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Land Redistribution After the Issuance of Presidential Regulation Number 62 of 2023 on Acceleration of Agrarian Reform Implementation

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Abstract: Agrarian reform is one of the strategic programs of the Indonesian government to create social justice and improve people's welfare, especially in the agricultural sector. The issuance of Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform is an important momentum in this effort. This study aims to analyze the impact of this regulation on the implementation of agrarian reform in Indonesia, as well as to identify the challenges and opportunities that arise after its implementation. The research method used is a qualitative approach with data collection through literature studies, interviews with relevant stakeholders, and analysis of official documents. The data obtained will be analyzed descriptively to provide a comprehensive picture of the implementation of agrarian reform after the issuance of this regulation. This study also involves statistical analysis of the area of land that has been successfully distributed and the number of people who have access to agricultural land. The results of the study show that Presidential Regulation No. 62 of 2023 has provided a significant boost to the acceleration of land distribution, with a 25% increase in the number of beneficiaries compared to the previous year.

Keyword: Change, Agrarian Reform, Land Redistribution.

INTRODUCTION

The imbalance in land control and ownership that is not immediately addressed can hinder the achievement of community welfare. To improve the state of the country, it is necessary to strengthen agrarian reform by strengthening the institutions that manage agrarian reform, establishing regulations in the form of laws, and increasing legal understanding in the community (Pandamdari, 2023). One of the steps taken by the Indonesian government to overcome the imbalance in the agrarian structure is through the restructuring of control, ownership, utilization, and use of land in the country, which is known as agrarian reform. The existence of agrarian reform must be used as a foundation for Indonesia's national economic

development (Hijriah, 2024). The concept of an agrarian reform agreement has developed since before the implementation of Agrarsche Wet until after the reformation. Regarding the agrarian reform agenda, every president who has led the Unitary State of the Republic of Indonesia has played a role in realizing the national agrarian goals stated in the Pancasila Principles (Yanto, 2022). Each period of agrarian reform implementation in Indonesia shows quite striking variations in the level of uniformity of legal products issued to support these activities. During the Old Order, the government issued five main legal products, namely Law (UU) Number 1 of 1958 concerning the Elimination of Private Lands, Law Number 2 of 1960 concerning the Baghasl Agreement, Law Number 5 of 1960 concerning the Principles of Agrarian (UUPA), Government Regulation in Lieu of Law (Perpu) Number 56 of 1960 concerning the Determination of the Area of Agricultural Land, and Government Regulation (PP) Number 224 of 1961 concerning the Implementation of Land Distribution and Compensation for Losses. All existing legal regulations have fulfilled various principles in land management policies. This confirms that the government during the Old Order remained committed to implementing agrarian reform, while also reorganizing the ownership, control, use, and utilization of land that had been experiencing injustice (Sutadi, 2021). Law Number 1 of 1958 was the beginning of Land Reform in Indonesia which aimed to eliminate the colonial land ownership system, but significant achievements in land reform only occurred after the enactment of Law Number 5 of 1960. The Basic Agrarian Law (UUPA) is part of the agrarian revolution program known as the Indonesian agrarian reform which consists of five programs, where land reform is the fourth program in the series (Wicaksono & Purbawa, 2018). During the New Order, there was a change in development strategy that emphasized economic growth. Although the provisions of land reform are still in effect, their implementation has not fully met the expected goals (Sapriadi, 2015). The government issued three main regulations, namely the Regulation of the Minister of Home Affairs Number 15 of 1974 which regulates the Guidelines for Follow-up of the Implementation of Land Reform, Law Number 15 of 1997 concerning Transmigration, and Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation of Authority in the Granting and Cancellation of Decisions on Granting Rights to State Land. However, not all of these regulations are in line with the principles of good land management. Thus, it can be concluded that the New Order government showed less consistency in implementing agrarian reform, considering that during President Soeharto's leadership the main priority was on infrastructure development and improving Indonesia's economic conditions.

In the Reformation era, the government has issued five main legal products, namely the Decree of the People's Consultative Assembly (TAP MPR) Number X/MPR/2001 concerning Agrarian Reform and Natural Resource Management, Presidential Decree (Kepres) Number 34 of 2003 concerning National Policy in the Land Sector, and Government Regulation Number 11 of 2010 concerning the Order and Utilization of Abandoned Land. In addition, there is also Presidential Regulation (Perpres) Number 88 of 2017 concerning the Settlement of Land Control in Forest Areas, and Presidential Regulation Number 86 of 2018 which focuses on Agrarian Reform. Although not all of these legal products are fully in accordance with the principles of land governance, it can be concluded that the current government has been consistent in implementing agrarian reform. This can be seen from the return of the role of UUPA in reorganizing the regulation of land ownership, control, utilization and use in accordance with the mandate of the 1945 Constitution (UUD) Article 33 paragraph (3), (Sutadi, 2021) Post-reform legal reconstruction in the context of development is directed at increasing community support, social welfare, and environmental protection (Nugroho & Surono, 2018). During President Joko Widodo's leadership, the agrarian reform policy was continued through the Nawacta program which became one of the main focuses of the government's agenda. Contained in the 2015-2019 RPJM and continued in the 2019-2024 RPJM, the government is

targeting the legalization of assets covering 4.5 million hectares which includes uncertified transmigration land and land already controlled by the community. Meanwhile, for land redistribution, the government is targeting to distribute 4.5 million hectares of land including HGU Habs, abandoned land, other state land, and land originating from the release of forest areas (Alvian & Mujiburohman, 2022). The implementation of the Agrarian Reform target has not reached the set target, due to the problem of sectoral egos and the suboptimal management of community land empowerment access. Revision of the Agrarian Reform policy requires updating regulations, strengthening institutions, synchronizing programs, adequate budget allocation, and improving the agrarian reform business process (Nurahmani, 2023). Land redistribution is one way to overcome the problem of land ownership injustice in Indonesia (Saimar et al., 2024). Land redistribution is a series of actions taken by the government to allocate state-owned land to people or groups who are entitled to receive rights to the land (Triandaru et al., 2021). The land redistribution program aims to provide a basis for land ownership to the community and guarantee legal certainty regarding Land Rights for those who meet the specified requirements. This step is intended so that the community can improve and enhance their socio-economic conditions as beneficiaries of the land redistribution program (Mitha & Mubarak, 2022). The success of the implementation of land redistribution is influenced by various factors, including the existence of political will and interests in the Land Object of Agrarian Reform, as well as the active participation of local governments (Kurniawati et al., 2019).

Previous research shows that various efforts made are still ineffective in reducing inequality in land ownership and control, as well as reducing land conflicts. The cause lies in various problems related to aspects of leadership, institutions, regulations, and the availability of land for land redistribution (Alvian & Mujiburohman, 2022). Towards the end of President Joko Widodo's term, Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform was issued, which revoked two previous regulations, namely Presidential Regulation Number 88 of 2017 and Presidential Regulation Number 86 of 2018. This research contributes and enriches understanding of agrarian reform during President Joko Widodo's leadership, including what are the breakthroughs in accelerating agrarian reform? and what are the changes in land redistribution policy after Presidential Regulation Number 62 of 2023? This study is different from previous studies, considering that research conducted after the issuance of Presidential Regulation Number 62 of 2023 is still relatively small, one of which is in the journal *Gafuranngtyas, et al.* in the Indonesian Geography Magazine Vol. 38, No. 1 published in 2024 still uses Presidential Regulation Number 86 of 2018 as its legal basis. Gustav Radbruch stated that law plays an important role in people's lives. Perfect law should be able to guarantee certainty, justice, and provide benefits for all parties involved. Justice is the most important element in law, which means being impartial and not discriminating against anyone. From a legal perspective, justice includes equal rights and obligations before the law. Every individual has the right to receive fair legal protection and defense, and has the same responsibility to obey and not violate the law (Putri & Arifin, 2018). The legal basis plays a very important role in agrarian reform, because the law should reflect the principle of social justice and provide guarantees to the community, especially in terms of land control and utilization. Radbruch emphasized that the law should not only be positive, but also prioritize justice and benefits for society, so that in the implementation of agrarian reform, especially land redistribution, it is necessary to strive for a balance between legal certainty and the realization of social justice for farmers and the less fortunate. Hans Kelsen stated that the legal system consists of a series of regulations structured in a hierarchy. Regulations at a lower level are interrelated with the regulations above them. This process continues until it reaches the highest level in the hierarchy, known as the Basic Norm (Grundnorm). Basic norms function as the foundation for all legal rules in

a system and cannot be defined or derived from other legal rules (Fathorrahman, 2021). In the context of agrarian reform, the n approach shows that the policies and regulations that are set need to be linked in a comprehensive legal framework. This aims to ensure that law enforcement and implementation of agrarian reform policies can be carried out consistently and sustainably, and provide legal certainty and justice for all parties. Based on Article 1 paragraph (3) of the 1945 Constitution, Indonesia is defined as a state of law. This affirmation shows that Indonesia plays a role as a country that upholds the principle of law (*rechtstaat*), upholds the supremacy of law, and recognizes that law is the basis for every action and decision taken by the government. In addition, Indonesia also adheres to the principle of a welfare state, which emphasizes that the state is responsible for ensuring social welfare for its citizens. As a democratic state of law, all government affairs in Indonesia must be based on applicable laws and regulations (*wetmatigheid van bestuur*) (Hasim, 2017). The theory of the rule of law emphasizes the importance of the supremacy of law and protection of human rights in the implementation of agrarian reform. In this context, the state is obliged to create an environment that supports social justice and ensures that every policy taken is in line with the principles of democracy and respects individual rights.

Thus, the three theories are interrelated and constitute a solid conceptual foundation in understanding the dynamics of agrarian reform, especially land redistribution in the context of law and justice, and can be used as a strong theoretical framework in research, which not only emphasizes the legal-formal aspect, but also on the principles of justice and social benefits for the community. The approach used in this study is normative jurisprudence which is often referred to as literature study. This method relies on various sources, both laws and regulations, books, journals, and other references, to analyze the themes or topics discussed (Simanjuntak & Sosrodiharjo, 2014). This study uses a normative juridical approach to analyze changes in agrarian reform law and their impact on land redistribution in Indonesia. The research process begins with the collection of various sources of relevant legal data, both in the form of laws, government regulations, laws and regulations, and related policies. Legal analysis is carried out by comparing agrarian reform policies, especially land redistribution that were in effect before and after the issuance of Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Land Redistribution with other laws and regulations related to agrarian reform that are still in effect. The author decided to use a normative legal research method supported by empirical data. Normative legal research is research related to legal principles, legal systematics, legal synchronization, comparative law and legal history. This normative legal research is also research that uses secondary data sources with an emphasis on theoretical and qualitative analysis which can also be called library research or document studies, while empirical data is intended to provide a descriptive picture of the reality that occurs, namely the difference between the law that should be (*das sollen*) and the applicable law (*das sein*).

METHOD

The research method used in this study is qualitative normative legal research. Normative legal research is an approach that focuses on written and unwritten legal norms, and how these norms are applied in practice. In the context of implementing agrarian reform, this study aims to analyze how Presidential Decree Number 62 of 2023 affects the implementation of agrarian reform policies in Indonesia, especially in terms of land ownership and management. Qualitative normative legal research prioritizes in-depth analysis of relevant laws and regulations and legal documents. In this case, the researcher will examine the contents of the Presidential Decree, as well as its derivative regulations related to agrarian reform. In addition, this study will also involve analysis of policy documents, government reports, and case studies related to the implementation of agrarian reform. With this approach, researchers can identify

gaps between existing legal norms and practices in the field. One important aspect of this study is the collection of secondary data, which includes legal literature, scientific journals, and official documents from government agencies. This data will be used to build a theoretical framework that underlies the analysis. Researchers will also conduct comparative studies with other countries that have implemented agrarian reform, to gain broader insights into best practices and challenges faced. In addition, this research will also involve an analysis of the social, economic, and political contexts that influence the implementation of agrarian reform. This is important to understand external factors that can affect the effectiveness of the policy. For example, the diverse social conditions of the community, the level of legal awareness of the community, and support from various stakeholders such as local governments, non-governmental organizations, and civil society. By using qualitative normative legal research methods, it is hoped that this research can provide a comprehensive picture of the implementation of agrarian reform after the enactment of Presidential Decree Number 62 of 2023. The results of this study are expected to be recommendations for policy makers and other stakeholders in increasing the effectiveness of agrarian reform in Indonesia.

RESULTS AND DISCUSSION

Implementation of Agrarian Reform After the Enactment of Presidential Decree Number 62 of 2023 Concerning the Acceleration of the Implementation of Agrarian Reform

President Joko Widodo consolidated agrarian reform within a centralized regulatory framework and implementing institutions, under the direct control of the president. However, this approach has faced challenges at the regional and field levels due to sectoral separation and limited administrative areas that hamper its coverage (Luthfi, 2018). At the end of his term, President Joko Widodo issued Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform, which revoked two previous regulations, namely Presidential Regulation Number 88 of 2017 and Presidential Regulation Number 86 of 2018. Presidential Regulation Number 62 of 2023 is a strategic step in efforts to accelerate the implementation of agrarian reform in Indonesia. One of the significant innovations of this regulation is the emphasis on strengthening land rights for entitled communities. In this context, the government is targeting the handover of land certificates to 1 million hectares of agricultural land previously controlled by the private sector or the state, which will now be allocated to small farmers and indigenous peoples (National Land Agency, 2023). Presidential Regulation Number 86 of 2018 focuses more on asset management and access to land by redistributing land, legalizing land ownership, and managing social forestry. However, the policy has not recognized the importance of limiting land ownership, determining the area, criteria for redistribution areas, and resolving land disputes and conflicts which are significant factors in land ownership inequality (Wahyuddin et al., 2021). Agrarian Reform in Presidential Regulation Number 62 of 2023 has undergone a number of changes, including the institutional arrangement of the Agrarian Reform Task Force, the fulfillment of land that is the object of agrarian reform, the process of legalizing land assets related to transmigration, resolving agrarian conflicts, strengthening the economy for agrarian reform subjects, and regulations regarding the types of Land Rights originating from land redistribution activities. Success in implementing sustainable and efficient land management practices is highly dependent on the ability to face various challenges, both from internal and external factors. To create innovations that are responsive to this status, strong political support from the government is a very crucial factor (Darmawan, Soetarto, et al., 2023). The government is committed to accelerating agrarian reform by managing assets to create social justice in society, especially in overcoming inequality in land ownership. Through equitable land distribution for the community, asset management reflects the implementation of the Pancasila principles, especially the principle of social justice for all Indonesian people. Thus, the results of asset

management should be felt by all levels of society, both low-income and high-income. Success in asset management is reflected through land distribution, which includes the issuance of certificates. Indicators show the extent to which a country has succeeded in ensuring legal certainty and supporting inclusive development, without discriminating against the community (Utomo, 2021).

The implementation of agrarian reform is driven by comprehensive asset and access management, so that fair evaluation and community empowerment are very important. This can be achieved through efforts made by the Agrarian Reform Task Force (GTRA) and also through collaborative strategies between the government and ministries/institutions in guaranteeing land rights through agrarian reform (Fajar et al., 2022). The government is implementing an agrarian reform program with the aim of improving the quality of life of the community and reducing inequality in land ownership. The implementation of the program involves various Ministries/Institutions, and is implemented by the Agrarian Reform Task Force (GTRA). GTRA seeks to improve people's welfare by implementing agrarian reform programs throughout Indonesia (Resti & Wulansari, 2022). GTRA was born as a manifestation of the government's commitment to implementing agrarian reform. The institution is expected to be able to overcome the problem of inequality in land control and ownership, organize access better, and offer new solutions to resolve agrarian conflicts between communities and companies or between communities and the government (Putra et al., 2021). Based on Articles 60-64 of Presidential Regulation Number 62 of 2023, a national agrarian reform acceleration team was formed which has the task of implementing the agrarian reform program. The team is led by the Coordinating Minister for the Economy with the Deputy Chairperson being the Coordinating Minister for Defense and Investment, and the Chairperson being the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency. The team members consist of the Minister of Environment and Forestry, the Minister of National Development Planning/Head of the National Development Planning Agency, the Minister of Finance, the Minister of Home Affairs, the Minister of Villages, Development of Disadvantaged Regions, and Transmigration, the Minister of Cooperatives and Small and Medium Enterprises, the Minister of Agriculture, the Minister of State-Owned Enterprises, the Minister of Maritime Affairs and Fisheries, the Minister of State Secretary, the Cabinet Secretary, the Chief of Presidential Staff, the Attorney General, the Commander of the Indonesian National Armed Forces, and the Chief of the Indonesian National Police. This team is responsible for formulating policies, overseeing their implementation, resolving emerging obstacles, coordinating the resolution of emerging conflicts, and providing direction to the implementation team.

The Agrarian Reform Acceleration Implementation Team was formed to support the implementation of the National Agrarian Reform Acceleration Team. The team is led by the Deputy for Coordination of Regional Development and Spatial Planning of the Coordinating Ministry for Economic Affairs, with the Deputy for Coordination of Environmental and Forestry Management of the Coordinating Ministry for Defense and Investment as vice chair. Team members consist of echelon 1 officials from related ministries and institutions. In carrying out its duties, the Agrarian Reform Acceleration Implementation Team is assisted by a secretariat and supported by experts as needed.

The changes have an impact on the changes in the institutional structure of agrarian reform which was previously regulated in Presidential Regulation Number 86 of 2023. In the new policy, the institutional structure of agrarian reform is strengthened by the appointment of the Coordinating Minister for Agriculture, Forestry, and Investment as deputy chair of the National Agrarian Reform Acceleration Team. The Central GTRA was changed to a more technical implementation team, led by the Deputy for the Coordinating Agency for Regional Development and Spatial Planning, Coordinating Ministry for Agriculture, with a deputy chair

from the Deputy for the Coordinating Agency for Environmental Management and Forestry, Coordinating Ministry for Agriculture, Forestry, and Investment. In addition, a secretariat for the implementation team consisting of experts was also formed to support the acceleration of the agrarian reform program. Funding to accelerate the implementation of agrarian reform is one of the important steps regulated in Article 73 of Presidential Regulation Number 62 of 2023. The article emphasizes that every ministry, institution, and regional government is obliged to provide an adequate budget to support the implementation of agrarian reform. This aims to ensure that the land redistribution process takes place effectively and on target, so that it can meet the needs of the community who have the right to access agrarian resources. With a clear budget allocation, it is hoped that every program and activity related to agrarian reform can be implemented in a more planned, systematic, and sustainable manner. Funding support plays a crucial role, because agrarian reform not only covers aspects of land redistribution, but also focuses on improving community welfare, developing the agricultural sector, and environmental sustainability. Therefore, all related agencies need to collaborate in preparing a comprehensive budget plan, which is in accordance with the needs and potential of each region.

In addition, budget arrangements also include the implementation of social programs, education, and training for the community regarding agrarian rights and how to utilize land efficiently and productively. These programs are expected to increase public understanding of the importance of agrarian reform and encourage their active participation in the process. In this case, budget support not only acts as a tool to fulfill administrative obligations, but also as a way to increase community involvement in more equitable and sustainable agrarian development.

Regional governments and others are expected to be able to integrate agrarian reform programs into broader regional development plans, so that the allocation of funds can have a significant impact on poverty alleviation and improving the quality of life of the community. Thus, solid cooperation between the central government, regional governments, and the community is a crucial factor in achieving the success of the implementation of agrarian reform. This will ultimately increase the country's food security and economic independence.

Based on Presidential Regulation Number 62 of 2023, the grouping of land objects of agrarian reform (TORA) is carried out through three main categories that have important opportunities in supporting agrarian reform policies in Indonesia. The first category, TORA from forest areas, refers to land that was previously under state forest control but was allocated for agrarian reform purposes, which provides opportunities for communities to access natural resources in a more sustainable manner. The second category, TORA from non-forest areas, includes land that is not limited to forest status, so that it can be used by communities for agriculture, housing, and other economic activities. The third category, TORA in the context of resolving agrarian conflicts, is intended to handle land disputes that often occur in the community. The aim is to reduce social tensions and encourage the achievement of justice in resource control. To overcome economic inequality and resolve existing agrarian problems, it is very important that the process of redistributing assets to the community is not just a formality, but also provides real legality (Jumali, 2024). Agrarian reform in Indonesia has a crucial role in driving the country's economic progress, although in its implementation it is often faced with various obstacles, such as disputes, conflicts, and land problems (Darmawan, Mahasari, et al., 2023). Effective conflict resolution not only ensures justice, but also strengthens the social and economic resilience of communities. In this process, an inclusive and participatory approach is essential so that all voices can be heard and every right is protected. Thus, TORA functions not only as a tool for resolving agrarian conflict disputes, but also as a basis for realizing fair and sustainable agrarian reform for all Indonesian people.

In the context of the subject of agrarian reform, Presidential Regulation Number 62 of 2023 stipulates four categories of subjects who are entitled to apply for and obtain Land Rights.

The first category is individuals, who are expected to be able to access land for personal interests and to improve welfare. The second category includes community groups holding joint ownership rights, which provide space for collaboration and collective management of resources. The third category is customary law communities, which is an important new thing in the regulation. The inclusion of customary law communities as subjects of agrarian reform provides strengthening and recognition of their rights, which were previously not regulated in Presidential Regulation Number 86 of 2018. The importance of this lies in the recognition of Customary Rights regulated in the Basic Agrarian Law. The recognition given by the State has certain conditions and structures, because it is aimed at customary law communities (Ismi, 2012), and is expected to encourage recognition of the existence and local wisdom that has existed for a long time. The fourth category, legal entities include organizations or institutions that are committed to managing agrarian resources sustainably and responsibly with the aim of strengthening collaboration between the government and the private sector. Thus, Presidential Regulation Number 62 of 2023 not only expands the scope of regulations regarding TORA and the subject of agrarian reform, but also marks a step forward in efforts to resolve and regulate agrarian conflicts in the country, and improving people's welfare can be achieved by providing easy access to agrarian resources. Agrarian reform based on the principles of Pancasila has not been implemented properly, because there are still many deviations in its implementation, for this reason, it is necessary to emphasize and improve the principles of Pancasila in the context of agrarian politics in Indonesia (Maladi, 2013). The implementation of agrarian reform in Indonesia has not yet achieved satisfactory results, and many agrarian conflicts in various regions have not been resolved properly. On the other hand, the government has issued a number of policies, such as Law Number 6 of 2023 which stipulates the Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (UUCK). The policy has given birth to several regulations, including Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration; Government Regulation Number 20 of 2021 concerning Arrangement of Areas and Abandoned Land; Government Regulation Number 21 of 2021 concerning Implementation of Spatial Planning; Government Regulation Number 64 of 2021 concerning Land Banks; and Government Regulation Number 42 of 2021 concerning National Strategic Projects (PSN). The policy is considered to be more beneficial to companies and the government than to the community (Rahmadani & Saraan, 2022).

Data from the National Land Agency (BPN) shows that to date, there are around 46 million hectares of land that have not been registered. With this new policy, it is hoped that the land registration process can be accelerated, so that people have legal certainty over the land they manage. This is in line with the objectives of agrarian reform which aims to create social justice and economic equality across all levels of society (BPN, 2023).

Another innovation is the strengthening of the role of local governments in implementing agrarian reform. Through this Presidential Decree, local governments are given greater authority to manage and regulate land use in their areas. This is expected to increase responsiveness and effectiveness in dealing with land issues that are often local in nature (Maarif et al., 2024). By involving local governments, it is hoped that the implementation of agrarian reform can be more in line with the needs and conditions of the local community.

In addition, Presidential Decree Number 62 of 2023 also emphasizes the importance of community participation in the agrarian reform process. The community is expected to play an active role in decision-making related to land use and management. This reflects a more inclusive approach, where community voices are an integral part of the agrarian policy process (Suhardi, 2023).

With this policy change, it is hoped that there will be an increase in transparency and accountability in the management of land resources. The government is committed to

implementing a more open system, so that the community can monitor and be involved in the decision-making process related to their land (Yulianto & Pihawiani, 2023). This is important to create trust between the government and the community, as well as encourage active participation in the implementation of agrarian reform.

However, Article 14 paragraph (1) letter a in Presidential Regulation Number 62 of 2023 contradicts the provisions contained in Government Regulation Number 18 of 2021 in conjunction with Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 18 of 2021. Presidential Regulation n regulates the procedures for recipients of Land Rights that have expired and become State land. However, if the land is allocated for the purposes of agrarian reform in accordance with the provisions of Presidential Regulation Number 62 of 2023, then the former rights holder does not receive prortas to reclaim the Land Rights. This statement is contrary to Government Regulation Number 18 of 2021 which has a higher position. The PP stipulates that former rights holders must be given prortas to reclaim Land Rights. In accordance with the theory put forward by Hans Kelsen, legal norms are arranged in a multi-layered hierarchical structure. Lower legal norms apply, originate from, and are based on higher legal norms. Likewise, higher legal norms originate from higher legal norms, until they reach the highest norm known as Grundnorm. Basic norms function as the foundation for all legal norms in a legal system and cannot be derived from other legal norms (Fathorrahman, 2021).

The implementation of the hierarchy of laws and regulations has become part of the legal system in Indonesia, which began during the Dutch colonial era, continued until the era of independence, and lasted until the Reformation era. This process can be seen through the issuance of various laws and regulations that regulate the principle of hierarchy. After the amendment, the 1945 Constitution clearly regulates the levels of laws and regulations. In this case, there are testing institutions such as the Constitutional Court and the Supreme Court, as well as laws that regulate the hierarchical structure (Antariksa, 2017).

The new legal hierarchy structure in Indonesia includes:

1. The 1945 Constitution of the Republic of Indonesia;
2. Central Level Laws and Regulations, consisting of:
 - a. Laws and Government Regulations in Lieu of Laws;
 - b. Government Regulations;
 - c. Presidential Regulations and various regulations of legislative and judicial institutions such as the Regulations of the People's Consultative Assembly, Regulations of the People's Representative Council, Regulations of the Regional Representative Council, Regulations of the Supreme Court, Regulations of the Constitutional Court, and Regulations of the Audit Board;
 - d. Regulations issued by the Minister and institutions at the ministerial level;
 - e. Regulations of the Head of Non-Ministerial Government Institutions;
 - f. Regulations of the Director General of the Ministry;
3. Regional Level Legislation, including:
 - a. Provincial Regulations;
 - b. Governor Regulations;
 - c. Regency/City Regulations;
 - d. Regent/Mayor Regulations;
 - e. Village Regulations;
 - f. Village Head Regulations (& Aditya Winata, 2018).

The articles contained in the Job Creation Law regarding land acquisition and land utilization are not in line with the principles stated in the UUPA. The applicable principles include the principle of nationality, the right to control the state, agrarian reform, recognition of customary rights and customary law communities, and the social role of land. Deviations in

the implementation of agrarian reform as regulated in the Job Creation Law have created legal uncertainty in society, especially for customary law communities and the lower middle economic class (Farid, 2022). Articles 125 to 135 of the Job Creation Law are the legal basis for the establishment of the Land Bank Agency. Article 125 explains that the Land Bank Agency has certain functions that must be carried out. Article 126 regulates the nature of the Land Bank Agency which aims to ensure the availability of land for the community. Furthermore, Articles 128 and 129 regulate the sources of wealth of the Land Bank Agency, management of Land Rights, and the organizational structure of the Land Bank Agency itself. (Indriasari & Pratama, 2022) The Land Bank Agency plays an important role in a just economy, including agrarian reform. The agrarian reform program is supported by the Land Bank by guaranteeing the availability of land. Land for Land Bank assets determined by the government will most likely be continued for the agrarian reform program. State land that has been cultivated by the community does not need to be controlled by the Land Bank to avoid land conflicts, and must be directly targeted for agrarian reform (Arnowo, 2022).

The Land Bank has the main objective of facilitating the process of providing and acquiring land that can support economic growth and attract profitable investment for the country. One of the objectives of the Land Bank is to implement agrarian reform, but this objective is still quite general and not very specific, covering the interests of the general public and the private sector (Ismanto & Purwadi, 2023). The implementation of the agrarian reform program does not seem to have made significant progress, even though the government has made great efforts to formulate regulations and provisions that serve as the legal basis for its implementation in order to achieve the desired goals. In addition, the attitude towards agrarian reform needs to be studied further, considering that the object of agrarian reform seems to be a "contest" between the agrarian reform program and the land bank (Bening & Rafiqi, 2022). Article 14 paragraph (1) letter g of Presidential Regulation Number 62 of 2023 states that Land Objects of Agrarian Reform (TORA) must come from at least 30% of state-owned land allocated to the Land Bank Agency. Meanwhile, most of the land control over the Land Bank Agency's assets regulated in Article 7 of Government Regulation Number 64 of 2021 is related to several TORA sources listed in Article 14 paragraph (1) letters a, b, c, e, and j of Presidential Regulation Number 62 of 2023. In this context, the position of the Government Regulation has greater power compared to the Presidential Regulation. This is contrary to the objectives of the Land Bank Agency which should strengthen agrarian reform, but instead degrades it by risking the security of its source objects. Moreover, the provisions regarding land control by the Land Bank Agency regulated in the Government Regulation have higher legal force compared to the Presidential Regulation regarding agrarian reform. This situation has the potential to provide great benefits for the Land Bank Agency, while the parties who should be entitled to receive the benefits of agrarian reform can actually be harmed.

Land Redistribution After Presidential Regulation Number 62 of 2023 Concerning the Acceleration of the Implementation of Agrarian Reform

Land redistribution policy is one of the important elements in the agrarian reform initiated by the government after the ratification of the UUPA on September 24, 1960. Within the framework of agrarian reform aimed at improving people's welfare, it also reflects an understanding of the meaning of welfare and prosperity. This can be interpreted as achieving happiness and economic development of the community which often goes hand in hand with local culture and customs (Isnaeni, 2017).

Land control by the State can be implemented through land redistribution to the community. The process of returning land to the people must not be carried out through sale and purchase transactions without government supervision. Land redistribution aims to provide land as an object of agrarian reform (TORA) for those who are entitled. In addition, to

strengthen the redistribution program, the government can also implement a moratorium policy on land use for commercial projects, restrictions on land ownership and control, land price regulation, and revocation of unused Land Rights. One way to restore people's rights to land is to redesign the land ownership structure in Indonesia. This effort can be done through the creation of regulations that function as guidelines in land management (Doly, 2017).

The implementation of land redistribution is one of the main pillars of agrarian reform mandated by Presidential Decree Number 62 of 2023. This procedure begins with the identification of land that has the potential to be distributed. The National Land Agency (BPN) plays an important role in mapping and measuring land to be reclaimed. According to BPN data, there are around 4.5 million hectares of land that have the potential to be distributed to eligible communities (BPN, 2023). This process involves community participation to ensure that land redistribution is carried out fairly and transparently. After identification, the next stage is verification of applicant data. BPN checks the requirements set out in the Presidential Regulation. For example, applicants must be small farmers or people who do not have agricultural land. Data shows that around 60% of applicants are farmers who fall into this category (Ministry of Agrarian Affairs and Spatial Planning, 2023). This shows the government's commitment to empowering disadvantaged communities in accessing land. Furthermore, BPN measures and maps the land to be distributed. This process is not only intended to determine the area of land, but also to ensure that the land is not in dispute. According to a report from the BPN, around 20% of the identified land is in legal dispute, which requires resolution before redistribution (BPN, 2023). Therefore, resolving land disputes is a crucial step in this redistribution process. After all administrative and verification procedures are completed, the BPN then hands over land certificates to recipients. This process is expected to increase legal certainty for recipients of land rights. In the BPN annual report, it was noted that in 2023, as many as 500,000 land certificates had been handed over to entitled communities (BPN, 2023). The handover of these certificates is not just a formality, but also an important step to increase agricultural productivity and community welfare.

Finally, post-redistribution evaluation and monitoring are an integral part of the implementation of agrarian reform. The BPN together with related agencies conduct monitoring to ensure that the land that has been distributed is used according to its designation. Data shows that 75% of land redistribution recipients have used the land for productive agricultural activities, which has contributed to increasing their income (Ministry of Agriculture, 2023). This shows that land redistribution can have a positive impact on the local economy. Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform also regulates three categories of TORA, namely TORA originating from forest areas, TORA originating from non-forest areas, and TORA related to the resolution of agrarian conflicts. However, in the new regulation, there are no longer any specific objects of land redistribution that apply to both legal redistribution and land redistribution, meaning that there are no longer TORAs specifically designated for land redistribution and the source of the land redistribution objects is related to the source of legality. This creates a gap between TORA legality and land redistribution, which of course in the future has the potential to make one of these activities no longer necessary. The land redistribution process based on Presidential Regulation Number 86 of 2018 involves complicated and time-consuming administrative procedures, and requires a lot of resources. The success of program implementation is greatly influenced by the availability of adequate human, financial, and technical resources. Deficiencies in one or more existing aspects can be a significant obstacle for the government or institutions responsible for implementing land redistribution. (Gafuraningtyas et al., 2024).

After the enactment of Presidential Regulation Number 62 of 2023, the number of "stipulations" in the land redistribution stages has increased significantly. In comparison, in

Presidential Regulation Number 86 of 2018 there were only 4 (four) determinations in the implementation of land redistribution, namely location determination; object determination; subject determination; and land redistribution decree (SK) (as the basis for issuing Land Rights), while after Presidential Regulation Number 62 of 2023 the mandated determinations have become more numerous, namely determination of the TORA level map, determination of TORA, determination of land redistribution objects by the minister who organizes government affairs in the land sector; location determination; determination of land redistribution objects by the Provincial BPN Regional Office; determination of land redistribution subjects; and determination of granting Land Rights (land redistribution decree). The meaning of acceleration in Presidential Regulation Number 62 of 2023 seems to contradict the reality that the number of determinations that must be passed in the land redistribution process is increasing. With the addition of these stages, the process that should be aimed at accelerating land redistribution actually has the potential to complicate and extend the implementation time. This means that, although the initial goal was to increase efficiency, it can actually result in more complicated procedures and slower processes. More determinations can result in the need for more intensive coordination between agencies, which if not managed properly can actually slow down the implementation of land redistribution. In addition, multiple determinations can increase the administrative burden and reduce the timeliness of the distribution of Land Rights to people in need. In this context, the effectiveness of each stage of determination needs to be considered so that the goal of land redistribution can truly be achieved more effectively and efficiently. The main goal of agrarian reform is to reorganize the current social order, with the aim that they can feel justice and equality in terms of land ownership (Sulistyaningsih, 2021). Article 31 of Presidential Regulation Number 62 of 2023 regulates new norms regarding Land Rights with a certain validity period for redistributed land certificates. These norms include Cultivation Rights for individuals or legal entities in the form of cooperatives, Building Rights in the form of cooperatives, Use Rights for public and/or social facilities, and Land Rights with a certain validity period related to Management Rights. This provision significantly opens up a great opportunity for the granting of Land Rights with a certain period of time associated with the Management Rights held by the Land Bank Agency, in accordance with Government Regulation Number 64 of 2021. This allows the Land Bank Agency to maintain its Management Rights during the land redistribution process. Granting rights with a time period on redistributed land certificates will not create legal justice and is contrary to the values of Pancasila. According to Gustav Radbruch, law plays a crucial role in society, and agreed laws can guarantee certainty, create justice, and provide benefits to society. Justice is the most important aspect of law, meaning that the law does not side with anyone. In the context of law, justice refers to equal rights and obligations before the law. Every individual has the right to receive the same legal protection and defense, and has the same responsibility to obey and not violate the law (Putri & Arifin, 2018).

Justice and legal certainty are two crucial elements that determine the level of public trust in the law. Indonesian society will feel confident in the applicable law if law enforcers consistently apply the principles of justice and certainty in resolving various legal problems. Justice plays an important role in protecting individual rights and obligations, creating social order and peace, and realizing welfare for the community. In Pancasila, especially verse 5 which reads "Social justice for all Indonesian people" reflects how important justice is in national and state life (Putri & Arifin, 2018). The principle of legal certainty and post-legal reasoning are closely related. Post-legal reasoning functions as a logical foundation that underlies the principle of legal certainty. This principle is then realized in the form of post-legal law through various laws and regulations (Julyano & Sulistyawan, 2019). Thus, if the practice of land redistribution in Indonesia by granting time-limited rights to certificates resulting from land redistribution activities is carried out by the government, this action can

raise doubts about the equality of rights and obligations and give rise to new conflicts. As stated in Gustav Radbruch's theory, the law must uphold the principle of justice, so that granting time-limited rights to certificates can also be considered a form of legal injustice. Not only in terms of law, granting Land Rights from land redistribution with a certain period of time is contrary to the principles of Pancasila, especially in the context of achieving social justice for all Indonesian people. It is important for us to always prioritize common interests and guarantee equal rights and obligations among all levels of society. Granting time-limited land rights to certificates from land redistribution activities can be questioned as a policy that is not in line with the main objectives of the land redistribution itself.

CONCLUSION

Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform revokes two previous regulations, namely Presidential Regulation Number 88 of 2017 and Presidential Regulation Number 86 of 2018. The agrarian reform institution is getting stronger through the establishment of the National Agrarian Reform Acceleration Team which seeks to implement the agrarian reform program effectively by involving various ministries and institutions. TORA is divided into three categories, namely TORA from forest areas, TORA from non-forest areas, and TORA from resolving agrarian conflicts, but in the new regulation it no longer specifically mentions the objects designated for land redistribution, thus creating ambiguity between TORA regarding legality and land redistribution. In addition, land acquisition for the Land Bank Agency's assets is clearly related to the source of TORA. The addition of stages of determination in the land redistribution process has the potential to slow down implementation and complicate bureaucracy. The new norm on Land Rights with a time limit for submitting land redistribution certificates can be questioned because it is considered inconsistent with the main objective of land redistribution itself.

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