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## Legal Review of Land Certificates Affected by Forest Areas in Indonesia

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**Abstract:** This research examines the legal review of land certificates affected by forest areas according to the Indonesian Basic Agrarian Law (UUPA) and its implications within forest regions. Under the UUPA, land encompasses not only the surface but also the subsoil, establishing legal relationships between individuals or legal entities and the land, which results in specific legal statuses. The UUPA regulates land rights, including permanent rights, statutory rights, and temporary rights. Land registration is mandated to ensure legal certainty for rights holders and to provide protection by issuing valid certificates. These certificates serve as strong evidence of ownership, though they can be annulled if administrative or material errors are found. In the context of forest areas, land regulation becomes more complex. Forest areas, as stipulated by the Forestry Law, require protection and must be exempt from individual or corporate rights, as such rights can threaten the sustainability of forest ecosystems. To address land ownership conflicts within forest regions, the government has issued Presidential Regulations that govern the processes for managing, organizing, and resolving disputes in forest areas through various mechanisms, including social forestry programs. Agrarian reform is also implemented through land redistribution to promote welfare and equity. However, despite regulations governing certificates within forest areas, no specific policy exists regarding the annulment of certificates in these zones. Annulment is needed as a legal remedy for ownership disputes that may arise due to administrative defects or illegality.

**Keyword:** Certificate, Land, Forest.

### INTRODUCTION

Based on Article 1 Paragraph 3 of the Indonesian constitution which was ratified in 1945, Indonesia is a state of law. "The state of Indonesia is a state of law" it can be concluded that all actions must comply with the law.

In a lawful state, all governmental administration is regulated by laws, which encompass matters related to land, land status, and land ownership. Historically, land was intrinsically linked to everyday human existence and was a basic human need. Land has a significant importance and function for human existence. Humans inhabit and reproduce on the Earth's

surface, so there is constant interaction with the soil. Human needs for land range from agricultural use to housing construction. The importance of land for humans is seen from the need for land for human existence. Many human activities are intrinsically linked to the land and are carried out on it. Residential buildings, along with various commercial buildings such as offices, educational institutions, and retail complexes, were built on the land. This encourages individual ownership and management of the necessary land.

As stated in Article 4 of the Basic Agrarian Law (UUPA), “The rights to control land are derived from the state's authority as stipulated in Article 2. These rights include various entitlements to the earth's surface, termed as land rights, which may be granted to individuals or groups and legal entities.”

National Land Law regulates land rights. The National Land Law defines the rights of the Indonesian nation as perpetual property rights over the entire territory of Indonesia. This is regulated in the UUPA Article 1. In addition, the UUPA Article 2 Paragraph 1 defines its legal structure. “The right to control the state that the right to control the state has given authority to the state to regulate and administer the allocation of use , supply and maintenance of earth, water and space.”

The control of forest areas supervised by the Ministry of Forestry in accordance with Law No. 41 of 1999 on forestry is included in the scope of the right to control the state over land. This regulation regulates the relationships that occur between the state and forests, as well as the interactions that occur between individuals and forestry activities. Forest law consists of a series of regulations.

Indonesia has abundant natural resources. Indonesia's forests are very important and beneficial to humanity. We must be grateful for, manage and optimize forest resources to ensure their preservation for future generations. Indonesia's vast forests, considered a heavenly gift, must be regulated by the state to ensure their use meets the welfare goals of society. As an agrarian nation, Indonesia relies on land for its people’s livelihood, as expressed in Article 33, paragraph (3) of the 1945 Constitution, which states: “Land, water, and natural resources are controlled by the state and utilized for the utmost prosperity of the people.”

Forests are vital and impact the livelihoods of many people, including those who depend on protected forests. Stated in Article 1, Number 8, in particular “protected forest is a forest area that has a principal function as a protection of life support systems to regulate water systems, prevent flooding, control erosion, prevent sea water intrusion, and maintain soil fertility”.

The government may grant Forestry permits and privileges to third parties. The government authenticates protected forest areas by reinforcing the delineation of forest areas to ensure legal clarity about their status and boundaries. Article 14 of the law provides for Forest verification protocols.

Forest areas are strengthened by establishing temporary boundaries and placing temporary stakes. In this process, the rights of third parties to the land owned or controlled by a legal or natural person are resolved. The aim is to ensure that no component of the property is incorrectly inserted or removed from the forest area. However, community rights remained during the strengthening of forest areas.

The demand for land continues to increase, along with population growth and increasing demand for land use. Land served not only as a dwelling and farm, but also as collateral for obtaining loans from financial institutions. This facilitates transactions such as buying and selling, renting, and so on.. Its importance for the public interest is very important, because every person and legal entity wants legal certainty regarding land ownership.

The challenges in forest areas often relate less to their resources and more to the complex issues surrounding forest positioning and boundaries. The term "forest area" refers to a parcel of land along with its associated resources. Land, being highly valuable, often becomes a source of substantial dispute among diverse stakeholders, including government departments, local and

central governments, local communities, and businesses holding government concessions or permits.

To ensure the rights to land belonging to the community are legally clear, the government is responsible for organizing land registration under the UUPA. The land registration process is carried out to ensure the legal integrity of customary rights to land. Article 19 paragraphs (1) and (2) of Law No. 5 of 1960, which includes the basic principles of land law, regulates the process of land registration in accordance with the UUPA

Natural persons, legal entities and legal entities are obliged to register their land rights in accordance with Articles 19, 23, 32 and 38 of Law No. 5 of 1960, which is a law relating to the basic principles of agrarian law. Property rights, Right to Cultivate, Right to Build, and Right to Use which are included in the registered land ownership rights are the essential components. The right to use the land can also be registered. The laws and regulations that are currently in force cause a variety of complex problems, especially disputes between laws and regulations that are under it and those above it, as well as between equals. In addition to the problems inherent in the normative framework, in the process of implementing legislation, difficulties often arise. Problems arise in Land Management and forestry, both of which are in the same body. Law No. 5 of 1960, containing basic agrarian principles, governs land administration processes, obliging the government to conduct land registration nationwide to identify land subjects and objects. This registration process ensures lawful ownership through verifiable documentation.

Law No. 41 of 1999 and guidelines set by the Minister of Forestry. The authority to designate an area as a forest area is given by this law. The certificate is issued with the intention of making it easier for the right holder to demonstrate his right to a right. In addition, in accordance with the provisions of Article 19 of the UUPA, certificates are considered reliable evidence. This applies to people who have a valid land ownership certificate issued by the Indonesian land Office, even though the land in question is designated as a protected forest area. People who have lived in a protected forest area for centuries but are unaware that it is a protected area, may have a community certificate. This is because they may have been convinced that they have a legitimate right of ownership, as evidenced by the purchase of a certificate of title to the land.

It is undeniable that the number of protected forest areas has decreased. This is largely due to the rapid population growth in Indonesia, which necessitates increased land use while the amount of land accessible remains the same. As a result, people are forced to carry out their daily activities in forest areas. In this context, we often encounter people who live in forest areas, feeling confident that they have a land title certificate that has strong legal validity.

The prolonged confrontation regarding the management and utilization of forest resources between local communities and the government stems from several legal inconsistencies in the formulation of forest management legislation instruments in Indonesia. Potential conflicts related to land tenure can be avoided if the government and local communities have the same goals. The government, together with business entities, is obliged to recognize and respect the life of local communities. At the same time, the community is obliged to realize the importance of development in their area and its potential to improve their quality of life.

In accordance with the mandate of the UUPA, the government is currently starting the land registration process to ensure legal certainty over the rights of the community to land. The land registry will provide the land title holder with a certificate as proof of ownership of the land itself. The holder of the right to land will feel confident that his rights will be recognized thanks to the certificate. Land rights will be used to facilitate trade flows. In line with that, the implementation of this land registry needs to be done to ensure land rights for humanity that have the potential to bring prosperity to the highest. Despite having the original documents,

land rights holders still do not have legal certainty which is a condition that often causes concern in the community.

## **METHOD**

Used normative juridical method. The main focus of research is law, which is defined as norms or guidelines that govern society and serve as standards of individual behavior. Research that examines the use of positive legal rules or norms related to legal issues. A researcher should concentrate only on the legal issue under discussion.

## **RESULTS AND DISCUSSION**

### **Regulation of Legal Protection of Land Rights Certificate Holders According to UUPA**

According to the UUPA, the definition of land can be found in Article 1 Paragraph (4) of the UUPA. This provision states that the soil includes not only the ground surface, but also the underground part. Alternatively, this definition can be understood as the relationship that exists between a person or legal entity and land, which ultimately results in the legal status or system of land tenure. The framework that explains the basic principles governing the legal status of land tenure is called the land tenure system. This system refers to rights related to land, as well as Land Management. There are provisions regarding land rights outlined in Article 4 paragraph (1) of the UUPA.

This provision states that “on the basis of the right of state control over the land referred to in Article 2, it is determined that there are various rights on the surface of the Earth, called land, which can be granted to and owned by people either alone or together with other persons and legal entities.” Articles 16 and 53 of the UUPA regulate land rights in three parts:

1. Permanent land rights consist of “property rights, right to use, right to use, right to use, right to open land, right to rent buildings and right to collect Forest Products;”
2. The right to “land to be established by law”
3. Temporary land rights

All land parcels must be registered in the Indonesian Land Office. The first paragraph of Article 1 in Government Regulation Number 24 of 1997 on Land Registration defines “land registration” as “a series of government activities performed continuously, systematically, and orderly, involving the collection of physical and legal data in the form of maps and records on land parcels and condominium units, including issuing certificates of proof of rights over existing land parcels, condominium units, and associated rights.”

Under Article 19 of the UUPA, its purpose is to provide legal clarity for rights holders. According by by Soedikno Merto Kusumo, “legal certainty is an inseparable characteristic of law, especially for written legal norms, without which it loses its purpose as a standard of behavior.”

The land registration protects rights holders by providing evidence to support their claims. One of the three primary functions of Indonesia's land registration system is to issue certificates, as stipulated in Article 1, item 20 of Government Regulation Number 24 of 1997. Certificates, defined as “proof of ownership for land rights, management rights, waqf land, condominium ownership rights, and encumbrances recorded in the respective land book,” ensure the legal rights of landowners, safeguarding them against third-party claims and conflicts.

Indonesian National Land Office issued a certificate of land rights in accordance with the UUPA No. 5 of 1960 and Government Regulation No. 24 of 1997 on Land Registration. Article 19 paragraph (2) letter c of the UUPA defines a certificate as a strong proof of ownership. “certificate as a strong means of proof, namely physical data and juridical data contained in the certificate is considered true as long as it is not proven otherwise by other evidence.” Legal proceedings can be carried out by individuals who feel that their rights regarding the issuance of certificates have been violated. The certificate cancellation decision

letter will be issued by the head of the Indonesian land Office if the court decides that the certificate issued is invalid.

If the National Land Office has issued a certificate of land rights to the holder of land rights, then the office must ensure its validity, strength, and legal certainty, as stipulated in Article 19 paragraph (1) of the UUPA which mandates the government to ensure legal certainty on the registered land plots.

In this context, The Binding Of said body means that any error or mistake in the issuance of said certificate can be corrected or canceled. Errors can occur due to three things: first, administrative errors, that is, inaccuracies in the data of the certificate, including the name of the right holder (subject of rights) and information regarding the area or location (object); second, errors in the issuance procedure (formal); and third, errors in identifying parties entitled to land (material). Administrative errors are evidenced by the research results contained in the minutes, while formal and material errors require examination by legal entities.

If the UUPA directs the implementation of the forestry law, it can be ensured that conflicts or complexities in forestry management can be avoided, especially in the case of obtaining land title certificates for forestry land, because this will form a clear Foundation in the handling of land and forest areas. The purpose of Forestry is to provide maximum prosperity for the people, as mandated in Article 33 paragraph (3) of the 1945 Constitution.

A land certificate is a document that serves as proof of ownership for people who hold land rights. Legal Data includes the legal status of land rights, rights holders, rights of third parties, and encumbrances relating thereto. Physical Data includes information about the location, boundaries, and land area, while legal data is the legal status of the land. In the land registry, physical and legal particulars are presented in the form of a register. Physical information is presented in the form of a letter of measurement, and accompanied by a map and description. This clause is relevant to the provisions contained in Article 4 paragraph (1) of the regulation of the Minister of Agrarian Affairs/Head of the Indonesian land Office Number 9 of 1999 on procedures for granting and canceling State Land Rights and management rights. This regulation regulates the procedure for granting and revoking state land rights and management rights. "before applying for land rights, the applicant must control the land being applied for as evidenced by juridical data and physical data in accordance with the provisions of applicable law".

### **The Legal Status of Land Ownership Certificates in Forest Areas**

Forest areas require protection and must be freed from existing land rights (Ownership Rights, Building Use Rights, Business Use Rights, and Use Rights), as these rights can have detrimental impacts on forest ecosystems. If forest areas are designated as private property with land ownership certificates, forest sustainability is compromised due to decisions being subject to the owner's preferences.

The demand for land as a source of income and its value is increasing, prompting individuals and legal entities to make acquisitions through various means, including inheritance disputes, occupation, or unauthorized ownership of land in forest areas. Land, previously viewed through a social lens that included customary law, rights, and functions, was increasingly valued from an economic standpoint. Thus, it is appropriate for the United Nations to affirm that the land issue has evolved from a societal problem to an economic one.

According to Articles 14 and 15 of Law No. 41 of 1999, the strengthening of forest areas requires an inventory of forests prior to strengthening. Namely the appointment, penataa, mapping, mapping of forest areas;

Forest areas have the potential to become the cornerstone of identifying areas that maintain long-term ecological balance that is vital for human life, especially if the established criteria

are met. In rural areas of Indonesia, the Presidential Regulation is still limited to stipulations that do not cause social or legal implications.

Based on Article 5 of Law No. 41 of 1999, forests are divided into state forests and rights forests. Forest rights are defined as forests that are on land that is burdened with land rights. This applies to the current layout of the forest area. The UUPA is responsible for strictly supervising the use of forest rights, as stipulated in Article 36 of the Forestry Law. This law requires land rights holders to utilize Forest Rights in accordance with their allotments.

The government is obliged to provide compensation to the right Forest owner in accordance with Article 36 paragraph two, if the right Forest is reclassified into a forest area. The Forest Service has been transferred to the Provincial Land Office, also known as the Regency/City Land Office, in accordance with Article 19 paragraph (1) of the UUPA and Article 1 Number 3 of Law Number 5 of 1986 on Administrative Justice. This indicates that the Forest Service is no longer responsible for the issuance of certificates.

Furthermore, Law No. 41 of 1999 on forestry jo. Law No. 19 of 2004 is the only legislation that specifically permits the use of land belonging to forest areas. Articles 26 to 39 of the Act contain specific provisions governing such matters. In addition, Forest legislation recognizes the validity of certificates of title to land in areas overgrown with forests. Furthermore, the Forest Service, which is a government-owned legal institution, is responsible for ensuring that certificates of title to land owned by individuals are valid, lawful, and have high legal certainty. In forest areas, the Indonesian land Office should not issue certificates because they do not provide a strong legal or documentary basis to ensure the holder of such a certificate is in a legally secure position. It is not surprising that the Ministry of Forestry and the Indonesian land Office, which are both vertical bodies, do not cooperate.

Although the Indonesian land Office states that the land title certificate issued by it is in accordance with the established provisions, there are some certificates that should not be issued in certain places, including in forest areas. In the process of granting certificates in forest areas, the Indonesian land Office, which is a non-ministerial institution, is required to consider the provisions stipulated in the applicable laws and regulations. Joint Regulation No. 79 of 2014, which regulates the procedure for resolving land tenure issues in forest areas, is included in this regulation. This action is done to ensure that Certificates serve as a strong legal instrument, providing certainty to their holders that they are operating within the law.

### **Settlement Of Land Tenure in Forest Areas**

The national strategy for the implementation of Agrarian Reform 2015-2019 of the Jokowi-JK government mandates the government to resolve disputes over community land ownership in forest areas. Its duties include improving the regulatory framework and handling agricultural disputes; coordination of monitoring and land ownership of Agrarian Reform objects land (TORA); ensuring legal certainty and legitimacy of TORA rights; and empowering communities to make good use of TORA. Presidential Regulation No. 88 of 2017 concerning the settlement of land ownership in forest areas and Presidential Regulation No. 86 of 2018 concerning Agrarian Reform is a follow-up to the government's Nawacita commitment since 2014.

Presidential Regulation No. 88 of 2017 regulates land ownership in forest areas per stage of forest area determination. Forest area determination begins with the arrangement of forest area boundaries through adjustment of forest area boundaries. Second, if the forest area that has been determined has undergone boundary changes due to boundary revisions, exchanges of forest areas, social forestry initiatives (PS), or relocation. Presidential Regulation 88 of 2017 requires attention to the framework for resolving land tenure and utilization in forest areas. Forest area management strategies that take into account temporal aspects, such as interventions before or after forest area designation. Article 7 states that land managed, utilized,

or granted rights before being designated as Forest Area must be excluded by adjusting their boundaries.

The elimination of community-managed land areas designated as forest areas is clearly outlined in this document. Enclaves are derived from Forest Areas by establishing boundaries with approved tools that provide coordinate data.

Established boundaries protect forest areas and community areas. If the community takes over, the forest area allocated for production will be managed differently, as long as it does not exceed 30% of the total area of the river, island or province. Article 12 states that the configuration of settlements for land managed and used after the establishment of forest areas with a production function in provinces, whose forest areas cover 30% or less of the area of rivers, Island and/or provinces, is:

1. Land for settlements, public facilities, and/or social facilities must be obtained through the exchange of forest areas to comply with legislation or resettlement.
2. Social forestry should make it easier to manage forests on agricultural land. This website provides adequate information on various forest land control tactics.

The exchange of forest areas or the transfer of communities outside forest areas are two techniques used in the process of allocating land for the construction of social facilities, public facilities, and residential areas. If there are other places, such as other use areas, that can be transferred or replaced with Forest-producing functions, then the initial choice of exchanging forest areas can be made at that time.

Resettlement is one way that can be used for resettlement if no replacement land is available. The next settlement, if structured as arable land, can gain access to the social forestry model facilitated by the Ministry of Environment and Forestry.

Agrarian reform is defined as the realignment of land ownership, ownership, utilization, and management in order to improve justice through asset management and access for the benefit of the wider community. This definition is based on Presidential Regulation Number 86 of 2018 concerning Agrarian Reform. The asset management process includes the redistribution of land used for agricultural and non-agricultural purposes, while the land certification process is used to ensure the validity of assets. The target of land redistribution, referred to as Agrarian Reform (TORA) in Article 7 Paragraph (1), is land that is under the jurisdiction of the state and/or community-owned land and is vulnerable to distribution or legalization.

Redistribution of land for agricultural purposes and redistribution of land for non-agricultural use are two categories that were included in the TORA objects before they were classified. The subjects of the Agrarian Reform are granted land redistribution assets for agriculture, with a maximum area of five hectares, subject to the availability of TORA, as provided for in Article 9 paragraphs (1) and (2). This allocation is carried out in accordance with the provisions of the document. Initiatives aimed at land redistribution are usually followed by the granting of certificates of ownership or common property rights.

Both individuals and legal entities are included in the list of bodies entitled to receive TORA, as stated in Article 12 paragraph four of the Presidential Regulation. There are labor standards that apply to individuals who have been set. A subject is also defined as a group of people with "common property rights" (HKB), consisting of people who form a collective, reside in a certain territory, and meet the criteria for an object of land redistribution. In addition to people, subjects are also identified as groups of society. Mandated legal entities are also included in Article 12 paragraph five of the Constitution.

Joko Widodo's agrarian reforms include TORA and social forestry to build land ownership. TORA covers 9 million hectares, including community land certification (PRONA/PTSL) or asset legalization (3.9 million hectares), uncertified transmigration land (0.6 million hectares), ex-HGU and abandoned land (0.4 million hectares), and forest area release (4.1 million

hectares). Meanwhile, Social Forestry provides access to communities to manage forests within a certain period of time covering an area of 12.7 million hectares.

Land is very valuable and useful, so many business entities seek to obtain evidence of ownership illegally, by canceling documents of ownership. The cancellation of the certificate of title to the land ends a legal partnership. Cancellation of a certificate of title to land resolves land rights disputes arising as a result of the issuance of rights and certificates by the head of the Land Office, which may be administratively defective or implemented on the basis of a court decision.

The legislation does not provide for the cancellation of certificates of title to forest land. Given the large number of issues of land title certificates in forest areas, the government must adopt policies that specifically regulate their cancellation to make it easier to revoke them. The cancellation of the forest area certificate follows the standard certificate cancellation procedure, although the Indonesian land Office must follow the forest regulations.

## CONCLUSION

The legal provisions established by the Basic Agrarian Law and Government Regulation No. 24 of 1997 protect certificate holders by ensuring legal clarity and strong ownership evidence. Identifying forest areas overlapping with certified land creates ownership disputes and ambiguity for landowners. The government issued Presidential Regulation No. 88 of 2017 and No. 86 of 2018 to set a framework for resolving land disputes in forest areas and to implement agrarian reform as a sustainable initiative to improve community welfare and strengthen legal land ownership certainty.

The government should enhance collaboration between the National Land Agency and the Ministry of Environment and Forestry to align regulations and prevent jurisdictional overlap. A specific strategy for canceling land certificates in forest areas is needed to reduce land misuse risk and ensure sustainable management of these areas. The government should initiate outreach and educational efforts to inform the public about the status of forest area land, potential legal hazards, and steps to resolve conflicts.

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