully considers the interests of both

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<sup>25</sup> B. F. Sihombing and Elza Syarief, "Konsolidasi Tanah yang Berkelanjutan dalam Kebijakan Relokasi Kawasan Kumuh: Analisis Empiris Yuridis," *Lex Publica* 5, no. 2 (2018): 38.

<sup>26</sup> John T. Winkler, "The corporate economy: theory and administration," in *Industrial Society (Routledge Revivals): Class, Cleavage and Control*, ed. Richard Scase (London: Routledge, 2015), 44.

<sup>27</sup> Robert G. Blanton and Dursun Peksen, "Economic liberalisation, market institutions and labour rights," *European Journal of Political Research* 55, no. 3 (2016): 474.

<sup>28</sup> Sandra Halperin, "The far-right in modern world history," *Globalizations* 20, no. 5 (2023): 731.

<sup>29</sup> Jamie Morgan, "Will we work in twenty-first century capitalism? A critique of the fourth industrial revolution literature," *Economy and Society* 48, no. 3 (2019): 371.

<sup>30</sup> Nataliia Semenchenko, "Economic Cybernetics: Development Paradigm and Global Modeling in the Modern World," *Review of Economics and Finance* 20, no. 1 (2022): 1077.

<sup>31</sup> Mark Fisher, *Capitalist realism: Is there no alternative?* (Hampshire: John Hunt Publishing, 2022), 3.

<sup>32</sup> Eko Priyo Purnomo, Rijal Ramdani, Agustiyara, Queenie Pearl V. Tomaro, and Gatot Supangkat Samidjo, "Land ownership transformation before and after forest fires in Indonesian palm oil plantation areas," *Journal of Land Use Science* 14, no. 1 (2019): 37.

industries and local communities. Ultimately, the goal is to foster a responsive legal framework that firmly upholds social justice while promoting the overall development of the nation.

### **3.2. Balancing Land Ownership and Use for Corporate Interests with Land Ownership and Use for Community Interests**

Economic liberalization, with all its transformative impacts, will undoubtedly be felt across all strata of society in terms of land law.<sup>33</sup> Therefore, a comprehensive and robust legal framework must be established to effectively uphold and implement the principles enshrined in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This foundational constitutional provision serves as the bedrock for formulating national agrarian law, which will play a pivotal role in navigating the complexities brought about by economic liberalization.<sup>34</sup> However, the current challenge lies in not only recognizing the significance of “the greatest prosperity of the people” but also in ensuring its meaningful implementation across the spectrum of national land policies.<sup>35</sup> The overarching goal is to achieve social justice that reaches all segments of society without exception. To this end, policymakers must diligently work towards crafting comprehensive policies that align with this noble objective, thereby fostering an equitable and just society.<sup>36</sup>

To realize the objectives outlined in Article 33 Paragraph (3), the politics of land law must unequivocally prioritize social justice in all its dimensions.<sup>37</sup> This encompasses a wide range of initiatives, such as proactively preventing any unjust enrichment, meticulously seeking ways to optimize land utilization for the collective benefit, resolutely maintaining the feasibility of land prices to ensure accessibility for all, assertively safeguarding food availability for the nation’s well-being, diligently preserving invaluable natural resources, and ensuring the unwavering protection of the rights of individuals and customary law communities through the provision of adequate guarantees.<sup>38</sup> Consequently, the need to strike a

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<sup>33</sup> Kheang Un and Sokbunthoeun So, “Land rights in Cambodia: How neopatrimonial politics restricts land policy reform,” *Pacific affairs* 84, no. 2 (2011): 289. See also, Gavin Shatkin, “The real estate turn in policy and planning: Land monetization and the political economy of peri-urbanization in Asia,” *Cities* 100, no. 53 (2016): 142.

<sup>34</sup> Maria SW. Sumardjono, *Kebijakan Pertanahan: antara Regulasi dan Implementasinya* (Jakarta: Penerbit Buku Kompas, 2001), 2.

<sup>35</sup> Simon Butt, “Traditional land rights before the Indonesian constitutional court,” *Law, Environment and Development Journal* 10, no. 1 (2014): 57.

<sup>36</sup> Fransiscus Xaverius Sumarja. “Hukum Agraria Nasional Sebagai Produk Politik Berbasiskan Nilai-Nilai Pancasila.” *Jurnal masalah-masalah Hukum* 41, no. 4 (2012): 521.

<sup>37</sup> Rahmat Ramadhani, “Peran Politik Terhadap Pembangunan Hukum Agraria Nasional,” *SOSEK: Jurnal Sosial dan Ekonomi* 1, no. 1 (2020): 3.

<sup>38</sup> Harsono, *Hukum Agraria Nasional*, 12.



harmonious balance in land ownership and use becomes increasingly apparent, given the stark contrast between the relatively effortless acquisition of land for industrial development by the private sector and the distressingly cumbersome process of granting approval to the pleas of those toiling on ex-plantation lands, seeking rightful recognition of their labor and contribution to society.<sup>39</sup> In welcoming the advent of economic liberalization, policymakers must proactively fashion policies that not only offer investors the much-needed legal certainty they seek but, more crucially, safeguard the welfare and interests of the local communities. Striking a delicate and equitable balance between these two competing priorities is vital for sustainable development and social harmony.<sup>40</sup>

According to Article 9 of the Basic Agrarian Law (BAL), every Indonesian citizen must be accorded equal opportunity to obtain land rights and partake in its benefits. However, in practice, accessing land rights often becomes a contentious matter, entailing intricate negotiations between the government and private entities.<sup>41</sup> This further underscores the need to establish fair and transparent procedures that protect the interests of all parties involved. In the context of reforming land law policies, the adoption of a religious approach emerges as an appealing proposition, as it resonates deeply with the guiding principles of Pancasila, a national ideology promoting religious, humanistic, and democratic values.<sup>42</sup> By acknowledging the divine origin of land within the ambit of national land law, it acquires a sacred character, reinforcing the significance of communal responsibility in its use and preservation.<sup>43</sup>

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<sup>39</sup> Ahmad Dhiaulhaq, John F. McCarthy, and Yurdi Yasmi, "Resolving industrial plantation conflicts in Indonesia: Can mediation deliver?," *Forest Policy and Economics* 91 (2018): 64. See also, Patrice Levang et al., "Oil palm plantations and conflict in Indonesia: Evidence from West Kalimantan." in *The oil palm complex: Smallholders, agribusiness and the State in Indonesia and Malaysia*, ed. Rob Cramb and John F. McCarthy, 283-300. Singapore: NUS Press, 2016), 285; Wilfridus Overbeek, Markus Kröger, and Julien-François Gerber, "An overview of industrial tree plantation conflicts in the global South: conflicts, trends, and resistance struggles," *EJOLT Report*, no. 3, International Institute of Social Studies of Erasmus University (ISS), 2012, 7.

<sup>40</sup> Oliver Pye, "Commodifying sustainability: Development, nature and politics in the palm oil industry," *World development* 121 (2019): 218. See also, Zachary R. Anderson, Koen Kusters, John McCarthy, and Krystof Obidzinski, "Green growth rhetoric versus reality: Insights from Indonesia." *Global Environmental Change* 38 (2016): 30; Muhammad Alif K. Sahide and Lukas Giessen, "The fragmented land use administration in Indonesia—Analysing bureaucratic responsibilities influencing tropical rainforest transformation systems," *Land Use Policy* 43 (2015): 96.

<sup>41</sup> Adriaan Bedner and Yance Arizona, "Adat in Indonesian Land Law: A Promise for the Future or a Dead End?," *The Asia Pacific Journal of Anthropology* 20, no. 5 (2019): 416.

<sup>42</sup> As'ad Said Ali, *Negara Pancasila Jalan Kemashabatan Berbangsa* (Jakarta: LP3ES Indonesia, 2009), 56.

<sup>43</sup> I. Made Pria Dharsana, Indrasari Kresnadjaja, and I. Nyoman Putu Budiarta, "Urgensi Bank Tanah dan Penguasaan Negara atas Tanah Menurut Landasan Konstitusional Indonesia," *Lex Publica* 5, no. 2 (2018): 31.

The profound connection between Pancasila values and the provisions of the BAL underscores the inseparable interrelation between God, humanity, and land. By recognizing the existence of a higher power beyond human influence, acknowledging the unbreakable unity between the land and the nation, and embracing the interplay between God, land, and the people of Indonesia, the religious aspect of land law becomes all the more evident and indelible.<sup>44</sup> At its core, the concept of social justice, encapsulated within the fifth precept of Pancasila, strives to eradicate poverty and foster equitable welfare for all Indonesian citizens.<sup>45</sup> This highlights the State's pivotal role in realizing these objectives, especially in the face of fierce competition driven by globalized economic forces. To achieve this, it is essential to establish comprehensive policies that promote fairness, equity, and inclusivity.

In order to achieve a harmonious and just balance in land tenure and use, it becomes indispensable to emphasize the essence of the law.<sup>46</sup> Crafted regulations must not only uphold fairness for investors but also safeguard the rights and well-being of the broader community. Introducing the innovative concept of “plasma nucleus plantations” facilitates a collaborative partnership between large plantations (nucleus) and smallholders (plasma), thereby promoting mutual benefit and empowering local communities, in harmony with Indonesia's deeply ingrained “gotong royong” spirit of collective cooperation. To ensure that investors wholeheartedly embrace the role of nucleus plantations and sincerely guide the growth of local communities as plasma plantations, it is imperative to implement binding regulations mandating their active participation.<sup>47</sup> This proven model, demonstrated through the successful implementation of the People's Nucleus Company Pattern in the past, merits revival through the implementation of new regulations to be enforced by the Minister of Agriculture. Meanwhile, the National Land Agency's role should be confined to issuing Cultivation Rights, with the crucial obligation to develop smallholders being coordinated through the appropriate ministries in tandem with investors.

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<sup>44</sup> Ahmad Basarah, *Eksistensi Pancasila Sebagai Tolak Ukur Dalam Pengujian Law Terhadap Law Dasar Negara Republik Indonesia Tahun 1945 Di Mahkamah Konstitusi: Kajian Perspektif Filsafat Hukum dan Ketatanegaraan* (Semarang: Universitas Diponegoro, 2016), 37.

<sup>45</sup> Notonagoro, *Pancasila Dasar Falsafah Negara* (Jakarta: Bina Aksara, 1998), 43.

<sup>46</sup> Arifin Maruf, “Legal aspects of environment in Indonesia: An effort to prevent environmental damage and pollution,” *Journal of Human Rights, Culture and Legal System* 1, no. 1 (2021): 18.

<sup>47</sup> Paul W. Rogers, “Land reform and the myth of the small farmer in Indonesia's nucleus estate and smallholders program, 1977-2001: Insights from West Java” (PhD diss., Monash University, 2015), 26.

#### **4. Conclusion**

The impact of capitalism and the free market system on the control and utilization of land by corporations in Indonesia has been far-reaching and multifaceted. The New Order regime's economic programs, supported by Western countries, facilitated foreign investment and relaxed market mechanisms, leading to impressive economic growth. However, this growth came with its set of challenges, including concerns about social justice and land rights. To achieve a more equitable society, it is essential to strike a harmonious balance between corporate interests and the interests of the wider community in land ownership and use. This requires policymakers to prioritize social justice in all land law policies, preventing unjust enrichment, optimizing land utilization, and ensuring food security for all.

The concept of "plasma nucleus plantations" emerges as a potential solution, promoting collaboration between large plantation corporations and smallholders. Such a model fosters mutual benefit, community empowerment, and upholds the spirit of "gotong royong" ingrained in Indonesian culture. Additionally, incorporating a religious approach that acknowledges the divine origin of land and its intrinsic connection to the well-being of the nation can provide a strong moral foundation for land law policies.

#### **5. Suggestion**

Moving forward, it is imperative for policymakers to prioritize the establishment of comprehensive regulations that protect the rights of both investors and local communities. Enforcing binding regulations that require investors to actively engage in community development will foster a more equitable distribution of benefits and opportunities. By recognizing the profound interconnectedness between God, humanity, and land, and by adhering to the principles of Pancasila, Indonesia can strive towards achieving social justice and prosperity for all its citizens. Moreover, a balanced legal framework that takes into account the interests of both industries and local communities will serve as the foundation for sustainable and inclusive economic growth.

## References

- Ali, As'ad Said. *Negara Pancasila Jalan Kemaslahatan Berbangsa*. Jakarta: LP3ES Indonesia. 2009.
- Anderson, Zachary R., Koen Kusters, John McCarthy, and Krystof Obidzinski. "Green growth rhetoric versus reality: Insights from Indonesia." *Global Environmental Change* 38 (2016): 30-40.
- Basarah, Ahmad. *Eksistensi Pancasila Sebagai Tolok Ukur Dalam Pengujian Law Terhadap Law Dasar Negara Republik Indonesia Tahun 1945 Di Mahkamah Konstitusi: Kajian Perspektif Filsafat Hukum dan Ketatanegaraan*. Semarang: Universitas Diponegoro, 2016.
- Bedner, Adriaan, and Yance Arizona. "Adat in Indonesian Land Law: A Promise for the Future or a Dead End?" *The Asia Pacific Journal of Anthropology* 20, no. 5 (2019): 416-434.
- Blanton, Robert G., and Dursun Peksen. "Economic liberalisation, market institutions and labour rights." *European Journal of Political Research* 55, no. 3 (2016): 474-491.
- Butt, Simon. "Traditional land rights before the Indonesian constitutional court." *Law, Environment and Development Journal* 10, no. 1 (2014): 57-74.
- Buzan, Barry, and George Lawson. "Capitalism and the emergent world order." *International Affairs* 90, no. 1 (2014): 71-91.
- Capra, Fritjof, and Ugo Mattei. *The ecology of law: Toward a legal system in tune with nature and community*. Oakland: Berrett-Koehler Publishers, 2015.
- Carlisle, Liz. "Critical agrarianism." *Renewable Agriculture and Food Systems* 29, no. 2 (2014): 135-145.
- Dharsana, I. Made Pria, Indrasari Kresnadjaja, and I. Nyoman Putu Budiarta. "Urgensi Bank Tanah dan Penguasaan Negara atas Tanah Menurut Landasan Konstitusional Indonesia." *Lex Publica* 5, no. 2 (2018): 31-37.
- Dhiaulhaq, Ahmad, John F. McCarthy, and Yurdi Yasmi. "Resolving industrial plantation conflicts in Indonesia: Can mediation deliver?" *Forest Policy and Economics* 91 (2018): 64-72.
- Fei, John CH, and Gustav Ranis. "Agrarianism, dualism and economic development." *Center Discussion Paper*, no. 2. Yale University, Economic Growth Center, New Haven, CT, 1966.
- Fisher, Mark. *Capitalist realism: Is there no alternative?*. Hampshire: John Hunt Publishing, 2022.
- Freyfogle, Eric T. *The new agrarianism: land, culture, and the community of life*. Wahington: Island Press, 2001.
- Fuady, Ahmad Helmy. "Aid and policy preferences in oil-rich countries: comparing Indonesia and Nigeria." *Third World Quarterly* 36, no. 7 (2015): 1349-1364.
- Gellert, Paul K. "Palm oil expansion in Indonesia: land grabbing as accumulation by dispossession." In *States and citizens: accommodation, facilitation and resistance to globalization*, edited by Jon Shefner, 65-99. Bingley: Emerald Group Publishing Limited, 2015.
- Goody, Jack. *Capitalism and modernity: The great debate*. Hoboken: John Wiley & Sons, 2013.
- Halperin, Sandra. "The far-right in modern world history." *Globalizations* 20, no. 5 (2023): 731-751.
- Harsono, Boedi. *Hukum Agraria Nasional: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*. Jakarta: Djembatan, 2008.
- Herry, Musleh. "Dampak Liberalisasi Ekonomi Terhadap Hukum Pertanahan Di Indonesia." *De Jure: Jurnal Hukum dan Syaria* 1, no. 1 (2009): 43-50.
- Jomo, Kwame Sundaran. *Southeast Asia's misunderstood miracle: industrial policy and economic development in Thailand, Malaysia and Indonesia*. New York: Routledge, 2019.
- Kim, Kyunghoon. "Indonesia's restrained state capitalism: Development and policy challenges." *Journal of Contemporary Asia* 51, no. 3 (2021): 419-446.
- Levang, Patrice, Wahyu F. Riva, Meri G. Orth, Rob Cramb, and John F. McCarthy. "Oil palm plantations and conflict in Indonesia: Evidence from West Kalimantan." In *The oil palm complex: Smallholders, agribusiness and the State in Indonesia and Malaysia*, edited by Rob Cramb and John F. McCarthy, 283-300. Singapore: NUS Press, 2016.

- Maruf, Arifin. "Legal aspects of environment in Indonesia: An efforts to prevent environmental damage and pollution." *Journal of Human Rights, Culture and Legal System* 1, no. 1 (2021): 18-30.
- Morgan, Jamie. "Will we work in twenty-first century capitalism? A critique of the fourth industrial revolution literature." *Economy and Society* 48, no. 3 (2019): 371-398.
- Notonagoro, Notonagoro. *Pancasila Dasar Falsafah Negara*. Jakarta: Bina Aksara, 1998.
- Nugroho, Wahyu Budi. "Konstruksi sosial revolusi hijau di era orde baru." *Journal on Socio-Economics of Agriculture and Agribusiness* 12, no. 1 (2018): 54-62.
- Overbeek, Wilfridus, Markus Kröger, and Julien-François Gerber. "An overview of industrial tree plantation conflicts in the global South: conflicts, trends, and resistance struggles." *EJOLT Report*, no. 3. International Institute of Social Studies of Erasmus University (ISS), 2012.
- Purnomo, Eko Priyo, Rijal Ramdani, Agustiyara, Queenie Pearl V. Tomaro, and Gatot Supangkat Samidjo. "Land ownership transformation before and after forest fires in Indonesian palm oil plantation areas." *Journal of Land Use Science* 14, no. 1 (2019): 37-51.
- Pye, Oliver. "Commodifying sustainability: Development, nature and politics in the palm oil industry." *World development* 121 (2019): 218-228.
- Rahardjo, Satjipto. *Hukum Progresif: Sebuah Sintesa Hukum Indonesia*. Yogyakarta: Genta Publishing, 2009.
- Ramadhani, Rahmat. "Peran Politik Terhadap Pembangunan Hukum Agraria Nasional." *SOSEK: Jurnal Sosial dan Ekonomi* 1, no. 1 (2020): 1-6.
- Ranchordás, Sofia. "Sunset clauses and experimental regulations: blessing or curse for legal certainty?" *Statute Law Review* 36, no. 1 (2015): 28-45.
- Rogers, Paul W. "Land reform and the myth of the small farmer in Indonesia's nucleus estate and smallholders program, 1977-2001: Insights from West Java." PhD diss., Monash University, 2015.
- Sahide, Muhammad Alif K., and Lukas Giessen. "The fragmented land use administration in Indonesia—Analysing bureaucratic responsibilities influencing tropical rainforest transformation systems." *Land Use Policy* 43 (2015): 96-110.
- Samekto, FX Adji. *Kapitalisme, modernisasi & kerusakan lingkungan*. Yogyakarta: Pustaka Pelajar, 2005.
- Semenchenko, Nataliia. "Economic Cybernetics: Development Paradigm and Global Modeling in the Modern World." *Review of Economics and Finance* 20, no. 1(2022):1077-1084.
- Shatkin, Gavin. "Financial sector actors, the state, and the rescaling of Jakarta's extended urban region." *Land Use Policy* 112, no. 6 (2022): 104159.
- Shatkin, Gavin. "The real estate turns in policy and planning: Land monetization and the political economy of peri-urbanization in Asia." *Cities*. 100, no. 53 (2016): 141-149.
- Sihombing, B. F., and Elza Syarief. "Konsolidasi Tanah yang Berkelanjutan dalam Kebijakan Relokasi Kawasan Kumuh: Analisis Empiris Yuridis." *Lex Publica* 5, no. 2 (2018): 38-51.
- Sinaga, Pidari. "Konflik Dan Reformasi Agraria Di Indonesia: Tantangan Dan Harapan." *Journal Of Government (Kajian Manajemen Pemerintahan dan Otonomi Daerah)* 6, no. 1 (2020): 57-73.
- Srinivas, Shivakumar, Keith Clifford Bell, Kurnia Toha, Arifin Zaenal, and William Collier. "A review of Indonesian land-based sectors with particular reference to land governance and political economy." In *Annual World Bank Conference on Land and Poverty*. The World Bank, Washington DC, March 23-27, 2015.
- Statista Research Department. "Total land area of oil palm plantations in Indonesia from 2012 to 2021." May 2, 2023. <https://www.statista.com/statistics/971424/total-area-of-oil-palm-plantations-indonesia/>.
- Sumardjono, Maria SW. *Kebijakan Pertanian: antara Regulasi dan Implementasinya*. Jakarta: Penerbit Buku Kompas, 2001.
- Sumarja, Fransiscus Xaverius. "Hukum Agraria Nasional Sebagai Produk Politik Berbasis Nilai-Nilai Pancasila." *Jurnal masalah-masalah Hukum* 41, no. 4 (2012): 521-528.

- Surambo, Achmad, Andiko, Bondan Andriyanu, Edi Sutrisno, Eep Saepuloh, Jefrie Saragih, Nurcholis, and Norman Jiwan. *Hak guna usaha dan hak asasi manusia*. Jakarta: Komisi Nasional Hak Asasi Manusia and Sawit Watch, 2010.
- Un, Kheang, and Sokbunthoeun So. "Land rights in Cambodia: How neopatrimonial politics restricts land policy reform." *Pacific affairs* 84, no. 2 (2011): 289-308.
- Van der Eng, Pierre. "'Send Them a Shipload of Rice': Australia's Food Aid to Indonesia, 1960s–1970s." *Australian Journal of Politics & History* 67, no. 1 (2021): 50-66.
- Volz, Ulrich, Judith Böhnke, Laura Knierim, Katharina Richert, Greta-Maria Roeber, and Vanessa Eidt. *Financing the green transformation: How to make green finance work in Indonesia*. London: Palgrave Macmillan, 2015.
- Wilson, Ian Douglas. *The politics of protection rackets in post-New Order Indonesia: Coercive capital, authority and street politics*. London: Routledge, 2015.
- Winkler, John T. "The corporate economy: theory and administration." In *Industrial Society (Routledge Revivals): Class, Cleavage and Control*, edited by Richard Scase, 43-58. London: Routledge, 2015.
- Zainuddin, Zainuddin. "Right To Own Land By The State In The Frame Of Constitutional Law." *Randwick International Of Social Science Journal* 2, no. 2 (2021): 46-57.