

Economic Policy, Land Ownership Changes, and Land Conflicts after Indonesian Independence

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Abstract

This study aims to identify the development of land ownership concepts and their implications for land conflicts in Indonesia. The problem formulation examined is the relationship between economic policy and shifts in land ownership concepts after independence in Indonesia and their implications for land conflicts. The research method used is normative legal research. The results of the study show that there is a correlation between economic policy and shifts in the concept of land ownership in each government regime in Indonesia, and this has implications for the occurrence of land conflicts. During the Old Order era, the economic policy used was the Self-Reliance Economy, which upheld the implementation of agrarian reform aimed at equal distribution of land ownership. Meanwhile, after the Old Order era, namely the New Order and continuing to the current Reform era, the economic policy used has been moving towards capitalism and its offspring, which has implications for the liberalization and privatization of land control and utilization. This has resulted in the goal of agrarian reform, namely the equitable distribution of land to all people, not being comprehensively achieved to date.

Keywords: *land ownership, economic policy, land conflict*

INTRODUCTION

At the systemic level, law as a system must be viewed as having a synergistic meeting point with an economic system. With this understanding, it is hoped that this synergy will strengthen systematic economic development and the development of the National Legal System, so that in turn, both the National Economic System and the National Legal System will become more stable in terms of sustainable development. At the same time, of course, the economic system must also positively support the development of the legal system, so that the legal system can more positively support the development of the national economic system, and so on.¹

In the structural functionalist perspective as described by Talcott Parsons, social life consists of four interrelated subsystems. The economic subsystem (adaptation) functions as a means of human adaptation to the natural and social environment in order to be able to meet needs and ensure survival, both individually and in groups. The political subsystem (goal attainment) plays a role in determining common interests as well as determining the methods that must be taken to achieve these goals. Furthermore, the social subsystem (integration) is the arena for interactions between individuals and groups, with the law as the main instrument for maintaining order. The cultural subsystem (latency) serves to maintain patterns of behavior and social interaction through the institutionalization of guidelines and norms into social values that are alive in society.²

In terms of energy flow, the economic subsystem occupies the strongest position, followed by the political subsystem, then the social subsystem (which includes law), and finally the cultural subsystem. This shows that all of these subsystems influence and dominate each other.³ In this case, substantive law must be able to integrate the expectations that arise from the process of adapting to the natural and social environment (economic subsystem) and the choice of common interests and how to realize them

¹ Adi Sulistiyono and Muhammad Rustamaji, *Hukum Ekonomi Sebagai Panglima* (Sidoarjo: Masmedia Buana Pustaka, 2009).

² Jacek Tittenbrun, "Talcott Parsons' Economic Sociology," *International Letters of Social and Humanistic Sciences* 13 (2014): 21–22.

³ Adhi Putra Satria, "Sibernetika Talcott Parsons: Suatu Analisis Terhadap Pelaksanaan Omnibus Law Dalam Pembentukan Undang-Undang Cipta Lapangan Kerja Di Indonesia," *Indonesian State Law Review* 2, no. 2 (2020): 114.

(political subsystem) with the social values lived by the community (cultural subsystem).⁴ Based on this, the economic subsystem, which has a stronger and more dominant energy flow than the social subsystem (in this case, including law), plays an important role in shaping law.

A series of economic activities that occur within society are regulated and influenced by various legal provisions in order to achieve harmony, justice, and other desirable outcomes.⁵ The existence of law is very important in every economic activity in order to produce sustainable and broad-based economic development.⁶ There is no country, regardless of its economic system, that separates economic development and legal instruments dichotomously.⁷ This means that the need for state regulation has developed not only in interventionist countries, such as socialist and communist countries, but also in Western liberal countries that implement a market economy system.⁸ This also shows that no matter how freely the dynamics of the market economy are developed, state intervention in the form of regulation and licensing is still very influential in the process of economic development and control of the free market.⁹

Such arrangements are necessary in order to ensure a system of mutual referral between stakeholders in the dynamics of the market economy. The trias politica of "state," "civil society," and "market," with their respective legal norms, require broader regulation by the state as the conductor of the dynamics of community economic development. The official regulations that are enforced for the public are expected to contain certainty of justice, fairness, and usefulness¹⁰.

With fair certainty, definite justice, and usefulness, the law can guarantee orderly freedom in economic dynamics, which in turn can bring shared prosperity to society. Without legal certainty, the economy cannot develop in an orderly manner; without justice, the economy will not foster healthy and equitable freedom; and without utility, the economy will not bring prosperity and peace, because ultimately, the law itself must bring prosperity and peace to communal life.¹¹

In this case, the government is responsible for making the law authoritative by responding to and following up on public opinion and desires, so that in the future, the law can play its role as a guiding factor and create a conducive climate in the economic field. In addition, continuous improvement in efficiency is one of the concerns of the economic system. Therefore, the law must also be continuously improved so that it can accommodate new ideas and be adapted to changing conditions in order to achieve the highest possible level of efficiency. The performance of institutions that are not conducive to increasing efficiency must be optimized immediately so that they do not become obstacles to economic activity. In order to accommodate these needs, a legal institution must be able to play an important role in adjusting to rapidly developing ideas and conditions.¹²

The role of law in the economic field has an urgency that cannot be ignored, especially in relation to creating a healthy and fair business climate. First, the urgency of creating legal authority aims to build a conducive economic climate that attracts investment. Through legal authority, the dynamics of economic activity can be accommodated, and efficient, productive economic activity with predictability in facing future challenges can be created.

Second, the urgency of understanding the concept of economic transaction costs is an important foundation in formulating strategies for economic development and growth control. By understanding the non-productive costs that must be borne to achieve an economic transaction, appropriate steps can be determined to promote efficiency and strengthen economic competitiveness.

Third, the urgency of maintaining a level of certainty in human relations is realized through the creation of a legal framework that is capable of guiding individual behavior in modern economic activities. This

⁴ Nurhasan Ismail, *Hukum Agraria Dalam Tantangan Perubahan* (Malang: Setara Press, 2018).

⁵ Iskandar Muda, "Konstitusionalitas Mengenai Kekuasaan Negara Dalam Kegiatan Penanaman Modal (Analisis Putusan MK No. 21-22/PUU-V/2007)," *Jurnal Konstitusi* 8, no. 6 (2011): 882.

⁶ M. Wildan Humaidi, *Konstitusionalitas Demokrasi Ekonomi Tafsir Ekonomi Kerakyatan Dan Pengelolaan Sumber Daya Alam* (Malang: Intrans Publishing, 2019).

⁷ Jimly Ashiddiqie, *Konstitusi Ekonomi* (Jakarta: Kompas, 2009).

⁸ M. Wildan Humaidi, *Konstitusionalitas Demokrasi Ekonomi Tafsir Ekonomi Kerakyatan Dan Pengelolaan Sumber Daya Alam*.

⁹ Jimly Ashiddiqie, *Konstitusi Ekonomi*.

¹⁰ *Loc. cit.*

¹¹ Jimly Ashiddiqie, *Konstitusi Ekonomi*.

¹² *Ibid.*

legal certainty is important to ensure equilibrium and stability in economic activities, thereby providing a sense of security for business actors and the wider community.

Fourth, the urgency of developing laws that have predictability, proceduralism, and codification of objectives is directed at developing a more orderly economic life. Such laws enable the creation of an economic order that is oriented towards sustainability, so that national economic development objectives can be achieved more effectively.

Furthermore, in formulating economic policies, the 1945 Constitution of the Republic of Indonesia must be used as the highest law and the most fundamental basis for economic policy. No economic policies or regulations may contradict the 1945 Constitution of the Republic of Indonesia. As the highest law, in addition to explaining the regulations governing political life, the constitution also functions as a legal document regulating the economy of a country.¹³ As an economic constitution, the 1945 Constitution regulates basic norms regarding the economy, including regulations on the management of land ownership rights. The provision most often referred to in understanding constitutional norms related to the economy and the management of land ownership rights is Article 33 of the 1945 Constitution.

This article outlines the values, methods, and objectives of the state's role in regulating the national economy and managing land ownership rights.¹⁴ The existence of Article 33 of the 1945 Constitution of the Republic of Indonesia also conveys a moral and cultural message in the constitution of the Republic of Indonesia in the field of economic life. This article does not merely provide guidance on the structure of the economy, but also reflects the ideals and beliefs that are firmly held and consistently pursued by government leaders.¹⁵ The constitutional message is clear, that the goal is a specific economic system, not a capitalist economy (based on individualism), but an economic system based on togetherness and kinship. The founding fathers of the Republic of Indonesia believed that the ideal of social justice in the economic sphere could achieve equitable prosperity, namely social justice for all Indonesian people.¹⁶ In relation to land regulation in Indonesia, in this case the concept of land ownership, the economic system plays an important role in determining and shaping related norms, which then become guidelines that are obeyed and implemented in a government regime. The dominance of the economic system is a choice of interests that becomes the orientation of land law regulations, in this case the Basic Agrarian Law (UUPA). The UUPA has never undergone any changes in terms of its orientation of interests and choices of social values as its substance. According to Nurhasan Ismail, the prevailing view is that the UUPA is quite accommodating in responding to changes in economic development policy. However, certain concepts contained therein need to be reformulated in order to provide clarification and prevent misinterpretation. The changes that have occurred lie in the strategy for achieving interests, namely the realization of people's prosperity. The change in strategy is related to the orientation of economic development policy.¹⁷

This also has an impact on the shift in the concept of land ownership that has occurred in Indonesia. As explained earlier, Indonesia once embraced and applied the concepts of communal and absolute land ownership, which theoretically revealed differences between each concept of land ownership in realizing justice in accordance with the control, ownership, use, and utilization of land in a fair manner. This is closely related to the regulation of the concept of land ownership, which has undergone developments in direction and policy to date in Indonesia.

As described above, this can be seen in the shift in the concept of land ownership that occurred for indigenous people (inlander eigendom), which originally stemmed from the clearing of wild land or forests by one or a group of people who then controlled it, either as a place of residence or a source of income to meet their daily needs. Whether individual or group, their occupation of the cleared land

¹³ Jimly Ashiddiqie, *Hukum Tata Negara Dan Pilar-Pilar Demokrasi* (Jakarta: Konstitusi Press, 2005).

¹⁴ Yance Arizona, "Perkembangan Konstitusionalitas Pengusahaan Negara Atas Sumber Daya Alam Dalam Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 8, no. 3 (2011): 259.

¹⁵ Bagir Manan, *Pertumbuhan Dan Perkembangan Konstitusi Suatu Negara* (Bandung: Mandar Maju, 1995).

¹⁶ Elli Ruslina, "Makna Pasal 33 Undang-Undang Dasar 1945 Dalam Pembangunan Hukum Ekonomi Indonesia," *Jurnal Konstitusi* 9, no. 1 (2012): 50.

¹⁷ Ibid.

became the basis for the legality recognized by other groups or individuals regarding their ownership and control of the land.¹⁸

Meanwhile, according to Cornelis van Vollenhoven, this matter is explained as follows:¹⁹

"Land rights arise quite differently than in the Netherlands; under an Indonesian 'ontginningsrecht' (right of cultivation) of the population, which is not comparable to anything in our civil code, yet has been repeatedly recognized in roundabout terms by the Indian Government. Just as in the Netherlands, the application of the right to hunt wild animals gives rise to ownership rights over the hunted animals, so too does the application of the Indonesian right to cultivate land give rise to either 'rights of use' of land (in the case of temporary, variable building sites) or 'indigenous property rights' of land (in the case of permanent building sites), or a 'right to build or cultivate' land (in the case of permanent cultivation in despotic kingdoms)".

"Land rights arise freely, unlike in the Netherlands; based on the Indonesian 'right to clear land' owned by the population, which cannot be compared in our Civil Code, but has been repeatedly and unequivocally recognized by the Government of the Dutch East Indies. As in the Netherlands, the enforcement of the right to hunt wild animals gives rise to a right of ownership over the shot animals, so too does the enforcement of Indonesian law to open up whether it is the 'right to enjoy' the land (in the opening of temporary and variable cultivated land), or the 'native ownership rights' to the land (in the opening of long-term cultivated land), or the 'right to build or cultivate' the land (in long-term cultivation in despotic kingdoms)."

The shift in the concept of land ownership that occurred in Indonesia is normatively implied by the interpretation of State Control Rights (hereinafter referred to as HMN), which in this case is based on the UUPA and Constitutional Court Decision Number 001-021-022/PUU-I/2003 concerning the Review of Law Number 20 of 2002 concerning Electricity. As is well known, HMN based on the interpretation of the UUPA is neo-populist in orientation, in this case giving a large role to the State to realize the prosperity of the people through land redistribution or agrarian reform regulations. Meanwhile, HMN based on the interpretation of Constitutional Court Decision Number 001-021-022/PUU-I/2003 on the Review of Law Number 20 of 2002 on Electricity, is oriented towards capitalism imbued with family values, giving the state a role in realizing the prosperity of the people through policies, regulations, administration, management, and supervision of the equitable distribution of land benefits through Corporate Social Responsibility.

The state's right to control the earth, water, and airspace has undergone a shift in meaning in two different legal frameworks, namely the Basic Agrarian Law (UUPA) and Constitutional Court Decision Number 001-021-022/PUU-I/2003. In the UUPA, the interpretation of the state's right of control is based on the ideology of Neo-Populism, with an emphasis on the realization of people's welfare through the equitable distribution of land ownership. The state is given the authority to regulate and organize the allocation, use, supply, and maintenance of natural resources, in addition to determining and regulating the legal relationship between legal subjects and the earth, water, and space, including legal actions related to their utilization.

Meanwhile, the Constitutional Court's decision interprets the state's right of control within the framework of capitalist ideology, which is still imbued with the principle of kinship. The state's authority is expanded and detailed into several aspects, namely beleid (policy), bestuursdaad (administration), regelendaad (regulation), toezichthoudensdaad (supervision), and beheersdaad (management). The ultimate goal of this authority remains the prosperity of the people, but with a different approach. While the UUPA's emphasizes land distribution, the Constitutional Court's decision focuses on the equitable distribution of natural resources, community participation in determining their use, and recognition of the customary rights of indigenous peoples.

The legal instruments used also show a difference in orientation. The UUPA places agrarian reform or land reform as the main instrument in realizing agrarian justice, while the Constitutional Court's decision opens up space for other instruments such as corporate social responsibility (CSR), which is aimed at ensuring a more equitable distribution of resource benefits for the community.

¹⁸ V. Juwono, "Implementasi Kebijakan Pengembangan Kawasan Ekonomi Khusus Tanjung Kelayang," *Jurnal Borneo Administrator* 16, no. 2 (2020): 145–67, <https://www.samarinda.lan.go.id>.

¹⁹ Cornelis van Vollenhoven, *De Indonesiër En Zijn Grond* (Leiden: Brill, 1932).

A. Indonesia's Old Order Economic Policy and Its Implications for Agrarian Conflict (1945-1966)

After the proclamation of independence in 1945, Indonesia theoretically had three models of democracy, namely Parliamentary Democracy (1945-1959), Guided Democracy (1959-1965) and Pancasila Democracy. These three models of democracy influenced the implementation of the economic system in Indonesia.²⁰ During the Parliamentary Democracy period in Indonesia, which began one month after independence was proclaimed and was later reinforced in the 1949 Constitution and the 1950 Constitution, it was found that its implementation was not suitable for Indonesia, even though it worked satisfactorily in several other Asian countries. The weakness of the seeds of parliamentary democracy provided an opportunity for the dominance of political parties and the House of Representatives (DPR).²¹ Meanwhile, it should be noted that Indonesia's economic situation in the early days of independence was very complicated. At that time, the Indonesian people were faced with a complex situation, namely the continued interference of the colonial powers, which became an obstacle in managing the nation's economy. Some of the economic obstacles faced by the Indonesian people during that period included the issue of determining the currency to be used (), the Dutch blockade on exports, low incomes among the people, and extremely high poverty levels. The Indonesian economy around 1945-1950 was very unfavorable for the government of the Republic of Indonesia.²²

The economic system at that time was a guerrilla economy against colonialism, and the economy was still monopolized by Dutch companies. During the 1950s, Indonesia's economic structure was still a remnant of the colonial era. Indonesia's economy was still very poor due to the influence of Japan and the Netherlands. In addition, the Indonesian people also entered a very difficult era, as they faced major social, political, and security turmoil, resulting in economic growth being neglected. Economic activity among the people was minimal. The large companies at that time were legacy companies of the colonial era, the majority of which were owned by foreigners, with products oriented towards export. Plantations and installations throughout the country were damaged. Most importantly, the population growth rate in Indonesia was increasing²³.

In addition to these issues, several rebellions broke out in a number of regions, including Sumatra and Sulawesi in the 1950s, which nearly destroyed the foundations of the national economy²⁴. Inflation rose rapidly, the value of money plummeted, as did Indonesia's balance of payments. This situation was exacerbated by rising unemployment rates in both urban and rural areas. Efforts to improve the economy had to be carried out as quickly as possible through a short-term program rather than a long-term one. Soemitro Djojohadikoesoemo argued that Indonesia's economic development was essentially a new economic development, which required changing the general economic structure from a colonial economy to a national economy²⁵.

²⁶In the 1950s, Indonesia basically did not yet have the capacity to carry out economic development. The steps taken by the government were in the form of economic structural rehabilitation. The leaders tried to improve the economy, which was experiencing unstable economic growth, by implementing programs that emphasized recovery and improvement. At that time, the leaders had not yet thought about or made efforts to improve the population's welfare.

Soekarno's Guided Democracy sought a just and prosperous society that would advance the nation's economy through the power of the people. Along with the political shift towards Guided Democracy, the economic system also followed suit with Guided Economy, making Guided Economy part of Guided Democracy. The Guided Economy in Indonesian socialist society refers to Article 33 of the 1945 Constitution. Soekarno said that the Guided Economy required mutual cooperation in the economic field. According to Soekarno, this economic system contained three elements, namely common interests

²⁰ Akhmad Syaekhu Rakhman and Arief Hidayat, "Kebijakan Ekonomi Soekarno Pada Masa Demokrasi Terpimpin (1959–1965)," *Alur Sejarah: Jurnal Pendidikan Sejarah* 5, no. 1 (2022): 1.

²¹ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: Gramedia Pustaka Utama, 2008).

²² Akhmad Syaekhu Rakhman and Arief Hidayat, "Kebijakan Ekonomi Soekarno Pada Masa Demokrasi Terpimpin (1959–1965)."

²³ Akhmad Syaekhu Rakhman and Arief Hidayat, *Op.cit.*, p. 5.

²⁴ *Ibid.*, p. 17.

²⁵ Abdul Rahman, "The Economic System of the Benteng Movement during the Old Order" in *Storia: Journal of History and Humanities Education*, Volume 4 Number 1, 2023, p. 3.

²⁶ Akhmad Syaekhu Rakhman and Arief Hidayat, *Op.cit.*, p. 5.

that were determined together, joint efforts that were carried out together, and joint leaders that were agreed upon together²⁷.

Soekarno's economic thinking led Indonesia to become a country with an economic ideology based on anti-capitalism, strengthening the role of the state, and economic sovereignty. Soekarno showed that in order to achieve true independence for Indonesia, the Indonesian people must move to destroy capitalism and imperialism. Soekarno's speech entitled Economic Declaration on March 28, 1963 contained many basic economic strategy ideas. Soekarno tried to use Marxist analysis to answer Indonesia's economic problems. Soekarno revealed that political sovereignty and cultural identity cannot be achieved without economic independence (hereinafter referred to as *Berdikari*). Similarly, economic independence cannot be achieved if our nation lacks political sovereignty and cultural identity²⁸.

The *Berdikari* concept proposed by Soekarno is not only a goal but also a principle for achieving that goal. This principle involves carrying out development without relying on assistance from other countries or nations. Of course, these values of independence are aimed at the welfare and prosperity of the Indonesian people. Thus, with the value of independence in his economic thinking, Soekarno sought to find solutions to economic problems, with the hope that the people could be sovereign in economic matters. This is in line with his statement in the Proclamation²⁹.

Based on the above understanding, there is a correlation between the economic system implemented during the Old Order and the regulation and implementation of land in Indonesia. This correlation is the application of a Guided Economy system, which is oriented towards Indonesian socialism, which is a manifestation of mutual cooperation based on *Pancasila*. In this case, it is related to Indonesia's rich natural resources, so that they can be utilized as well as possible for the prosperity of the people and the realization of social justice. This is also what led Soekarno to think about an independent economy, where a country must be able to build its own economy, together with its people and leaders.

During the Old Order, land law policy was already geared towards achieving social justice and equitable prosperity for all people. Through the land reform program stipulated in Government Regulation in Lieu of Law No. 56 of 1960 concerning the Determination of Agricultural Land Area and the implementing regulations of the Ministry of Agrarian Affairs (), the restructuring of unequal land ownership began with the seizure of land exceeding the maximum limit and signs of absenteeism, which was then planned to be distributed to community groups that did not own land. Land directly controlled by the state was designated as an object of land reform to be distributed to people who did not yet own land. The spirit of cooperatives as a vehicle for large-scale land use has been initiated through Minister of Agrarian Affairs and Agriculture Regulation No. 11 of 1962 concerning Provisions and Requirements for Granting Land Use Rights to National Private Entrepreneurs-National Private Entrepreneurs, which stipulated that the company's shares be divided into three parts, namely 50% (fifty percent) to be retained by the company's founders, 25% (twenty-five percent) to be given to employees, and 25% (twenty-five percent) to the community around the company's place of operation through the Regional Government³⁰. The objective is clear, namely to ensure equitable control and ownership of land as a basis for equitable distribution of prosperity and profits from large-scale companies that can be enjoyed jointly by employees and the community surrounding the company.

During the Old Order era, several laws and regulations were issued and became legal norms applied in Indonesia to support the distribution of land control and ownership through agrarian reform programs, which were necessary to succeed in development policies oriented towards land distribution, including:

- a. Law Number 1 of 1958 concerning the Abolition of Private Land
- b. Law No. 2 of 1960 concerning Profit Sharing Agreements
- c. Law No. 5 of 1960 concerning Basic Agrarian Principles
- d. Government Regulation in Lieu of Law Number 56 of 1960 concerning the Determination of Agricultural Land Area
- e. Government Regulation No. 224 of 1961 concerning the Implementation of Land Distribution and Compensation

Then, regarding the implications for agrarian conflicts that occurred during the Old Order, 80% (eighty percent) of the Indonesian people were affected, who in this case were farmers, and most of these farmers

²⁷ Akhmad Syaekhu Rakhman and Arief Hidayat, *Op.cit.*, p. 3.

²⁸ *Ibid.*, p. 6.

²⁹ *Loc. cit.*

³⁰ Nurhasan Ismail I, *Op.cit.*, p. 6.

lived in poverty. According to the government, this poverty was caused by the fact that 60% (sixty percent) of farmers were farm laborers who worked on land owned by "landlords" rather than their own land³¹. The landless group was restless because they had not yet received the land promised by the UUPA program, while the landowners were also reluctant to divide their land through the UUPA and put up resistance. This led to a backlash, with retaliatory actions taking the form of resistance. This incident was also inseparable from the clash of interests among groups affiliated with factions that could trigger conflict. These unilateral actions drew criticism from the aggrieved parties whose land had been taken. These unilateral actions occurred consecutively from one region to another almost every month³². In addition, during the Old Order period, it was known that this government upheld and respected the values of Indonesian socialism, which aimed to achieve equitable control and ownership of land for groups of people who did not own land. However, it was found that the concept of land ownership that was promoted for this purpose also included regulations regarding the concept of absolute land ownership, although not significantly. This can be seen in Article 21 paragraph (3) of the UUPA, which reads:

"Foreigners who, after the enactment of this Law, acquire ownership rights through inheritance without a will or through the mixing of assets due to marriage, as well as Indonesian citizens who have ownership rights and who, after the enactment of this Law, lose their citizenship, are required to relinquish those rights within one year of acquiring them or losing their citizenship. If, after the expiration of this period, the property rights are relinquished, then those rights are extinguished by law and the land falls to the State, with the provision that the rights of other parties that encumber it remain in effect."

Then, it can be seen in the implementation of land reform that does not touch on land use rights, so that colonial plantations of a capitalist nature continue to exist after independence. There are two laws that exclude plantation land from the scope of land reform. First, legislation that allows for concentrated land ownership and plantation neglect. Government Regulation in Lieu of Law No. 56 of 1960 concerning the Determination of Agricultural Land Area does not regulate the maximum limit of agricultural land ownership with Cultivation Rights (HGU) status, but only regulates the maximum limit of agricultural land ownership with Freehold Rights status plus land obtained from profit-sharing agreements, mortgages and agricultural land lease agreements. This provision can be interpreted to mean that plantation land with HGU status is not subject to land reform, but rather that this law provides space for plantation companies to engage in concentrated land ownership and plantation neglect. Second, the provisions in the Basic Agrarian Law (UUPA) that stipulate the continuity of plantation life by converting erfpacht rights into cultivation rights⁽³³⁾.

Based on the above, it can be seen that the relationship between economic policy and its implications for the shift in the concept of land ownership in Indonesia during the Old Order era was the initial driving force and a moment of transition from a colonial system to a national agrarian legal system that upholds the principles of land management, both in terms of social justice, equitable distribution of prosperity among the people, transparency, people's ownership or rights, and legal protection that favors the Indonesian people. This is because the implementation of a Guided Economy system, which is oriented towards Indonesian socialism, is a manifestation of mutual cooperation based on Pancasila, which in this case is related to the management of Indonesia's natural resources that are utilized as well as possible to achieve prosperity and social justice for all Indonesian people, even though in its implementation there are still obstacles-obstacles that hinder the achievement of these desired goals.

B. Indonesia's New Order Economic Policy and Its Implications for Agrarian Conflict

In March 1966, Indonesia entered the New Order era. The New Order was born as a correction to all deviations from the purity of Pancasila and the 1945 Constitution. The New Order was born with the determination to realize the order of life of the Indonesian state and nation based on the pure and consistent implementation of Pancasila and the 1945 Constitution. One of the most important measures in upholding constitutional life was the realization of people's sovereignty through the People's

³¹ Teguh Samudera Paramesywara, *Hari Agraria, Sejarah dan Perkembangannya Kini (Agrarian Day, Its History and Current Developments)*, available at <https://fgmi.iagi.or.id/berita/berita-dunia-geosaintis/hari-agraria-sejarah-dan-perkembangannya-kini/>.

³² Hanif Risa Mustafa, "The Agrarian Upheaval of 1965-1966 in Banyuwangi" in *Heritage: Journal of Social Studies*, Volume 1 Number 1, 2020, pp. 69-70.

³³ Lego Karjoko, *Op.cit.*, pp. 9-10.

Consultative Assembly (hereinafter referred to as MPR)³⁴. In this case, the MPR has the authority as stated in Article 3 of the 1945 Constitution, which states that "the People's Consultative Assembly shall determine the Constitution and the broad outlines of state policy".

This provision, in addition to being the legal basis for the Broad Outlines of State Policy (hereinafter referred to as GBHN), also means that the people themselves determine the direction of the state, its fate, and its desired future. It should be noted that the GBHN is the state policy on the administration of the state in broad outlines as a comprehensive and integrated expression of the will of the people.³⁵ As the state policy, it is understandable that the GBHN itself is indispensable in the implementation of governance. Through the GBHN, the direction and objectives of governance can be more easily understood, thereby facilitating the assessment of the success and achievements of the ruling government.

Unlike the Old Order government, in the New Order era, the government focused more on improving the welfare of the people through economic and social development in the country. The New Order government re-established good relations with the West and distanced itself from communist ideology. Indonesia also rejoined the United Nations and other international institutions such as the World Bank and the International Monetary Fund (hereinafter referred to as the IMF). Before the development plan through the Five-Year Development Plan (hereinafter referred to as Repelita) began, the government first restored economic, social, and political stability and rehabilitated the domestic economy. The main objectives of these policies were to reduce inflation, reduce the government's financial deficit, and revive production activities, including exports, which had stagnated during the Old Order era. These efforts by the government, coupled with the gradual formulation of Repelita with clear targets, were greatly appreciated by Western countries³⁶.

During the 32 (thirty-two) years of the New Order era, many policies and programs were created under the leadership of President Soeharto. These policies and programs were implemented based on the New Order concept known as the Trilogy of Development. The concept of the development trilogy was considered an ideal concept for Indonesia by the New Order era government. This concept consisted of three elements, namely: (1) equitable development; (2) economic growth; and (3) national stability. The New Order government adhered firmly to these three elements in every step it took to formulate and enact policies³⁷.

From such dire circumstances during the Old Order regime, the New Order regime was able to achieve an extraordinarily rapid economic recovery, the first signs of which were a sharp decline in inflation and an increase in growth³⁸. In relation to inflation management around 1966-1968, Indonesia earned the nickname as one of the most effective inflation controllers in the 20th century³⁹. After more than a decade of economic development, Indonesia was then categorized as one of the success stories among a number of Asian countries in terms of economic growth. And in the early 1990s, its success in spurring high economic growth led to Indonesia being classified among the group of developing countries that would soon become newly industrialized countries, following in the footsteps of other Asian countries, such as Taiwan, South Korea, Singapore, and Hong Kong⁴⁰.

In summary, from the Old Order era to the end of the New Order era, Indonesia experienced two different economic policy orientations, namely from a closed, socialist-oriented economy during the Soekarno regime to an open, capitalist-oriented economy during the Soeharto administration. This change in economic policy orientation made the national economic performance during the New Order

³⁴ Ramadani, "Analysis of the Broad Outlines of State Policy (GBHN) and Law Number 25 of 2004 concerning the National Development Planning System" in *AL-QANUN: Journal of Social and Islamic Law Studies*, Volume 1 Number 4, 2020, pp. 403-404.

³⁵ Janpatar Simamora, "The Urgency of GBHN in the Constitutional System of the Republic of Indonesia" in *Jurnal Litigasi*, Volume 17 Number 2, 2016, pp. 3431-3432.

³⁶ Andi Ika Fahriska and Zulkifli, *The Indonesian Economy: History and Development*, Barcode Foundation, Makassar, 2020, p. 7.

³⁷ *Loc.cit.*

³⁸ Radius Prawiro, *Indonesia's Struggle to Build the Economy: Pragmatism and Action*, Elex Media Komputindo, Jakarta, 1998, pp. 33-35.

³⁹ Hal Hill, *Indonesia's Economic Transformation Since 1966: A Critical and Comprehensive Study*, Tiara Wacana, Yogyakarta, 1996, p. 4.

⁴⁰ Hal Hill, *Op.cit.*, p. 5.

era much better than during the Old Order era. This experience shows that there are several main conditions that must be met in order for economic development to run smoothly, namely⁴¹ :

a. President Soeharto had a strong political will to develop Indonesia's economy. During the Old Order, perhaps because Indonesia had just gained independence, nationalist sentiment was still very high, both among the government and the people, and what they wanted to show to Western countries was the greatness of the nation in the form of military strength and the construction of flagship projects.

b. The political and economic stability of the New Order government succeeded in reducing the inflation rate from around 500% (five hundred percent) in 1966 to only around 5% (five percent) to 10% (ten percent) in the early 1970s. The New Order government also succeeded in uniting the nation and community groups and convincing them that economic and social development was the only way to improve the welfare of the Indonesian people.

c. Better human resources (hereinafter referred to as HR). With improved HR, the New Order government had the ability to formulate development programs and strategies with related policies, as well as the ability to manage the macroeconomy well.

d. The New Order government implemented an open political and economic system oriented towards the West. This was very helpful, especially in obtaining foreign loans, foreign investment, and technology and knowledge transfer; and

e. In addition to the oil boom, the global economic and political conditions during the New Order era, particularly after the end of the Vietnam War or the " " and even more so after the end of the Cold War, were far better than during the Old Order era.

However, the positive aspects discussed above do not mean that the New Order government was without flaws. Economic policies during the New Order era did result in rapid economic transformation and high economic growth, but they also came with high economic costs and fragile economic fundamentals. This can be seen, among other things, in the poor condition of the national banking sector and Indonesia's increasing dependence on foreign capital, including loans and imports. All of this ultimately led to a major economic crisis in Indonesia, which began with the crisis in the exchange rate of the rupiah against the US dollar in mid-1997⁴² .

In line with the economic system that existed during the New Order era, land management also underwent ideological changes. As with the direction of development of Indonesian-style socialism developed by Soekarno, it then moved towards capitalism and its offspring, namely the liberalization and privatization of land ownership and utilization. This can be seen in the fact that initially, the New Order government still maintained the role of state-owned enterprises in the ownership and utilization/management of land for business activities, particularly plantations and industry. Liberalization and privatization were not yet widely developed. Private companies that had been given a role were subject to fairly strict supervision, such as requirements for the amount of land granted to be adjusted to the equity capital or capital owned by the company. This was intended to prevent speculation in land ownership and prevent negative impacts on the community⁴³ .

However, in its development, slowly but surely, especially since the mid-1980s and increasingly intensively in the early 1990s, privatization and liberalization have become mainstream in land policy, even leading to the commodification of land, which has a negative impact on the protection of community land ownership. This development can be observed from several facts, including⁴⁴ :

a. The neglect or "freezing" of the land reform program as an instrument of land ownership redistribution. Freezing means that the land reform program is not implemented, even though the laws and regulations that formally govern it remain in force. This effort was further reinforced when the public began to perceive the land reform program as being linked to the banned Indonesian Communist Party.

b. The existence of freedom and competition for every person and legal entity to control and own land and to treat land as a commodity. Freedom to control and own land is evident in:

1) The lack of development of a policy restricting land ownership for yards, which according to Government Regulation in Lieu of Law No. 56 of 1960 concerning the Determination of Agricultural Land Area is mandated to be regulated.

⁴¹ Andi Ika Fahrenka and Zulkifli, *Op.cit.*, pp. 11-13.

⁴² *Ibid.*, p. 13.

⁴³ Nurhasan Ismail I, *Op.cit.*, pp. 7-8.

⁴⁴ *Ibid.*, pp. 8-10.

2) Legal entities have the freedom to own as much land as they want, even though this involves speculative control that is contrary to the principles of Article 6 of the Basic Agrarian Law. It was only in 1999, with Minister of Agrarian Affairs/Head of the National Land Agency Regulation No. 2 of 1999 concerning Location Permits, that restrictions were imposed, but the area covered is still quite large.

3) The maximum limit on agricultural land ownership stipulated in Law No. 56 of 1960 concerning the Determination of Agricultural Land Area has been ignored.

4) The entry of government agencies, either directly or through established State-Owned Enterprises/Regional-Owned Enterprises, to become new competitors in land control and utilization through Permanent Use Rights or Management Rights, which are then categorized as "State Property or Government Agency Property," outside the interests of establishing offices or outside the mission of public service. The freedom to make land a community asset can be observed from:

a) The freedom to buy and sell land as an object to obtain as much profit as possible from the land by ignoring the social function of land rights as mandated by Article 6 of the Basic Agrarian Law. This freedom is legally possible through the Decree of the Minister of Public Housing Number 11/KPTS/1994 concerning Guidelines for the Sale and Purchase of Apartment Units and the Decree of the Minister of Public Housing Number 9/KPTS/M/1995 concerning Guidelines for the Sale and Purchase of Houses.

b) Companies holding land use rights are permitted to transfer land management to other companies through a Management Contract or other forms. This practice has become customary as stipulated in Article 12 paragraph (2) of Government Regulation No. 40 of 1996 concerning Land Use Rights, Building Use Rights and Right of Use.

5) There has been a shift from a land policy that encourages equitable land ownership as a means of achieving prosperity for the people, towards a land policy that encourages the concentration of land ownership and utilization among a small group of subjects, especially large companies. This shift is in line with the logic of capitalist " , " namely that certain resources, including land, do not need to be distributed to as many people as possible, but rather controlled and utilized by certain subjects who have the ability to manage them, both in terms of capital and management and technological control. Through the concentration of land ownership and utilization by large-scale companies, it is hoped that prosperity will be evenly distributed through the availability of jobs and wages determined in the form of a "Regency/Provincial Minimum Wage" based on the Minimum Living Needs. Various policies have been developed to support the concentration of land ownership and utilization by large-scale companies, in this case in the form of ease of obtaining location permits, tax facilities, and including the neglect of traditional rights of local communities or customary law rights. Although there is already a policy on customary rights, namely Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 concerning Guidelines for Resolving Customary Rights Issues of Indigenous Peoples, it has not been followed up by local governments, so this popular policy has had no effect.

6) The ideologization of sacrifice by landowners for the sake of national or public interests. This means that landowners are asked to make sacrifices by relinquishing their land rights to the government in exchange for compensation determined by the government, even though this has a negative impact on the welfare of the landowners. This spirit is contained in the Minister of Home Affairs Regulation No. 15 of 1975 concerning Provisions on Land Acquisition Procedures and Presidential Decree No. 55 of 1993 concerning Land Acquisition for Development for the Public Interest.

This can also be seen in Article 14 of Law No. 1 of 1967 concerning Foreign Investment, which explains that, "For the purposes of foreign capital companies, land may be granted with building rights, business rights, and usage rights in accordance with applicable laws and regulations." In addition, the General Explanation of Law No. 6 of 1968 concerning Domestic Investment explains that:

"... In principle, foreigners are not allowed to do business with domestic capital, but considering the economic and social conditions in Indonesia, foreigners with capital need to be utilized by providing them with provisions and certainty on the basis of which they can work productively and beneficially for the entire Indonesian community. "

This is then further clarified in Article 1 of the General Explanation of Law No. 6 of 1968 concerning Domestic Investment, which states that:

"Domestic capital is defined as a productive resource of the Indonesian people that can be used for economic development in general. Domestic capital is capital that is part of the wealth of the Indonesian people, including rights and objects (movable and immovable), which can be set aside/provided to run a business/company. (Examples of such wealth include: land, buildings, timber in forests, and others).

This wealth can be owned by the State (Government) and the private sector. Wealth owned by the private sector can be further divided into:

- a. that owned by the national private sector (Indonesian citizens), both individuals and legal entities, including cooperatives;
- b. owned by foreign private entities (foreign citizens), both individuals and legal entities.

In addition, foreign payment instruments owned by the State and the national private sector that are set aside/provided for the Indonesian Investment Bank () to carry out its business in Indonesia are also included as domestic capital.

Based on the above, it can be seen that the correlation between economic policy and its implications for the shift in the concept of land ownership in Indonesia during the New Order era was an economic development policy that was more oriented towards economic growth, which preferred not to distribute land resources to as many people as possible,⁴⁵ but instead chose to concentrate land ownership in the hands of large-scale business actors, by providing opportunities for everyone to own land on the condition that they meet certain requirements related to achieving increased production as a form of contribution to the economic growth of the Republic of Indonesia.

Anyone who meets the specified requirements, including the ability to compete and behave efficiently and achieve success in increasing production, is given the opportunity to have land rights. This means that the distribution and granting of land rights is not directly aimed at certain groups, but everyone can obtain land rights if they meet the above requirements. According to the New Order's economic development policy, efforts to prosper the entire population did not have to be done by giving everyone land rights. Land was given to those who met the specified requirements, with the hope that they would develop business activities that would provide employment and the production needed by the entire population⁴⁶.

Therefore, as described above, the relationship between economic policy and its implications for the shift in the concept of land ownership in Indonesia during the New Order era is consistent, namely prioritizing economic growth over economic equality, which in this case is intertwined with land issues, namely the shift from the socialist values that were prioritized during the Old Order era to capitalism. with the liberalization and privatization of land rights becoming a priority in the New Order era. Although there were several laws and regulations that pointed towards equitable land ownership, these were set aside, so that the New Order era prioritized the interests of capital owners, enabling them to implement the concept of absolute land ownership rather than the agenda of land reform.

C. Indonesia's Economic Reform Policies and Their Implications for Agrarian Conflict

Bacharuddin Jusuf Habibie was the first president of the reform era. Since the monetary crisis that hit Indonesia in mid-1997 caused private companies to suffer significant losses, many companies found it difficult to fulfill their obligations to pay workers' salaries and wages. This situation became a serious problem because, on the one hand, companies suffered considerable losses and, on the other hand, workers demanded wage increases. It was very difficult for companies to meet the workers' demands for wage increases, so many companies took the step of reducing their workforce, resulting in layoffs. The economic condition worsened because at the end of 1997, the supply of nine basic commodities (sembako) in the market began to dwindle. This caused uncontrolled price increases. Hunger and food shortages began to plague the community. This was a mistake made by the New Order government, which aimed to turn the Republic of Indonesia into an industrialized country without considering the actual conditions of Indonesian society, which was agrarian and had a relatively low level of education. The impact of these problems was that the community became poor and the government's burden to boost the economy in order to improve the welfare of the people increased⁴⁷.

The steps taken by Bacharuddin Jusuf Habibie were to try to overcome the economic crisis and to run the government. President Bacharuddin Jusuf Habibie could not possibly do this alone without the help of his cabinet ministers. On May 22, 1998, President Bacharuddin Jusuf Habibie formed a new cabinet

⁴⁵ Nurhasan Ismail I, *Op.cit.*, p. 61.

⁴⁶ *Loc.cit.*

⁴⁷ Center for Law and Policy Studies, *5 Reasons to Reject Efforts to Restore the GBHN through Amendments to the 1945 Constitution*, available at <https://pshk.or.id/publikasi/siaran-pers/5-alasan-menolak-upaya-mengembalikan-gbhn-melalui-amendemen-uud-1945/>.

called the Development Reform Cabinet. The cabinet consisted of 16 (sixteen) ministers, who were drawn from the military (ABRI), the Functional Groups Party, the United Development Party, and the Indonesian Democratic Party. President Bacharuddin Jusuf Habibie focused his policies on strengthening and restoring the economy after the monetary crisis, where President Bacharuddin Jusuf Habibie began by restoring investment, trade, and performance in the banking and business sectors. During his administration, President Bacharuddin Jusuf Habibie produced at least 66 (sixty-six) laws, one of which clearly defined the direction of Indonesia's economy⁴⁸.

Several policies were issued in an effort to restore Indonesia's slumping economy, at least to provide relief from the problems that arose as a result of the monetary crisis of 1997-1998. One of the problems that arose as a result of the monetary crisis during the New Order era was the termination of employment by many small businesses that went bankrupt, which led to an increase in unemployment and crime rates. The increase in crime was caused by the poor economic conditions of the community, which led many people to choose quick ways to make a living for themselves and their families. President Bacharuddin Jusuf Habibie's policies were aimed at restoring Indonesia's shaken national economy while also addressing the problems that arose as complications of the monetary crisis. One of President Bacharuddin Jusuf Habibie's policies was to pass a law that encouraged efficiency in Indonesia's economic activities. Although the results were not significant, the population's economic growth, which had previously reached -7.7% (minus seven point seven percent), actually increased to 5% (five percent)⁴⁹. With this independence, it was hoped that Bank Indonesia would be able to become an institution that maintained monetary stability to encourage sustainable economic development. Another policy was to revamp the Indonesian Bank Restructuring Agency (IBRA) and the institution tasked with monitoring and resolving Indonesia's foreign debt. Other improvements in fiscal and monetary matters continued to be pursued as best as possible. In improving the national economy, President Bacharuddin Jusuf Habibie did several things, including recapitalizing banks and reconstructing the existing national economy⁵⁰.

Meanwhile, during the era of President Bacharuddin Jusuf Habibie, several policies regarding land management were issued, including Presidential Decree No. 48 of 1999 concerning the Policy and Legislation Review Team in the Context of Implementing Land Reform, which mandated the Minister of Justice and the State Minister of Agrarian Affairs/Head of the National Land Agency to lead a team to re-examine the policies and legislation related to the implementation of land reform.

There were two recommendations from the Review Team for Policies and Legislation in the Context of Implementing Land Reform⁵¹:

- 1) Reviewing legislation related to the management of agrarian resources/natural resources; and
- 2) Resolving legal overlaps related to the Basic Agrarian Law (UUPA). This was not implemented by President Bacharuddin Jusuf Habibie because the People's Consultative Assembly of the Republic of Indonesia rejected his accountability report as President.

Therefore, during Bacharuddin Jusuf Habibie's presidency, the relationship between economic policy and its implications for the shift in the concept of land ownership in Indonesia was such that there were not many regulations on land produced in response to the implementation of widespread agrarian problems and civil society demands for the implementation of land reform policies. During this relatively short period, President Bacharuddin Jusuf Habibie's administration was preoccupied with the transition period after President Soeharto's administration had ended, namely trying to overcome the economic crisis and run the government.

This was because, at the same time, an economic crisis hit the Asian region, including Indonesia. This crisis also led to a political crisis and a crisis of confidence in Indonesia. The worsening crisis prompted the Indonesian people to demand total reform⁵². In mid-1997, a monetary crisis arose, and the situation

⁴⁸ *Ibid.*, pp. 3-4.

⁴⁹ *Loc. cit.*

⁵⁰ *Loc. cit.*

⁵¹ Endang Pandamdari, "Strengthening Agrarian Reform for People's Prosperity in the Perspective of National Land Law" in *Nawasena Agraria Law Journal*, Volume 1 Number 1, 2023, p. 60.

⁵² Bacharuddin Jusuf Habibie, *Decisive Moments: Indonesia's Long Road to Democracy*, The Habibie Center, Jakarta, 2006, p. 370.

spiraled out of control, developing into a prolonged multidimensional crisis in various fields. The effects were devastating for the people⁵³.

Based on this, with the issuance of Presidential Decree No. 48 of 1999 concerning the Policy and Legislation Review Team in the Context of Implementing Land Reform, the implications of this policy on the land conflicts that occurred still did not provide an optimal and comprehensive solution. This is because there has not been enough time to properly implement the programs to be carried out and, in terms of priority, the era of President Bacharuddin Jusuf Habibie's administration gave priority to overcoming the economic crisis as soon as possible, in addition to containing policies with a broad spectrum, concerning the fields of politics, law, security, human rights, welfare, and various other issues that must be immediately addressed by the government⁵⁴.

At the beginning of the reform era led by President Abdurrahman Wahid, the general public, businesspeople, and investors, including foreign investors, had high hopes for President Abdurrahman Wahid's ability and sincerity in reviving the national economy and resolving all domestic issues inherited from the New Order regime, such as corruption, collusion, and nepotism (hereinafter referred to as KKN); the rule of law; human rights; the Trisakti and Semanggi I and II shootings; the role of the Indonesian Armed Forces (ABRI) in politics; and issues of disintegration and others⁵⁵.

In terms of the economy, compared to the previous year, in 1999 Indonesia's economic condition began to show signs of improvement. The growth rate began to be positive, although not far from 0% (zero percent), and in 2000, the process of Indonesia's economic recovery was even better, with a growth rate of almost 5% (five percent). In addition to the growth of Gross Domestic Product, the inflation rate and interest rates represented by Bank Indonesia Certificates were also low, reflecting that domestic monetary conditions had begun to stabilize⁵⁶.

However, the calmness of the people after Abdurrahman Wahid was elected president did not last long. President Abdurrahman Wahid began to show controversial attitudes and make controversial statements that confused business people. President Abdurrahman Wahid tended to be dictatorial, and corruption, collusion, and nepotism (KKN) in his circle became more intense, rather than decreasing, which was one of the goals of the reform movement. This meant that President Abdurrahman Wahid's regime, despite being called the Reform government in an era of democracy, was no different from the New Order regime. President Abdurrahman Wahid's attitude also caused a feud with the House of Representatives, which culminated in the issuance of an official warning to President Abdurrahman Wahid through Memoranda I and II.⁵⁷ With the issuance of Memorandum II, President Abdurrahman Wahid was threatened with removal from his position as president of the Republic of Indonesia if the proposal to accelerate the Special Session of the People's Consultative Assembly of the Republic of Indonesia was implemented in August 2001.

During the administration of President Abdurrahman Wahid, practically none of the domestic problems were resolved satisfactorily. Various social unrest with nuances of disintegration and sectarianism continued, such as the Aceh rebellion, the Maluku conflict, and ethnic clashes in Central Kalimantan. Not to mention the increasingly intense labor demonstrations that reflected their growing dissatisfaction with the domestic economic conditions, as well as the escalating political elite conflicts. In addition, the relationship between the Indonesian government under President Abdurrahman Wahid and the IMF was also poor, mainly due to issues such as the amendment of Law No. 23 of 1999 concerning Bank Indonesia, the implementation of regional autonomy, particularly regarding the freedom of regions to borrow money from abroad, and the revision of the 2001 State Revenue and Expenditure Budget, the implementation of which continued to be delayed. The failure to complete the revision resulted in the IMF postponing its assistance to the Indonesian government, even though the national economy at that time was highly dependent on IMF assistance. In addition, Indonesia was threatened with bankruptcy by the Paris Club (an informal group of creditor countries tasked with resolving the debt problems of developing countries), because it was clear that Indonesia, with its deteriorating economy and ballooning government deficit, would be unable to repay its debts, most of which were due in 2002. In fact, the

⁵³ *Ibid.*, p. 5.

⁵⁴ *Ibid.*, p. 313.

⁵⁵ Andi Ika Fahrika and Zulkifli, *Op.cit.*, p. 19

⁵⁶ *Ibid.*, p. 20.

⁵⁷ *Loc. cit.*

World Bank also threatened to stop new loans if the IMF agreement with the Indonesian government stalled⁵⁸.

The increasing complexity of economic problems was demonstrated by several economic indicators, such as the movement of the Composite Stock Price Index (hereinafter referred to as IHSG), which showed a negative economic growth trend. During this period, the IHSG fell by more than 300 (three hundred) points, caused by greater selling than buying in domestic stock trading⁵⁹. Political and social instability, which did not subside during the administration of President Abdurrahman Wahid, increased Indonesia's country risk. This was compounded by the government's poor relationship with the IMF, which made business actors, including foreign investors, reluctant to do business or invest in Indonesia. As a result, economic conditions during President Abdurrahman Wahid's term tended to be worse than during President Bacharuddin Jusuf Habibie's administration. In fact, the international government agency Moody's Investor Service reported that Indonesia's country risk had worsened. Although several macroeconomic indicators had improved, concerns about the political situation and other rating agencies, such as Standard & Poor's, downgraded Indonesia's long-term outlook from stable to negative⁶⁰.

Meanwhile, regarding land management, President Abdurrahman Wahid was committed to resolving the agrarian issues that arose during his administration. Among them is President Abdurrahman Wahid's statement that 40% (forty percent) of the land controlled by plantations with Cultivation Rights (hereinafter referred to as HGU) is the result of land grabbing from the people, so that the plantation land must be returned to the people. Therefore, when the HGU expired, President Abdurrahman Wahid called for the land to be redistributed to the people⁶¹.

In relation to this, the return of plantation land belonging to PT Perkebunan Nusantara (hereinafter referred to as PTPN), which was originally obtained from clearing forests and leasing land from communities around the plantations, has not in fact been returned to the communities after the lease period expired. The simple reason for this is that the community cannot prove ownership of the land through ownership certificates due to the Domein Verklaring policy, the implementation of the Regering Reglements 1854 and the Agrarische Wet 1870 by the Dutch Colonial Government at that time⁶².

In addition, President Abdurrahman Wahid also drew attention to the existence of several forests that are still managed for their forestry function, but the crops grown there are no longer natural forests, but rather industrial forests characterized by monoculture crops such as sengon, pine, mahogany, pine, teak, and the like. All of these types of forestry are part of the legacy of the Dutch colonial system, aimed at facilitating industrial development.

However, not much was achieved in terms of resolving agrarian issues through land management policies during Abdurrahman Wahid's presidency. The same applies to the relationship between economic policy and its implications for shifts in the concept of land ownership in Indonesia. This was because President Abdurrahman Wahid's administration focused more on international relations and saving the economy, which had collapsed due to the 1998 crisis⁶³. This was also due to President Abdurrahman Wahid's short term in office, which meant that he was unable to run his administration optimally, resulting in the land conflicts that occurred not being resolved in an optimal and comprehensive manner.

After President Abdurrahman Wahid stepped down, Megawati Soekarnoputri became Indonesia's fifth president. Since her inauguration, President Megawati Soekarnoputri's administration has sought to create conducive conditions with the aim of rebuilding the economy, which had been devastated by the crisis and the economic and political turmoil from 1998 to 2001. The four main problems in the economic sector were maturing debt, insufficient state coffers, weak purchasing power among the people,

⁵⁸ *Loc. cit.*

⁵⁹ Muhammad Amir Dzaki *et al*, *Op.cit.*, p. 5.

⁶⁰ Andi Ika Fahrika and Zulkifli, *Op.cit.*, p. 21.

⁶¹ Muhammad Syamsudin, *Gus Dur and Agrarian Reform in Indonesia*, available at <https://www.nu.or.id/opini/gus-dur-dan-reforma-agraria-di-indonesia-u0ocv>.

⁶² Muhammad Syamsudin, *The Purpose of Agrarian Reform in Gus Dur's Eyes*, found at <https://nu.or.id/opini/tujuan-reforma-agraria-di-mata-gus-dur-Qqsay>.

⁶³ Setiyo Utomo, "The Journey of Agrarian Reform as Part of the State Constitution's Mandate" in *Veritas et Justitia* Journal, Volume 7 Number 1, 2021, p. 121.

and restoring foreign confidence in Indonesia. These four problems required immediate and simultaneous solutions if Indonesia was to avoid falling into a debt crisis⁶⁴.

The inflation faced by President Megawati Soekarnoputri's administration was also very severe. The inflation rate in July 2001 reached 7.7% (seven point seven percent). During the era of President Abdurrahman Wahid, it was still around 2% (two percent). In fact, the annual inflation rate during the period July 2000 - July 2001 reached 13.5% (thirteen point five percent). This development was very worrying, because during the revised 2001 State Revenue and Expenditure Budget, the government had targeted inflation in 2001 to be only 9.4% (nine point four percent)⁶⁵.

At the beginning of President Megawati Soekarnoputri's administration, Indonesia had a debt of USD 150.8 billion, inherited from the New Order. The value of this debt was more than 90% (ninety percent) of Indonesia's Gross Domestic Product, meaning that Indonesia did not have access to international money and capital markets. As a leader, President Megawati Soekarnoputri participated in the Paris Club and London Club negotiations in an effort to renegotiate Indonesia's debts at that time. As a result, President Megawati Soekarnoputri successfully requested a deferral of USD 5.8 billion in debt payments at the Paris Club meeting on April 12, 2002⁶⁶.

In 2002, Indonesia's economic condition was slightly better than in 2001, even though it was shaken by the Bali bombings. According to IMF estimates, Indonesia's real gross domestic product growth in 2003 was quite optimistic at 4.5% (four point five percent) from the previous estimate of 3.5% (three point five percent). In terms of banking, the banking sector has been the biggest obstacle to Indonesia's economic recovery since the 1997 crisis. Indonesian banks ranked lowest in terms of standards and quality in the same year. Indonesian banks are still in poor shape, but not the most vulnerable when compared to India and South Korea. The level of vulnerability is seen from the increase in capital compared to risk-weighted assets, especially with the recovery of banking credit distribution activities in Indonesia in the surveyed regions⁶⁷.

The low economic growth of Indonesia during the administration of President Megawati Soekarnoputri was caused by the underdevelopment of private investment, both domestic and foreign. Weak investment was caused by the continuing political and social instability and the lack of legal certainty in the country. These conditions caused domestic investors to postpone their plans to invest domestically⁶⁸.

In addition, President Megawati Soekarnoputri also issued a policy called the "White Paper" in 2003, with the aim of ending the economic crisis recovery cooperation with the International Monetary Fund (IMF)⁶⁹. Then, to pay Indonesia's maturing debts at that time, President Megawati Soekarnoputri also pursued several policies, including selling several state assets to foreign parties, one of which was selling PT Indosat and PT Telkomsel, selling natural gas to China, including PT Pertamina tanker ships, Bank Central Asia, Bank International Indonesia and several other important assets⁷⁰.

This was then intertwined with the enactment of Law Number 25 of 2004 concerning the National Development Planning System during the era of President Megawati Soekarnoputri's administration. This law was issued in response to the 1945 Constitution of the Republic of Indonesia, which is the constitutional basis for the administration of the state. In a relatively short period of time (1999-2002), it underwent four amendments. With the enactment of the amendments to the 1945 Constitution of the Republic of Indonesia, there have been changes in development management, namely:

- a. Strengthening the position of the legislative body in the preparation of the State Budget (APBN);
- b. The elimination of the Broad Outlines of State Policy (GBHN) as a guideline for the formulation of national development plans; and

⁶⁴ Diah Permata Megawati Setiawati Soekarnoputri, "President Megawati's Leadership in the Era of Multidimensional Crisis, 2001-2004" in the Journal of Defense & National Security, Volume 11 Number 1, 2021, p. 55.

⁶⁵ Muhammad Amir Dzaki *et al*, *Op.cit.*, p. 5.

⁶⁶ Diah Permata Megawati Setiawati Soekarnoputri, *Op.cit.*, p. 55.

⁶⁷ Muhammad Amir Dzaki *et al*, *Op.cit.*, p. 5.

⁶⁸ *Loc. cit.*

⁶⁹ Sidarta Gautama, *Megawati Soekarnoputri in the Midst of Fierce Rivalry Among Presidential Candidates*, Agrarian Resource Centre, Rineka Cipta, Jakarta, 2004, pp. 74-75.

⁷⁰ Andi Lis Pratiwi, "Megawati Soekarnoputri, Indonesia's Female President (2001-2004)" in *Pattingalloang Journal*, Volume 2 Number 1, 2015, p. 10.

c. Strengthening regional autonomy and decentralization of government in the Unitary State of the Republic of Indonesia.

The GBHN, which was established by the People's Consultative Assembly (MPR), served as the basis for national development planning, as had been implemented in state administration practice up to that point. This MPR decree became the legal basis for the President to elaborate on it in the form of the Repelita (Five-Year Development Plan), taking into serious consideration the recommendations of the House of Representatives (DPR), after which the government and the DPR jointly formulated the APBN. The amendment to the 1945 Constitution of the Republic of Indonesia, which stipulates that the President is elected directly by the people and that there is no GBHN as a guideline for the President to formulate development plans, requires further regulation for the national development planning process. As is well known, the National Development Planning System () is a unified planning procedure for producing long-term, medium-term, and annual development plans implemented by government officials at the central and regional levels with the involvement of the community.

With these regulations, the economic policies adopted during the era of President Megawati Soekarnoputri also underwent adjustments. The following are several policies regarding land regulations issued during the era of President Megawati Soekarnoputri, including:

- a. Decree of the People's Consultative Assembly Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management; and
- b. Presidential Decree No. 34 of 2003 concerning National Policy in the Field of Land.

Therefore, during President Megawati Soekarnoputri's term, the relationship between economic policy and its implications for shifts in the concept of land ownership in Indonesia was more focused on efforts to overcome the economic crisis and to run a better government than in previous periods. This was because President Megawati Soekarnoputri's administration inherited an Indonesian economy that was in much worse shape than that of President Abdurrahman Wahid's administration. The inflation faced during President Megawati Soekarnoputri's leadership was also very severe. The low economic growth in Indonesia during President Megawati Soekarnoputri's administration was caused, among other things, by the underdevelopment of private investors, both domestic and foreign, as well as the exchange rate of the rupiah⁷¹.

Based on this, the mandate for agrarian reform, as outlined in the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX/MPR/2001 concerning Agrarian Reform and Natural Resource Management and Presidential Decree Number 34 of 2003 concerning National Policy in the Field of Land, did not experience significant progress during the era of President Megawati Soekarnoputri. This is because there has not been enough time to properly implement the programs to be carried out and, in terms of priority, the administration of President Megawati Soekarnoputri gave priority to immediately addressing the main economic problems that occurred at that time. Therefore, the implications of the issuance of these policies on the land conflicts that occurred and spread have not yet provided an optimal and comprehensive solution. Furthermore, although there were several laws and regulations aimed at equalizing land ownership, these were set aside, so that during the era of President Megawati Soekarnoputri, priority was given to the interests of capital owners, in order to implement the concept of absolute land ownership, as can be seen in the granting of authority to regency/city governments in the field of land, such as the granting of location permits; land acquisition for development purposes; and permits to clear land.

During the administration of President Susilo Bambang Yudhoyono, there were three major changes in the political and economic landscape that influenced economic liberalization and reform efforts and practices. First, there was a shift in authority from the president to parliament. Unlike during the Soeharto era, presidential power began to be reduced, and parliament had greater power and influence in determining the direction of certain economic policies or reforms. This was particularly evident in President Susilo Bambang Yudhoyono, who appeared less bold in carrying out necessary but unpopular economic reforms for fear of suffering the same fate as the two previous presidents who were impeached by the House of Representatives. Second, key ministers related to the economy are now political positions, and are increasingly drawn from various political parties (known as the Rainbow Cabinet during President Susilo Bambang Yudhoyono's first term). This was done in an effort to gain political

⁷¹ Andi Lis Pratiwi, "Megawati Soekarnoputri, Indonesia's First Female President (2001-2004)" in *Pattinjalloang Journal*, Volume 2 Number 1, 2015, p. 9.

support from parliament. Third, decentralization and regional autonomy have transferred many political and economic management responsibilities to regional governments⁷².

Despite receiving support from rising global commodity prices and abundant global liquidity, President Susilo Bambang Yudhoyono's administration can be said to have been quite successful in managing macroeconomic stability (except for the issue of fuel subsidies) and navigating the impact of the 2008 global financial crisis, as well as recording moderate economic growth. However, President Susilo Bambang Yudhoyono appears to have been less successful in implementing other economic reforms, such as improving the investment climate, developing infrastructure, addressing inequality, the growing trend of protectionism, and the failure to carry out tax reforms, which has resulted in a low ratio of tax revenue to gross domestic product. It is unfortunate that President Susilo Bambang Yudhoyono's lack of courage to use his political capital to push for significant economic reforms (especially during his second term) was one of the key factors that caused Indonesia's economic growth to slow down since 2010⁷³. Then, after the enactment of Law No. 25 of 2004 on the National Development Planning System during the administration of President Megawati Soekarnoputri, specifically during the era of President Susilo Bambang Yudhoyono, this legislation, which is a unified set of procedures for development planning to produce long-term, medium-term, and annual development plans implemented by state and community actors at the central and regional levels, was then implemented more broadly.

This is as stated in Article 13 paragraph (1) of Law Number 25 of 2004 concerning the National Development Planning System, which states that "the National Long-Term Development Plan (RPJP) is stipulated by law". Therefore, during the era of President Susilo Bambang Yudhoyono, Law Number 17 of 2007 concerning the 2005-2025 National Long-Term Development Plan was issued. This law provides the direction and priorities for comprehensive development to be carried out in stages to realize a just and prosperous society as mandated by the 1945 Constitution of the Republic of Indonesia.

Meanwhile, during the era of President Susilo Bambang Yudhoyono, several policies regarding land management were issued, including the implementation of land reform with a focus on re-distributing land. Unlike the first period, agrarian reform in the second period used the terms asset reform and access reform in the National Agrarian Reform Program (hereinafter referred to as PPAN) as well as policies on the control and utilization of abandoned land⁷⁴.

The land management policies of President Susilo Bambang Yudhoyono's era included Government Regulation No. 11 of 2010 concerning the Control and Utilization of Abandoned Land. Land abandonment has increasingly caused social, economic, and welfare disparities among the people and has degraded the quality of the environment, thus necessitating the re-regulation of the control and utilization of abandoned land. Based on Articles 27, 34, and 40 of the Basic Agrarian Law (UUPA), which state that land rights are revoked, among other things, due to abandonment. This is the objective and background for the issuance of Government Regulation No. 11 of 2010 concerning the Control and Utilization of Abandoned Land. This Government Regulation also explains the mechanism for determining abandoned land, which begins with identification and research, followed by a warning addressed to the subject holding the land rights, and the determination of abandoned land, until the final activity, which is the utilization of abandoned land.

The Government Regulation explains that the control, ownership, use, and utilization of former abandoned land can be utilized for the benefit of the community and the state through agrarian reform programs and state strategic programs, in order to create fairer control and ownership of land. The government prohibits the issuance of any form of permit/decision/letter regarding land that has been categorized as abandoned land. With this affirmation, land that has been categorized as abandoned land can be utilized and used by the community.

The Government Regulation contains a positive spirit as a step to encourage agrarian reform. Unfortunately, however, this regulation does not cover land controlled by the government, either directly or indirectly, which has or has not been designated as state/regional property but is not being used in accordance with the circumstances or nature and purpose of the rights granted, as it is not included in

⁷² Haryo Aswicahyono and David Christian, *The Journey of Economic Reform in Indonesia 1997-2016*, Centre for Strategic and International Studies, Jakarta, 2017, p. 7.

⁷³ *Ibid.*, p. 8.

⁷⁴ Rayyan Dimas Sutadi *et al.*, "Agrarian Reform Policy in Indonesia (A Comparative Study of Three Implementation Periods: the Old Order, the New Order, and the Reform Order)" in *Tunas Agraria Journal*, Volume 1 Number 1, 2018, p. 208.

the objects of abandoned land control⁷⁵. This certainly creates injustice for the people, as the objects of abandoned land regulation are only targeted at the people.

In addition, the agrarian reform policy promoted by the regime of President Susilo Bambang Yudhoyono, which is to strengthen the target of redistributing 8-9 million hectares of land sourced from the Agrarian Reform Land Object (hereinafter referred to as TORA) in the form of forest areas, HGU, abandoned land and other former land rights, but in practice, President Susilo Bambang Yudhoyono was unable to control it⁷⁶. During President Susilo Bambang Yudhoyono's two terms in office, the focus was only on administrative issues with policies on asset legalization and land redistribution to the community. After the enactment of Law No. 2 of 2012 concerning Land Acquisition for Development for the Public Interest (Kepentingan Umum), there was a growing need for land acquisition in the context of development, particularly for development projects aimed at resolving agrarian conflicts. However, these efforts were also unable to address the rampant agrarian conflicts in the regions caused by the neglect of policies from previous periods⁷⁷.

Then, during the era of President Susilo Bambang Yudhoyono, although the terminology and policies of agrarian reform began to be included in state documents, the draft Government Regulation on Agrarian Reform that had been promised was never signed by President Susilo Bambang Yudhoyono until the end of his 10-year term⁷⁸. This caused the implementation of agrarian reform during the era of President Susilo Bambang Yudhoyono to stall and tend to remain at a standstill. Towards the end of President Susilo Bambang Yudhoyono's administration, the issue of agrarian reform faded along with the people's hopes for the state to carry out agrarian reform⁷⁹.

If we examine the results of "development" in the field of agrarian and agricultural resources since President Susilo Bambang Yudhoyono took office, we can conclude that the people's access to and control over agrarian resources or natural resources has increasingly disappeared. In short, throughout President Susilo Bambang Yudhoyono's reign, the people, especially farmers, women, and indigenous peoples, have increasingly lost their land and water⁸⁰. Several policies that prioritize land and natural resources for large-scale entrepreneurs, both foreign and domestic, such as, include: a) Law Number 25 of 2007 concerning Investment; b) Law Number 26 of 2007 concerning Spatial Planning; c) Law No. 27 of 2007 concerning Coastal Zone and Small Islands Management; d) Law No. 4 of 2009 concerning Mineral and Coal Mining; and e) Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, all of which are framed within the Master Plan for the Acceleration and Expansion of Indonesia's Economic Development (hereinafter referred to as MP3EI), have been running smoothly and have resulted in a very alarming structure of agrarian inequality. This is because, on the one hand, the people have been deprived of their rights to land and water, while on the other hand, corporate control over agrarian resources has been expanded⁸¹.

It is noted that during the second term of President Susilo Bambang Yudhoyono, specifically before the end of his term (2009-2013), there was a 314% (three hundred and fourteen percent) increase in the number of conflicts, or three times as many, when compared to 2009. There was an increase in the area of conflict in 2013 by 861% (eight hundred and sixty-one percent) compared to 2009. The number of households involved in conflicts in 2013 also increased by 1,744% (one thousand seven hundred and forty-four percent) compared to 2009. This could have happened because during President Susilo Bambang Yudhoyono's era, priority for land and water was not given to the people, but to large-scale entrepreneurs or investors⁸².

⁷⁵ See Article 13 of Government Regulation No. 11 of 2010 concerning the Control and Utilization of Abandoned Land.

⁷⁶ M Nazir Salim and Westi Utami, *Agrarian Reform, Fulfilling the Constitutional Mandate: Agrarian Reform Policy and the Debate on Land Subject to Agrarian Reform*, STPN Press, Yogyakarta, 2020, p. 121.

⁷⁷ Widiyanto, "Portrait of Agrarian Conflict in Indonesia" in BHUMI: Journal of Agrarian and Land Affairs, Volume 1 Number 37, 2013, pp. 15-27.

⁷⁸ Agrarian Reform Consortium, *The Future of Agrarian Reform Beyond the Political Year*, Agrarian Reform Consortium, Jakarta, 2018 (hereinafter referred to as Agrarian Reform Consortium I), p. 14.

⁷⁹ M Nazir Salim and Westi Utami, *Op.cit.*, pp. 60-61.

⁸⁰ Agrarian Reform Consortium, *2013 Year-End Report: The Legacy of Agrarian Problems under SBY's Rule*, Agrarian Reform Consortium, Jakarta, 2014 (hereinafter referred to as Agrarian Reform Consortium II), p. 1.

⁸¹ *Loc. cit.*

⁸² *Ibid.*, pp. 5-6.

Based on these explanations, during President Susilo Bambang Yudhoyono's term, several land management policies were produced in response to the implementation of agrarian issues, but they still did not provide an optimal and comprehensive solution to the land conflicts that occurred. This was because the spirit of capitalistic, liberal, and competitive policies remained unchanged. Philosophically, the main problem with agrarian policy in Indonesia is that agrarian law prioritizes the wealth of natural resources, especially land, rather than the greatest prosperity of the people as mandated by the 1945 Constitution of the Republic of Indonesia.

In fact, the process of formulating agrarian policies is largely driven by the interests of large capitalists and international financial institutions. For example, Law No. 2 of 2012 on Land Acquisition for Development for Public Interest was supported by the Asian Development Bank (hereinafter referred to as ADB) in order to facilitate debt for infrastructure projects. On the other hand, the main technical implementation problem is the overlap of laws and regulations. At a minimum, there are: a) 12 (twelve) overlapping laws; b) 48 (forty-eight) Presidential Regulations; c) 22 (twenty-two) Presidential Decrees; d) 4 (four) Presidential Instructions; and e) 496 (four hundred ninety-six) Regulations/Decisions/Circular Letters and Instructions from State Ministers/Heads of the National Land Agency governing agrarian issues⁸³.

This has resulted in various ministries or institutions having authority over natural resources without coordination, leading to overlapping policies for a given location. This is exacerbated by the behavior of bureaucrats who are predominantly rent seekers through the various permits they issue. As a result, it is the people who are the main victims of the various policies issued by public officials, because these policies are in areas under their management that are not protected and recognized by the state⁸⁴. Therefore, during the era of President Susilo Bambang Yudhoyono's administration, the relationship between economic policy and its implications for the shift in the concept of land ownership in Indonesia was evident and in line with the choice of agrarian policies and development models that encouraged the liberalization of agrarian resources for large-scale investment.

a. The Administration of President Joko Widodo (2014-2024)

During President Joko Widodo's first term, the government focused on improving infrastructure. During this period, President Joko Widodo's administration sought to achieve equitable development across Indonesia, rather than concentrating it solely on the island of Java. This was reflected in the National Strategic Projects, which were considered important by the government in supporting economic growth, equitable development, and improving the welfare of the people. The National Strategic Projects can be seen in President Joko Widodo's policies on the construction of the Cikopo-Palimanan toll road; the construction of the Integrated Mass Rapid Transit in Jakarta; Light Rail Transit in Palembang and Jakarta; the construction of airports, ports; and irrigation dams. One of the advantages achieved through the implementation of these policies is the improvement of the economy in Indonesian regions, the ability to control commodity prices, and the smooth distribution of logistics due to improved infrastructure⁸⁵.

At the beginning of his administration, specifically in September 2015, President Joko Widodo launched Economic Package Volume 1 with the aim of stimulating the Indonesian economy⁸⁶. In general, the entire economic policy package provides stimulus for the economy in various sectors. President Joko Widodo's measures were taken to overcome economic sluggishness through: (a) macroeconomic stabilization through fiscal and monetary policy measures in coordination with Bank Indonesia and the Financial Services Authority; (b) driving the real economy through deregulation, debureaucratization, and stimulating the real sector; and (c) protecting the weak economy and driving the rural economy. The focus of the policy package is to improve industrial competitiveness by reducing bureaucratic red tape ()

⁸³ *Ibid.*, pp. 8-9.

⁸⁴ *Ibid.*, p. 9.

⁸⁵ Tsurayya Shafa Kamila, "Comparison of Government Policies During Jokowi's First and Second Terms of Office from a Utilitarian Theory Perspective" in *Hakim: Journal of Law and Social Sciences*, Volume 3 Number 1, 2024, p. 103.

⁸⁶ Bilmar Parhusip and Windraty Ariane Siallagan, "Economic Policy Package Volume 1: Literature Review" in *Journal of Development and Public Administration*, Volume 3 Number 1, 2021, pp. 87-89.

and removing several business regulations, as well as facilitating the acquisition of land and banking licenses⁽⁸⁷⁾.

Meanwhile, President Joko Widodo's second term focuses on developing and improving Indonesia's human resources capacity. The goal is to be able to compete with other countries. However, infrastructure development programs such as the relocation of the capital city are still continuing alongside this, despite experiencing slight delays. During this period, government plans and programs underwent changes due to the Covid-19 health emergency. However, these obstacles were overcome through the simplification of regulations, bureaucracy, and economic transformation. During this pandemic, economic sectors such as micro, small, and medium enterprises were prioritized and shifted to using digital systems. This was a momentum for economic change to become better and avoid decline due to the pandemic. One of the policies issued to improve the welfare of the people was the government's policy of simplifying business licensing, forming a Covid-19 Handling and National Economic Recovery Committee, and providing tourism stimulus⁸⁸.

In 2021, the government issued a policy to simplify business licensing in the form of risk-based business licensing. As the basis for implementing this policy, Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing was enacted. Through this policy, the Government hopes that the issuance of business licenses will become more effective, efficient, and simple, which is then integrated with the enactment of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law⁸⁹.

Meanwhile, during President Joko Widodo's era, there have been policies on land management in response to agrarian issues, but these have not provided an optimal and comprehensive solution to the land conflicts that have arisen. This is due to the influence of capitalist, liberal, and competitive policies that have not changed, namely President Joko Widodo's focus on inward-looking policies, particularly strengthening the economy and infrastructure⁹⁰.

This can be seen in the strengthening of the concept of land as a commodity. To guarantee land security, the government created a new institutional concept called the "Land Bank." This idea was previously included in the draft Land Law in 2019, but it was rejected and successfully blocked by the #ReformasiDikorupsi mass movement. However, suddenly, when the Job Creation Law was discussed and passed in 2020, the idea of the Land Bank was reintroduced in the draft (Article 127), which was then specifically regulated through Government Regulation Number 64 of 2021 concerning the Land Bank Agency, whose existence is defined as a special agency (*sui generis*) to manage land. Although it is mixed up with agrarian reform interests, the Minister of ATR/BPN has openly stated that the Land Bank aims to facilitate investment and provide incentives to entrepreneurs in the form of cheap land leases. The government has long shown the urgency of the Land Bank as an alternative to land management, a form of renewal of development from global capitalist countries, from previously using land consolidation to land banking, whose main function is to improve the efficiency of the land market. The institutionalization of business interests under the guise of a public agency⁹¹.

In addition to the Land Bank, there is also Land Tenure Rights (hereinafter referred to as HPL), which are accommodated through the Job Creation Law (Article 136), an authority granted by the state to certain legal entities to manage state land. Its explicit meaning differs from the management rights stipulated in the Basic Agrarian Law (UUPA). In the UUPA, there is no norm that explicitly mentions HPL, but rather that management rights are entirely under the domain of the state. When viewed in the general explanation of the UUPA, the management rights referred to are a representation of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, in which the state is not the owner of the land, but only acts as the highest authority as the governing body that regulates land use. Thus, it can be interpreted that management rights are part of the state's control over matters relating to the

⁸⁷ Bilmar Parhusip and Windraty Ariane Siallagan, *Op.cit.*, p. 87.

⁸⁸ Tsurayya Shafa Kamila, *Op.cit.*, p. 104.

⁸⁹ *Loc. cit.*

⁹⁰ Aji Widiatmaja and Ulul Albab, "Indonesia in the Era of Susilo Bambang Yudhoyono (SBY) and Joko Widodo: Foreign Policy Amid Regional Strategic Dynamics" in *Politica Journal*, Volume 10 Number 1, 2019, p. 79.

⁹¹ Ali Fikri Hamdhani and Shinta Hadiyantina, "Land for the Market: Legal Neoliberalism in the Agrarian Reform of the Joko Widodo Regime" in *Tunas Agraria Journal*, Volume 8 Number 1, 2025, pp. 85-86.

public interest. This explanation is very different from the HPL after the enactment of the Job Creation Law, which mentions the HPL with the intention of being able to collaborate with third parties. This means that there has been a shift in the orientation of management rights from the previous public nature through the UUPA to being able to be utilized for private purposes through the Job Creation Law. This is similar to the *domein verklaring* during the colonial period, when state authorities controlled land but used it for private interests⁹².

Both the Land Bank and HPL share the spirit of neoliberal logic, which widens the gap in land ownership inequality. In some cases, it also exacerbates agrarian conflicts, one example being the case in Batulawang Village, Cianjur, West Java. Land that is designated as a Priority Location for Agrarian Reform (hereinafter referred to as LPRA) for conflict resolution and should be redistributed to the people because it was formerly HGU, but the presence of the Land Bank and through HPL claims, has actually exacerbated conflicts and benefited private companies. The period of both shows the trajectory of commodification of agrarian resources so quickly and massively. President Joko Widodo's regime has set aside the UUPA as a guideline for national legal and agrarian policy, instead using the Job Creation Law, which in many ways contradicts the spirit of agrarian reform. With the Job Creation Law, President Joko Widodo has opened the floodgates to investment in many sectors, including its relationship with agrarian reform, which is increasingly deviating from its original purpose.⁹³

In addition, Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration contains provisions regarding the right to receive first priority or preference based on the order of recipients of land rights. This right is referred to as Priority Rights. Provisions regarding Priority Rights can be found in Article 21 paragraph (3), Article 37 paragraph (4) and Article 52 paragraph (5) of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration, which essentially stipulates that former rights holders may be given priority over land directly controlled by the state if all of the following requirements are met:

- 1) The land is still being cultivated and utilized properly in accordance with the circumstances, nature, and purpose of the granting of rights;
- 2) The requirements for granting rights have been properly fulfilled by the rights holder;
- 3) The rights holder still meets the requirements as a rights holder;
- 4) The land is still in accordance with the spatial plan;
- 5) Not used and/or planned for public purposes;
- 6) Natural resources and the environment; and
- 7) The condition of the land and the surrounding community.

Such arrangements show that the regulations do not lead to land redistribution as intended by the spirit of agrarian reform. Instead, they give opportunities back to rights holders after they have occupied and utilized the land for a very long time, along with the right to extend and renew land rights (), in this case HGU, HGB, and Hak Pakai.

In connection with this, the following is a list of legal products and their derivatives created during the era of President Joko Widodo, related to the agrarian sector, which have accelerated the seizure of people's land and worsened agrarian reform, including:

- 1) Government Regulation No. 64 of 2021 concerning the Land Bank Agency;
- 2) Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration;
- 3) Government Regulation No. 19 of 2021 concerning the Implementation of Land Acquisition for Public Interest Development;
- 4) Government Regulation No. 20 of 2021 concerning the Control of Abandoned Areas and Land;
- 5) Government Regulation No. 43 of 2021 concerning the Settlement of Discrepancies in Spatial Planning, Forest Areas, Permits, and/or Land Rights;
- 6) Government Regulation No. 23 of 2021 concerning Forestry Management;
- 7) Government Regulation No. 40 of 2021 concerning the Implementation of Special Economic Zones; and
- 8) Government Regulation No. 42 of 2021 concerning Facilitation of National Strategic Projects.

⁹² *Ibid.*, p. 86.

⁹³ *Loc.cit.*

Looking back at President Joko Widodo's policies over the past decade, particularly in the field of agrarian and agricultural resources, it can be concluded that the current regime is merely an extension of President Susilo Bambang Yudhoyono's administration. There have been no meaningful fundamental changes, as exploitative practices and the seizure of people's land remain the approach used. Instead of being strengthened and becoming more sovereign, the people's rights to agrarian resources are becoming weaker and even disappearing. Farmers, fishermen, women, indigenous peoples, rural and urban communities are increasingly being displaced from their land and living spaces. Unfortunately, these failures have been drowned out by the hustle and bustle of electoral political contests that have been taking place⁹⁴.

This is contrary to the vision, mission, and work program outlined in President Joko Widodo's document known as *Nawa Cita*. Specifically, point 5 states that President Joko Widodo will "improve the welfare of the people through the 'Indonesia Kerja' and 'Indonesia Sejahtera' programs by promoting land reform and a program to distribute 9 million hectares of land."⁹⁵ However, the reality is quite different from what is happening in society.

This is due to the escalation of agrarian conflicts and violence, which continue to increase. The tragedies in Rempang and Air Bangis in 2024 reflect how the state operates to facilitate investment interests. How the state repressively approaches the people, evicting them from the villages and hamlets they have long occupied. Full of a track record of human rights violations, synonymous with violence and the destruction of the people's sovereignty over their land. All of this is carried out under the guise of a national strategic narrative cloaked in law that has been driven by capital. These indiscriminate operations are reminiscent of the Kertajati tragedy, where the government recklessly evicted farmers in 11 villages, which were the food barns of West Java, just to build an airport that is now deserted. This is a manifestation of the Joko Widodo administration's lack of seriousness in implementing agrarian reform⁹⁶.

Under President Joko Widodo's administration, the agrarian reform policy as stipulated in Presidential Regulation No. 86 of 2018 concerning Agrarian Reform, which was later amended in Presidential Regulation No. 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform, has not been aimed at restructuring the unfair agrarian system. but rather emphasize the legalization of assets through systematic and comprehensive land registration (hereinafter referred to as PTSL), the redistribution of abandoned land, and the release of forest areas⁹⁷.

The Agricultural Census conducted by the Central Statistics Agency in 2023 further strengthens these suspicions and doubts. This is because the number of smallholder farmers has increased compared to a decade ago. Wouldn't the number of smallholder farmers decrease if President Joko Widodo truly implemented agrarian reform in a consistent and effective manner? In terms of agrarian reform policy and implementation, we have witnessed a series of deviations and liberalization of agrarian policy, despite widespread protests and rejection from many circles. The government continues to force these measures and silence those who speak out in criticism⁹⁸.

In recent years, there have been so many regulations and policies that deviate from agrarian reform, betraying the constitutional mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia. Towards the end of his first term, President Joko Widodo accelerated the ratification of ultra-liberal agrarian policies, such as: a) Law Number 17 of 2019 concerning Water Resources; and b) Law Number 22 of 2019 concerning Sustainable Agricultural Cultivation Systems. Furthermore, during his second term, President Joko Widodo used the pandemic crisis and the threat of economic, food, and various other crises as reasons for the government to pass: a) Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mineral and Coal Mining; b) Law Number 3 of 2022 concerning the National Capital; and c) Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law.

⁹⁴ Agrarian Reform Consortium, *Decade of Agrarian Crisis: The Legacy of Nawacita and the Future of Agrarian Reform After the 2024 Political Change*, Agrarian Reform Consortium, Jakarta, 2024 (hereinafter referred to as Agrarian Reform Consortium III), p. 3.

⁹⁵ *Ibid.*, p. 2.

⁹⁶ *Loc.cit.*

⁹⁷ Lego Karjoko, *Op.cit.*, p. 18.

⁹⁸ Agrarian Reform Consortium III, *Op.cit.*, p. 2.

Based on this, it can be seen that the relationship between economic policy and its implications for the shift in the concept of land ownership in Indonesia during the era of President Joko Widodo, regarding policy and orientation of land allocation and natural resources, is increasingly moving towards absolute ownership, which is dominated by the interests of investors and large-scale business entities. The increasingly pro-capital development approach is intertwined with the stagnation of the process of resolving agrarian conflicts. The fulfillment and restoration of citizens' rights to land, which have been violated by the government, have ultimately reached a deadlock⁹⁹. This has resulted in the implications of the land conflicts that have occurred still not being resolved in an optimal and comprehensive manner.

Conclusion

There is a correlation between economic policy and shifts in the concept of land ownership in each regime in Indonesia, and this has implications for the occurrence of land conflicts. During the Old Order era, the economic policy used was the Self-Sufficient Economy, which upheld the implementation of agrarian reform aimed at equal distribution of land ownership. Meanwhile, after the Old Order era, namely the New Order and continuing to the current Reform era, the economic policy used has been towards capitalism and its offspring, which has implications for the liberalization and privatization of land control and utilization. This has resulted in the goal of agrarian reform, namely the equitable distribution of land to all people, not being comprehensively achieved to date.

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