

Does the Government's Regulations in Land Ownership Empower the Protection of Human Rights?



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ABSTRACT

Protection of land ownership has been regulated in various policies to protect human rights. However, it is essential to comprehensively examine the government's role in protecting land ownership because there are still various land conflicts. This research analyzes the government's role in protecting land ownership based on human rights principles and compares it with the Netherlands. This research uses a normative legal approach, using laws and cases and comparing policies with the policies of other countries. The research results show first, the Indonesian government guarantees the protection of land ownership through basic regulations on agrarian principles and the Indonesian government is trying to protect land ownership by registering land, limiting foreign land ownership, and developing governance plans at the regional level. Second, the Dutch government protects land ownership through a systematic, transparent land registration system implemented effectively to provide legal certainty for owners, investors, and related parties. Thirdly, Indonesia's regulatory approach adheres to the basic regulations on agrarian principles system, and the Netherlands uses civil law. However, both countries experience the same problems, such as land ownership disputes and scarcity. Therefore, the government needs to implement human rights-based policies through a transparent and fast land ownership process and public consultation in resolving land disputes.



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1. Introduction

Soil is vital to the survival of the human species. The notion of land as it pertains to human existence encompasses many facets. Land serves as an initial means of production that has the potential to generate prosperity. Secondly, this can influence an individual's participation in political decision-making. Furthermore, it is a significant cultural asset for an individual's social standing.¹

¹ Guillermo Umaña Restrepo, Bill Pritchard, and Elen Welch, 'Does the Extent of Time in Drought Affect the Rate of Farm Ownership Change in a Local Government Area? A Sixteen-Year

Finally, people regard land as essential and holy because it is the ultimate resting place for all souls after death. In addition to its socioeconomic and political objectives, its function is subject to varying interpretations, contributing to conflicts and assertions of ownership. Land ownership concerns are fundamental to land protection policies.² Philosophical, practical, and legal discussions persist concerning community, public, and private land. Land ownership is the most significant concept in both legal and societal frameworks.³ The main issue in the dispute is that the "general right to possess private property" and "specific property titles" overlap. This means that the legal issue of land ownership rights is always discussed regarding land use policy and planning practice.⁴

The set of economic and social relations and norms defining the position of each individual with regard to the utilization of scarce resources" is the foundation of a system of property rights, institutional decisions can shape it. Within the realm of soil, the concept of property rights (which can also refer to rights of use or control) signifies that the landowner possesses every right associated with the land and, in an absolute sense, has complete autonomy over any determination regarding its utilization.⁵ Ownership means the most comprehensive collection of property rights. A lawful claim or title bestows the ultimate and exclusive right to enjoy, occupy, possess, rent, sell, use, donate, or even demolish an item of property, subject to certain limitations. We recognize three fundamental classifications of land ownership: private or "modern," communal or traditional, and public or state. Regardless of the form of ownership, owners have the authority to make decisions regarding land use and taking.⁶ Roman legal systems have historically held ownership rights in high esteem. In comparison to the more recent environmental protection principles, particularly those about soil and land, It appears that in terms of governance, owners' rights continue to take precedence. When soil

Assessment of Rural Land Ownership Change in New South Wales, Australia', *Journal of Rural Studies*, 98 (2023), 11–18 <https://doi.org/10.1016/j.jrurstud.2023.01.020>

² Andhyka Muchtar and M. Misbahul Mujib, 'Model Regulations for Collecting State Revenue in Registration of Sale and Purchase Land', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.1 (2024), 67–85 <https://doi.org/10.53955/jsderi.v2i1.24>

³ Felicitas Sommer and Walter Timo de Vries, 'Values and Representations in Land Registers and Their Legal, Technical, Social Effects on Land Rights as an Administrative Artefact', *Land Use Policy*, 135 (2023), 106946 <https://doi.org/10.1016/j.landusepol.2023.106946>

⁴ Felipe Benra and Laura Nahuelhual, 'A Trilogy of Inequalities: Land Ownership, Forest Cover and Ecosystem Services Distribution', *Land Use Policy*, 82 (2019), 247–57 <https://doi.org/10.1016/j.landusepol.2018.12.020>

⁵ Feng Gao and others, 'Ensemble Intelligence Algorithms and Soil Environmental Quality to Model Economic Quantity of Land Resource Allocation and Spatial Inequality', *Land Use Policy*, 141 (2024), 107147 <https://doi.org/10.1016/j.landusepol.2024.107147>

⁶ Ismaila Rimi Abubakar, 'Predictors of Inequalities in Land Ownership among Nigerian Households: Implications for Sustainable Development', *Land Use Policy*, 101 (2021), 105194 <https://doi.org/10.1016/j.landusepol.2020.105194>

protection and land ownership clash, upholding legal security is crucial to avoid jeopardizing the public interest.⁷

Article 20, paragraph (1) of Law Number 5 of 1960 on Agrarian Principles, also known as the Basic Agrarian Law (UUPA), governs land ownership rights in Indonesia. These rights are hereditary, the most extensive land a community may own, and the strongest. In this context, "hereditary" refers to a right that can be inherited from ancestors or handed down through generations; it is the most closely related to other land rights and the most comprehensive in terms of the authority vested in its holder.⁸ However, the fact remains that the land continues to present its own set of challenges in every location. Land disputes can arise among various stakeholders, including authorities and citizens, due to land claims, seizures, and alternative land acquisition methods. In recent years, land disputes have emerged as a pervasive phenomenon throughout Indonesia. The dispute procedure's initiation stems from the disputing parties' potential inability to reach a consensus.⁹

Land ownership inequality not only gives rise to agrarian conflicts and disputes but also possesses the capacity to infringe upon human rights (HAM). Human rights infringements associated with inequitable land ownership encompass not only land rights but also labor rights, the right to a reasonable standard of living, and additional fundamental rights. Due to unequal land ownership, agrarian conflicts can exacerbate poverty and impede the protection of human rights, particularly regarding civil and political matters. Ensuring equitable agrarian policies is of paramount significance in the prevention of human rights violations.¹⁰ Nevertheless, frequent agrarian disputes arising from inequitable land ownership continue to mar the implementation of agrarian reform, even as it approaches the intended levels of prosperity and justice. Until now, we have regarded the issue of land ownership inequality as a critical conflict and the root cause of rural strife, which we define as structural injustice in action. Human rights discourse interconnects with the implementation of agrarian reform policies. These policies serve as the foundation for resolving agrarian disputes or conflicts by the principles outlined in TAP MPR Number IX/MPR/2001 regarding

⁷ Petra Stankovics and others, 'The Interrelations of Land Ownership, Soil Protection and Privileges of Capital in the Aspect of Land Take', *Land Use Policy*, 99 (2020), 105071 <https://doi.org/10.1016/j.landusepol.2020.105071>

⁸ Wirastuti Widyatmanti and Deha Agus Umarhadi, 'Spatial Modeling of Soil Security in Agricultural Land of Central Java, Indonesia: A Preliminary Study on Capability, Condition, and Capital Dimensions', *Soil Security*, 8 (2022), 100070 <https://doi.org/10.1016/j.soisec.2022.100070>

⁹ Ismail Ercument Ayazli, 'Investigating the Interactions between Spatiotemporal Land Use/Land Cover Dynamics and Private Land Ownership', *Land Use Policy*, 141, February 2023 (2024), 107165 <https://doi.org/10.1016/j.landusepol.2024.107165>

¹⁰ Ibnu Mardiyanto and Hidayatulloh, 'The Responsibility to Protect (R2P) Concept as an Attempt for Protection of Human Rights in International Humanitarian Law Context', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 6.1 (2023), 103–18 <https://doi.org/10.24090/VOLKSGEIST.V6I1.7229>

agricultural reform and natural resources management. The governing body is obligated to uphold and respect the human rights of the affected community when addressing agrarian conflicts.¹¹

In 2023, Komnas HAM lodged 1062 complaints, 221 of which were related to rural concerns. The agricultural sector frequently encounters challenges because land is an essential commodity for all communities, which fosters a universal aspiration for land ownership and control. The national development policy paradigm, which continues to view land as a commodity, and the oversimplification of human relations with land by considering it solely from an economic standpoint also contribute to agrarian conflicts. The Secretary General of the Consortium for Agrarian Reform (KPA) reported that the number of land disputes in Indonesia escalated in 2022 compared to 2021. Specifically, 212 cases of agrarian conflict emerged, affecting a total area of 1,035,613 hectares and 346,402 heads of families (KK). According to KPA records, the plantation sector accounted for 99 cases in 2022, the highest number of agrarian conflicts.¹²

Numerous additional instances of unequal land ownership and control remain, such as the dispute between PT ANA and the inhabitants of North Morowali regarding the proprietorship of oil palm plantation land in Central Sulawesi. In addition, a dispute arose in 2019 between PT Bumi Sari and Pakel village residents over land claims based on the SHGU. However, before the issuance of the SHGU, the National Land Agency in Banyuwangi informed the residents of Pakel village via letter that the SHGU under PT Bumi Sari's ownership did not encompass the Pakel village area, and PT Bumi Sari continued to assert land claims in Pakel village. PT Bumi Sari sued the Head of Pakel Village in 2021 for directing the community to maintain control and use of the land.¹³

Furthermore, additional challenges exist, particularly with Indigenous Peoples' land ownership. At present, the granting of land rights in coastal regions needs to align with Law No. 5 of 1960, which establishes the Basic Agrarian Law (henceforth UUPA) as the legal foundation for national land. Legal ambiguity arises from regulating land ownership and use following Law No. 11 of 2020 concerning Omnibus Law, which is inconsistent with the UUPA's prior concepts

¹¹ Barid Hardiyanto, 'Politics of Land Policies in Indonesia in the Era of President Susilo Bambang Yudhoyono', *Land Use Policy*, 101 (2021), 105134 <https://doi.org/10.1016/j.landusepol.2020.105134>

¹² Martin Roestamy and others, 'A Review of the Reliability of Land Bank Institution in Indonesia for Effective Land Management of Public Interest', *Land Use Policy*, 120 (2022), 106275 <https://doi.org/10.1016/j.landusepol.2022.106275>

¹³ Setyardi Pratika Mulya and Delik Hudalah, 'Agricultural Intensity for Sustainable Regional Development: A Case Study in Peri-Urban Areas of Karawang Regency, Indonesia', *Regional Sustainability*, 5.1 (2024), 100117 <https://doi.org/10.1016/j.regsus.2024.100117>

and principles.¹⁴ In Indonesia, overlapping land regulations necessitate the state's coordination and harmonization of conflicts. For instance, communities that have inhabited littoral regions for generations, like the Bajo tribe, cannot receive land rights.¹⁵

Region-specific customary laws significantly shape the land ownership framework in Indonesia, frequently incorporating them into the country's legislation through the Basic Agrarian Law No. 5 of 1960 (UUPA). In contrast, customary law typically does not influence land ownership in the Netherlands, where private proprietorship and well-defined use rights predominate. Right of ownership, analogous to freehold under common law, is Indonesia's most comprehensive and robust land title. On the other hand, landowners in the Netherlands receive complete ownership rights (*volle eigendom*), indicating their absolute entitlement to the property. In the Netherlands, each legal owner possesses a miniature parcel of property. Landowners are permitted to utilize the land for their benefit and grant land rights to others.¹⁶ The landowner retains the ability to transmit ownership; however, he may only transfer a portion of his authority to another party. The Netherlands adheres to a causal system in which registration at the land registry office, a valid obligation contract (*causa*), and confirmation of the transfer of ownership (implied in the transfer deed) are all prerequisites for the ownership transfer system. The Netherlands, renowned for its robust and well-organized legal framework, enforces stringent regulations about land ownership. The Netherlands government is responsible for auditing and legally recording land ownership. The Netherlands government protects the rights of landowners with stringent regulations. This includes safeguards against arbitrary land expropriation by the government or private entities and enforcement of property rights violations by law enforcement.¹⁷

As stated previously, unequal land ownership gives rise to numerous conflicts and agrarian disputes, which have the potential to infringe upon human rights, specifically the right to life and the right against confiscation, as protected by Article 28A of the 1945 Constitution, Article 9 paragraph (1) of the Law Number 39 of 1999, Article 36 paragraph (1) and (2) of the Law Number 39 of 1999 as well as

¹⁴ Zulkifli Mappasomba and Romiyatno Suleman, 'Study of Coastal Land Change in Sand Mining Activities in Bandar Batauga Village, South Buton Regency, Indonesia', *Journal of Degraded and Mining Lands Management*, 11.3 (2024), 6059–69 <https://doi.org/10.15243/jdmlm.2024.113.6059>

¹⁵ Sherly Meilintan Surya and others, 'Legal Aspects of Granting Land Rights for the Bajo Tribe in the Coastal Areas of Indonesia', *Coastal Management*, 2024, 1–16 <https://doi.org/10.1080/08920753.2024.2335131>

¹⁶ Erwin van der Krabben and Sander Lenferink, 'The Introduction of Urban Land Readjustment Legislation as an Institutional Innovation in Dutch Land Policy', *Habitat International*, 75 (2018), 114–21 <https://doi.org/10.1016/j.habitatint.2018.03.004>

¹⁷ Hilde Remøy and Emma Street, 'The Dynamics of "Post-Crisis" Spatial Planning: A Comparative Study of Office Conversion Policies in England and The Netherlands', *Land Use Policy*, 77 (2018), 811–20 <https://doi.org/10.1016/j.landusepol.2016.12.005>

violates the right to prosperity as outlined in Article 28H paragraph (1), the right to equal treatment before the Law, the right to protection and human rights as outlined in Article 28I of the 1945 Constitution, and the right to live in prosperity as regulated in Article 28H paragraph (1). Hence, human rights-based and severe implementation of agrarian reform policy programs is crucial for accelerating efforts to resolve rural disputes and conflicts, particularly those about unequal land ownership, and for fostering social prosperity and well-being.¹⁸

Per the stipulations outlined in Presidential Decree 86/2018's Article 2 letter (a), agrarian reform aims to establish justice by mitigating land ownership and control disparities. Despite this ambition, land disputes about land ownership and control continue to transpire frequently. Corporations and fellow farmers are currently involved in disputes with each other. One way to achieve a resolution concerning land ownership rights is to ensure that the government and relevant agencies provide adequate legal protection and certainty about such rights. Without private or third-party ownership, the state's authority over such land expands and becomes more comprehensive.¹⁹ We should exercise the right to govern the state to maximize the well-being, independence, and contentment of the people within a sovereign, prosperous, just, and autonomous society and legal state. The central government has entrusted regional governments with managing state-owned property through the agrarian reform program. If necessary, the central government may grant authority over implementing customary law to autonomous regions and communities as long as it doesn't conflict with national interests. Paragraph 1 of Article 87 of PP Number 18 of 2021 mandates land owners to systematically monitor the implementation of land registration to expedite the According to Article 97 of PP Number 18 of 2021, the village head, sub-district head, or village head is responsible for issuing land certificates, compensation certificates, village certificates, and similar documents. These documents furnish information about land ownership and are merely advisory within the land registration framework.²⁰

This research examines the role of the government in ensuring legal safeguards for land ownership by human rights principles. Extensive prior research, including that of Gde Made Swardhana and Suviwat Jenvitchuwong, has addressed the involvement of traditional land management in development and

¹⁸ Rebecca Meckelburg and Agung Wardana, 'The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia', *Land Use Policy*, 137 (2024), 107017 <https://doi.org/10.1016/j.landusepol.2023.107017>

¹⁹ Gunanegara Gunanegara, 'Kebijakan Negara Pada Pengaturan Hak Atas Tanah Pasca Undang-Undang Cipta Kerja', *Refleksi Hukum: Jurnal Ilmu Hukum*, 6.2 (2022), 161-84 <https://doi.org/10.24246/jrh.2022.v6.i2.p161-184>

²⁰ Donna Okthalia Setiabudhi and others, 'The Role of Land Management Paradigm Towards Certainty and Justice', *BESTUUR*, 11.1 (August) (2023), 43 <https://doi.org/10.20961/bestuur.v11i1.71710>

the difficulties of safeguarding Indigenous communities. Customary land rights are indigenous peoples' collective rights to the territory they reside and administer. However, its application frequently conflicts between the state and local customary law communities. Various factors, including legal dualism in land management, conflicts of interest between the state and indigenous communities, and the lack of clarity surrounding the boundaries of customary land areas, influence the challenge of safeguarding customary land rights in Indonesia.²¹ Then, Lisnadia Nur Avivah, the first researcher to investigate the significance of land registration in the context of legal protection of land certificate ownership, conducted research on legal protection. We perform land registration activities to ensure the legal certainty of land rights. These activities consist of a series of land administration tasks involving collecting and processing physical and legal data. Basic Agrarian Law No. 5 of 1960 (UUPA) mandates the government to conduct land tract registration activities on Indonesian territory to acquire land rights. One of the objectives is an equitable and comprehensive acquisition of legal certainty concerning all community land rights, with a particular emphasis on customary law-based land rights.²² Analogous to prior investigations, Yulies Tiena Masriani examined the significance of land registration in verifying ownership certificates and rights. Issuing a land title certificate offers the proprietor legal assurance and protection from future legal disputes arising from the disadvantaged party's position due to the land certificate's issuance. As evidence of title, land registration is a legal confirmation of land ownership.²³ Subsequently, Petra Stankovics et al. identified that the weakest link in EU environmental protection law remains in the legislative regulation governing the use of private land to accomplish land protection objectives.²⁴ Previous research by Naomi_Beingessner, show that Diverse local populations have opposed global conflicts over land seizing, financialization, and conservation, insisting that land should have social, cultural, and ecological value and economic productivity. In light of comparable landholding concentration, privatization, and investment disputes, the Saskatchewan government has recently initiated public consultations concerning farmland ownership. It is imperative to consider the unique characteristics of land when formulating policies that, on the one hand, advocate for restrictions on

²¹ Gde Made Swardhana and Suviwat Jenvitchuwong, 'The Participation within Indigenous Land Management: Developments and Challenges of Indigenous Communities Protection', *Journal of Human Rights, Culture and Legal System*, 3.2 (2023), 308–27 <https://doi.org/10.53955/JHCLS.V3I1.72>

²² Lisnadia Nur Avivah, Sutaryono Sutaryono, and Dwi Wulan Titik Andari Andari, 'Pentingnya Pendaftaran Tanah Untuk Pertama Kali Dalam Rangka Perlindungan Hukum Kepemilikan Sertifikat Tanah', *Tunas Agraria*, 5.3 (2022), 197–210 <https://doi.org/10.31292/JTA.V5I3.186>

²³ Yulies Tiena Masriani, 'Pentingnya Kepemilikan Sertifikat Tanah Melalui Pendaftaran Tanah Sebagai Bukti Hak', *JURNAL USM LAW REVIEW*, 5.2 (2022), 539–52 <https://doi.org/10.26623/JULR.V5I2.5777>

²⁴ Stankovics and others.

foreign and corporate ownership. On the other hand, it permits public ownership, access, and support for public pastures while prohibiting environmental damage.²⁵

The protection of land ownership by the government is crucial due to its profound implications for a nation's social, economic, and political stability. The government's preservation of land ownership rights contributes to legal certainty and individual rights protection.²⁶ Land ownership disputes have the potential to generate significant social and political strains. Implementing equitable regulations and efficient law enforcement in land ownership can mitigate the likelihood of societal unrest and discord. By facilitating improved access to land and property, the government can empower communities, particularly those economically vulnerable, by implementing suitable land ownership regulations. This has the potential to mitigate economic inequality and enhance societal welfare. Therefore, government intervention in safeguarding land ownership is crucial for promoting social justice, stability, and sustainable development.²⁷

One distinguishing feature of nations that uphold the importance of legislation, such as Indonesia, is the presence of constitutional assurances for human rights, which also encompass legal safeguards for their populace. Land ownership disputes and conflicts are timeless and persistent issues that have persisted for a long time. It constitutes a complex and multidimensional type of issue. Therefore, society and the government must collaborate to ensure that land ownership regulations do not infringe upon human rights. Efforts to prevent, address, and manage it must consider many legal and non-legal factors. Based on human rights, the author wishes to determine the government's role in providing legal protection for land ownership through a comparative analysis of policies in the Netherlands, which has a robust and organized legal system for land ownership.

2. Research Method

This normative legal research uses a legal and case approach and compares its policies to those of other nations. The Netherlands was the subject of a comparative study as an illustration of a country whose legal system is robust and well-organized, particularly in regulating land ownership.²⁸ The context approach pertains to governmental legal safeguards for land ownership that uphold and

²⁵ Naomi Beingessner, 'Narrating Values, Persuading Government: The Unsettled Stories of Agricultural Land Ownership in the Rural Canadian Prairies', *Geoforum*, 123 (2021), 56–65 <https://doi.org/10.1016/j.geoforum.2021.04.028>

²⁶ Ema Mar'ati Sholecha and others, 'Justice Collaborator's Position and Function on Witness Protection's Rights as a Suspect from the Perspective of Criminal Law in Indonesia', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 131–43 <https://doi.org/10.24090/VOLKSGEIST.V6I1.7246>

²⁷ B. L. Turner, Eric F. Lambin, and Peter H. Verburg, 'From Land-Use/Land-Cover to Land System Science', *Ambio*, 50.7 (2021), 1291–94 <https://doi.org/10.1007/s13280-021-01510-4>

²⁸ Yahya Ahmad Zein, Aditia Syapriallah, and Rafiq Idris, 'The Regulations for Management of Coastal Natural Resource Conflicts in Indonesia-Malaysia Border', *BESTUUR*, 11.2 (2023), 192 <https://doi.org/10.20961/bestuur.v11i2.69205>

safeguard human rights.²⁹ In formulating pertinent policy models to ensure protection for land tenure and any land disputes that may arise, human rights protection serves as a roadmap.³⁰ The analysis of legal materials entails examining both primary and secondary legal sources. Similarities, distinctions, and inconsistencies can be observed among extant legal materials.³¹ We present it comprehensively to facilitate comparisons. Compared to rural law regulations, information regarding the efficacy of rules can be gleaned from international comparisons. In this investigation, deductive conclusions.

3. Results and Discussion

The Government's Role in Land Ownership Protection in Indonesia

Land-related 'rule of law' is frequently ambiguous in Southeast Asia, where distinct laws and conflicting statutes govern the region.³² The 'rules of the game' are exclusively subject to the jurisdiction of state agencies. Similarly, millions of rural actors from lower socioeconomic classes in the global south increasingly rely on these conflicts to assert their autonomy and guarantee their survival by securing or maintaining access to land.³³ The stakes are high because these conflicts are critical to many people's daily survival strategies. In addition, the number of stakeholders involved in land-related social conflicts has significantly increased. Landlords, tenant laborers, moneylenders, tax collectors, smallholders, significant estate interests, non-governmental organizations (NGOs), international donors, and various central and local government agencies and their officials introduce, at times, contradictory agendas, regulations, and enforcement strategies.³⁴

The basic regulations on agrarian principles (UUPA) functions as a policy concept and a general guideline within agricultural reform. The UUPA defines "agrarian reform" as the implementation of the following measures: maintaining, acknowledging, and protecting the ownership and control of agricultural

²⁹ Siti Kunarti and others, 'The Legal Politics of Outsourcing and Its Implication for the Protection of Workers in Indonesia', *Sriwijaya Law Review*, 8.1 (2024), 1 <https://doi.org/10.28946/slrev.Vol8.Iss1.2750.pp1-19>

³⁰ Abdul Kadir Jaelani and others, 'Green Legality Certificate on Agrarian Reform: Indonesian Experience', *KnE Social Sciences*, 2024 <https://doi.org/10.18502/kss.v8i21.14713>

³¹ Fitri Nur Aini Prasetyo and Abdul Kadir Jaelani, 'The Changing of Environmental Approval Administrative Law Perspective', *Journal of Human Rights, Culture and Legal System*, 2.3 (2022), 191–208 <https://doi.org/10.53955/jhcls.v2i3.55>

³² Jorge A. Rincón Barajas, Christoph Kubitza, and Jann Lay, 'Large-Scale Acquisitions of Communal Land in the Global South: Assessing the Risks and Formulating Policy Recommendations', *Land Use Policy*, 139 (2024), 107054 <https://doi.org/10.1016/j.landusepol.2024.107054>

³³ Katrin Karner and others, 'Developing Stakeholder-Driven Scenarios on Land Sharing and Land Sparing – Insights from Five European Case Studies', *Journal of Environmental Management*, 241 (2019), 488–500 <https://doi.org/10.1016/j.jenvman.2019.03.050>

³⁴ Meckelburg and Wardana.

resources; rectifying ownership and control inequities and promoting more equitable access to them; reorganizing the unjust relations of production and distribution of surplus; and optimizing productivity and sustainability through the utilization of spatial planning and agricultural resources.³⁵ UUPA possesses the capacity to formulate at least nine policy principles that function as pragmatic directives concerning agrarian reform. Among these principles are the following: nationalism, legal protection, and certainty, opposition to monopoly and accumulation, distribution and redistribution, opposition to extortion, productivity, sustainability, welfare, and affirmation. Before the policy's official implementation, the tumultuous period of 1965, which lasted for 32 years, led agrarian policymakers and implementers to disregard agricultural reform.³⁶ Agrarian reform reemerged exclusively following the fall of the Suharto regime when several unilateral actions advocating policy changes and implementing agrarian reform arose to defend peasants.³⁷

The land administration paradox in Indonesia, which arises from governmental authority, is amenable to private-sector negotiation.³⁸ An approach that could be considered to reduce the likelihood of renegotiation and rental agreement breakdowns concerning the release of lands from private landowners is to increase landowners' accountability by implementing formal contractual arrangements that protect tenants' rights for LIPs. The government's ineffective land administration practices in every region of Indonesia make this especially critical.³⁹ Roughly 50% of all cases presented before the Supreme Court involve land disputes. This proportion depletes the nation's energy because such disputes promote economic inequality and envy. Land issues in impoverished agricultural regions have led to the importance of land reform and the distribution of agricultural land tenure, which enhance the impoverished population's status, wealth, and influence. A conflict of interests exists between those who support and advocate for land reform's implementation and those who view it as a threat and seek to impede its advancement.⁴⁰

³⁵ Yanbo Qu and others, 'Does the Rural Housing Land System Reform Model Meeting the Needs of Farmers Improve the Welfare of Farmers?', *Socio-Economic Planning Sciences*, 90 (2023), 101757 <https://doi.org/10.1016/j.seps.2023.101757>

³⁶ Hardiyanto.

³⁷ Nina Boberg-Fazlić and others, 'Winners and Losers from Agrarian Reform: Evidence from Danish Land Inequality 1682–1895', *Journal of Development Economics*, 155 (2022), 102813 <https://doi.org/10.1016/j.jdeveco.2021.102813>

³⁸ Anna J.P. Sanders and others, 'Unrelenting Games: Multiple Negotiations and Landscape Transformations in the Tropical Peatlands of Central Kalimantan, Indonesia', *World Development*, 117 (2019), 196–210 <https://doi.org/10.1016/j.worlddev.2019.01.008>

³⁹ Roestamy and others.

⁴⁰ Edvin Zhllima, Klodjan Rama, and Drini Imami, 'Agriculture Land Markets in Transition - The Inherited Challenge of the Post-Communist Land Reform in Albania', *Land Use Policy*, 107 (2021), 105509 <https://doi.org/10.1016/j.landusepol.2021.105509>

The government protects Indonesians from foreign land ownership through Law No. 11 of 2020 on Property Rights, Farmer's Rights, Housing Units, Land Registration, and Government Regulation No. 2021, which explicitly regulates foreign apartment ownership and property rights. Article 143–145 of Law Number 11 of 2020 defines foreign apartments. According to Article 144(1) of the Employment Creation Act, Indonesian citizens, legal entities, foreigners with permits, foreign entities legally represented in Indonesia, and representatives from foreign and international institutions can own condominium units. The regulation grants apartment ownership rights to foreigners with immigration documents and foreign legal companies with representative offices in Indonesia. Foreigners can own homes with certain restrictions: The minimum price, the area of land parcels, the number of land parcels or apartment units, and the designation of the property as residential or residential dwellings are all subject to the minimum price, floor area, and land area limits set by earlier regulations.⁴¹ Foreigners can own homes with certain restrictions: As previously stated, foreigners' property is subject to a minimum price, floor area, land area, several apartment units, and zoning (they must be in residential areas). Area, multiple apartments, and residential zoning.⁴²

Legislative authorities at the local and central levels have delegated sufficient authority to the oligopoly in real estate development, which governs land ownership. This oligopoly comprises 25 private companies, with tycoons owning the majority stake and controlling lands for plantations, farms, territory, and large real estate. Indonesia, on the other hand, manages approximately 10 MHa of the total industrial oil plantations. Approximately 13 million MHa of oil palm plantations in Indonesia will operate by 2020,⁴³ These plantations generate complex environmental issues essential for safeguarding local ecosystems and society's pursuit of justice, equality, and sustainable prosperity for all individuals. In 2016, these plantations covered an area of 12 MHa and exported over 34.6 billion metric tons of palm oil, of which nearly 73% was exported.⁴⁴

The land registry would protect Indonesian property owners. Article 19 of the UUPA mandates government assistance in land registration, including surveying,

⁴¹ Nick Gallent, Phoebe Stirling, and Iqbal Hamiduddin, 'Pandemic Mobility, Second Homes and Housing Market Change in a Rural Amenity Area during COVID-19 – The Brecon Beacons National Park, Wales', *Progress in Planning*, 172 (2023), 100731 <https://doi.org/10.1016/j.progress.2022.100731>

⁴² Leiju Qiu and others, 'Policy Uncertainty and Overseas Property Purchases: Evidence from China', *Research in International Business and Finance*, 58 (2021), 101439 <https://doi.org/10.1016/j.ribaf.2021.101439>

⁴³ Rakhmawati Nabila and others, 'Oil Palm Biomass in Indonesia: Thermochemical Upgrading and Its Utilization', *Renewable and Sustainable Energy Reviews*, 176 (2023), 113193 <https://doi.org/10.1016/j.rser.2023.113193>

⁴⁴ Yosuke Shigetomi, Yuichi Ishimura, and Yuki Yamamoto, 'Trends in Global Dependency on the Indonesian Palm Oil and Resultant Environmental Impacts', *Scientific Reports*, 10.1 (2020), 20624 <https://doi.org/10.1038/s41598-020-77458-4>

mapping, recording, registering, transferring rights, and issuing proof of rights.⁴⁵ The government must provide landowners with substantial evidence of legal rights and ownership after the first registration, but not indefensible rights when authentic proof before registration can convince a court. Community members and landowners can validate and amend land boundaries and ownership through collaborative mapping.⁴⁶ Governance in land management is a significant concern for development professionals, policymakers, and academics. Planned mass land registration within the land tenure and ownership framework can realize these ideals. This stage involves comprehending all aspects of land registration. State-funded mass land registration, with precise planning, will establish equitable land tenure, ownership arrangements, and legal certainty. This is due to the preliminary mapping of land conditions across all country regions, which determines whether to issue a title deed, temporary title, or none to prevent conflicts between individual property rights and state assets.⁴⁷

A comprehensive system is implemented, specifically the concurrent initial land registration activity, which encompasses all land arrangement objects that have yet to be recorded in any given village location or other region. Provision Number 18 of 2021 establishes the legal foundation for sporadic land registration. Lack of maintenance may diminish the utility of land registries, which derive their value from their ability to provide authoritative and up-to-date data on all parcels that may be of interest.⁴⁸ Establishing governmental protection in land ownership is critical to prevent contentious legal and proprietorship demarcations, landlord-tenant disputes, and competition for land tenure, all of which are significant contributors to conflicts between individuals. It is of the utmost importance that those investigating or confronting conflicts and management in urban settings, specifically in what we refer to as "grey spaces," comprehend and address these complexities. In these regions, a game of redistribution frequently characterizes the dynamics of land policy; winners and losers are involved.⁴⁹

⁴⁵ Trias Aditya and others, 'Title Validation and Collaborative Mapping to Accelerate Quality Assurance of Land Registration', *Land Use Policy*, 109 (2021), 105689 <https://doi.org/10.1016/j.landusepol.2021.105689>

⁴⁶ Lina Jamilah and Arif Firmansyah, 'The Concept of Good Faith on Complete Systematic Land Registration in Order to Realize Justice', *Proceedings of the 4th Social and Humanities Research Symposium (SoRes 2021)*, 658. SoRes 2021 (2022), 470–73 <https://doi.org/10.2991/assehr.k.220407.096>

⁴⁷ D. O. Setiabudhi and others, 'Collective Land Certification Policy for Improving Good Land Governance', *IOP Conference Series: Earth and Environmental Science*, 343.1 (2019) <https://doi.org/10.1088/1755-1315/343/1/012068>

⁴⁸ Daniel Ayalew Ali and others, 'Sustaining Land Registration Benefits by Addressing the Challenges of Reversion to Informality in Rwanda', *Land Use Policy*, 110 (2021), 104317 <https://doi.org/10.1016/j.landusepol.2019.104317>

⁴⁹ Mojtaba Rafieian and Ayda Kianfar, 'Guiding Public Policy in Gray Spaces: A Meta-Study on Land Ownership Conflicts (1987–2022)', *Cities*, 147 (2024), 104803 <https://doi.org/10.1016/j.cities.2024.104803>

The protect indigenous territories in Indonesia; indigenous people may lack any property. This is traditional collective land. Plant ownership prevails over land purchase, sale, and lease. Although land is customary, those who cultivate plants own the plants.⁵⁰ This is how customs regulate land and allocation. Local communities will face considerable obstacles to forest preservation and harmony with nature. The inexorably gradual erosion of traditional values results from the permeation of modernism through various channels.⁵¹ Governmentality, which emphasizes the importance of understanding the political justifications and logical processes underlying government policies and actions⁵², also impacts the government's approach to protecting indigenous land. This framework facilitates examining the governance ramifications that land reform policies impose on indigenous communities.⁵³ Furthermore, the government has allocated significant resources towards social forestry initiatives, aiming to expand their scope to 12.7 million hectares by 2021. The anticipated outcomes of this endeavor are promoting sustainable forest management practices and providing greater autonomy to indigenous communities regarding their land and resources.

The government should prioritize land planning to enhance land ownership protection. The spatial plan consolidates sectoral policies to establish limitations and obligations for individual allotments or spaces, whereas land tenure delineates the rights associated with specific land parcels.⁵⁴ The Capital Investment Act (UU Penanaman Modal) (2007) refers to the incorporation of data about land ownership (private laws) and public laws into investment decisions. The Local Government Act (UU Pemerintahan Daerah) (2014) mandates that local governments develop and maintain information systems and promote spatial planning because they require data to provide public services. In addition, the authorities are needed for the Spatial Planning Regulation (2010) to distribute spatial plans to government institutions and communities. Local administrations are the preeminent authorities in (detailed) spatial planning in Indonesia. Planning planners consider land ownership and rights as fundamental input when

⁵⁰ Agung Wicaksono, Irni Yunita, and Gede Ginaya, 'Living Side by Side with Nature: Evidence of Self-Governance in Three Local Communities in Indonesia', *Heliyon*, 8.12 (2022), e12248 <https://doi.org/10.1016/j.heliyon.2022.e12248>

⁵¹ John F. McCarthy and others, 'Land Reform Rationalities and Their Governance Effects in Indonesia: Provoking Land Politics or Addressing Adverse Formalisation?', *Geoforum*, 132. April (2022), 92–102 <https://doi.org/10.1016/j.geoforum.2022.04.008>

⁵² Wiwit Pratiwi and others, 'Evaluation of the Fulfillment of Political Rights for Persons with Disabilities to Welcome the 2024 General Election', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 6.1 (2023), 19–32 <https://doi.org/10.24090/Volksgeist.V6i1.7886>

⁵³ Ari Rakatama and Ram Pandit, 'Reviewing Social Forestry Schemes in Indonesia: Opportunities and Challenges', *Forest Policy and Economics*, 111 (2020), 102052 <https://doi.org/10.1016/j.forpol.2019.102052>

⁵⁴ Leo Peskett, Marc J. Metzger, and Kirsty Blackstock, 'Regional Scale Integrated Land Use Planning to Meet Multiple Objectives: Good in Theory but Challenging in Practice', *Environmental Science & Policy*, 147 (2023), 292–304 <https://doi.org/10.1016/j.envsci.2023.06.022>

developing spatial plans.⁵⁵ That means revising the Basic Agrarian Law and other land-related laws that need to be improved so that land violations are more effectively punished and modern problems like customary land and land disputes are dealt with. Then, proceed with expanding and maintaining the agrarian reform program to ensure a more equitable land distribution, focusing on those who lack land ownership or possess inadequate land. Through the comprehensive and consistent implementation of these proposed solutions, the Indonesian government can effectively mitigate land conflicts, foster greater social justice in land allocation, and guarantee long-term sustainable management of land resources.

The Government's Role in Land Ownership Protection in Netherlands

Land rights registration occurs in the Netherlands in two distinct phases. During the initial stage, the involved parties establish a contractual agreement to convey a parcel of land, known as a contract of sale. The sales contract stipulates this obligation, but ownership must still be transferred. This occurs during the second phase, which requires the presence of a civil law notary. Within a maximum of four days after receiving the deed, the registrar verifies that all registration requirements have been met. After determining whether to register the deed, he attaches a registration report to the document and returns it to the party offering the land.⁵⁶ The deed of conveyance in the deed office records the transfer of ownership since that moment. The registrar does not issue a title certificate outlining the new proprietor's rights. It is the general public's responsibility to consult the deeds recorded in public registries to ascertain the ownership of a property. In doing so, they can rely on the details in the deed. Individuals who have suffered losses due to incorrect information on the deed or an error in the registrar's registration may seek compensation from the Dutch Land Registry Office or a civil-law notary. This self-administering state body is liable for registrar errors in the Netherlands. The registrar not only maintains public registries but also manages the cadastral register. This parcel-based property register contains the names of rights and title holders, as well as references to public registers.⁵⁷

The most exhaustive property right that an individual can possess over an object is land ownership in the Netherlands, according to Article 5:1 of the Dutch

⁵⁵ Agung Indrajit and others, 'Implementation of the Spatial Plan Information Package for Improving Ease of Doing Business in Indonesian Cities', *Land Use Policy*, 105 (2021), 105338 <https://doi.org/10.1016/j.landusepol.2021.105338>

⁵⁶ S. Bronts, P.W. Gerbens-Leenes, and P. Guzmán-Luna, 'The Water, Land and Carbon Footprint of Conventional and Organic Dairy Systems in the Netherlands and Spain. A Case Study into the Consequences of Ecological Indicator Selection and Methodological Choices', *Energy Nexus*, 11 (2023), 100217 <https://doi.org/10.1016/j.nexus.2023.100217>

⁵⁷ Hendrik Ploeger and Hafida Bounjouh, 'The Dutch Urban Ground Lease: A Valuable Tool for Land Policy?', *Land Use Policy*, 63 (2017), 78–85 <https://doi.org/10.1016/j.landusepol.2017.01.005>

Civil Code. The right of ownership confers limited property rights, which are comparatively less all-encompassing. Once vested, limited property rights "stick" to the property and are therefore transferable to subsequent proprietors⁵⁸. In the Netherlands, there are two types of ground ownership: freehold (*eigen grond*) and leasehold (*erfpacht*). The Dutch Land Registry individually documents the distinct land parcels in its public inventories, known as cadastral plots (*kadastrale percelen*) or land registry parcels (*kadastrale percelen*). The public registers list the subjects entitled to each cadastral plot for that specific cadastral plot. The subjects of the analysis may include individuals, legal entities subject to public regulation (e.g., municipalities and provinces), as well as private legal entities (e.g., public and private limited liability companies; *naamloze vennootschappen en besloten vennootschappen met beperkte aansprakelijkheid*). Additionally, the Land Registry records the entitlement's characteristics, any applicable legal restrictions (like limited rights or *hypothek*), and whether the plot is subject to an attachment (*beslag*) or a mortgage right (*hypothek*).⁵⁹ *Eigendom*, or ownership, is the most all-encompassing privilege regarding real estate. The proprietor has sole discretion over the real estate's disposition or encumbrance and retains exclusive use rights. The Netherlands' legal framework categorizes real estate ownership into two parts: land ownership, which includes all permanently attached items, and ownership of a network of pipelines, cables, and similar infrastructure. For instance, one could own a data network within the real estate of another individual.

The Antilles cadastral registration and the Dutch land registry (*Basisregistratie Kadaster*) produce maps from public and surveyor documents.⁶⁰ Possession, nevertheless, does not obligate owners to corroborate the land registry. *Kadaster*, the Dutch Cadastre, Land Registry, and Mapping Agency are the authoritative sources of information concerning property and ownership rights in the Netherlands concerning spatial and administrative data. The Dutch National Land Registry has recently executed an updated strategy for publishing linked data for their geospatial assets. By capitalizing on their prior experience publishing base registries as linked data, Kadaster has devised a method for delivering linked data assets across projects in a timely, cost-effective, and reusable fashion by leveraging

⁵⁸ Anne De Vries-Stotijn, Ilon Van Ham, and Kees Bastmeijer, 'Protection through Property: From Private to River-Held Rights', *Water International*, 44.6-7 (2019), 736-51 <https://doi.org/10.1080/02508060.2019.1641882>

⁵⁹ Jip Claassens, Eric Koomen, and Jan Rouwendal, 'Urban Density and Spatial Planning: The Unforeseen Impacts of Dutch Devolution', ed. by Eda Ustaoglu, *PLOS ONE*, 15.10 (2020), e0240738 <https://doi.org/10.1371/journal.pone.0240738>

⁶⁰ Frances Thomson, Monica Parada-Hernández, and Camilo Acero, 'Land Formalization – The New Magic Bullet in Counternarcotics? A Case Study of Coca Cultivation and Tenure (in)Formality from Colombia', *World Development*, 149 (2022), 105680 <https://doi.org/10.1016/j.worlddev.2021.105680>

established community technologies and standards and commercially available products.⁶¹

Formally, the sole purpose of this register is taxation; registration does not grant any ownership rights. In practice, however, cadastral register registration as the owner of a title is crucial. Before recording a conveyance deed in the cadastral register, the civil-law notary verifies that the selling party is a registered proprietor. If this is not the case, the civil law notary cannot, in principle, draft the deed. The governing council of the Order of Civil-Law Notaries determined this in consultation with the insurer of said civil-law notaries. The insurer aims to minimize the risk of paying damages due to the civil-law notary's assistance in transferring an unauthorized party's property or their collaboration with a third party in establishing a mortgage right.⁶² This necessitates that civil-law notaries reconcile any disagreements with the registrar before a subsequent transfer regarding the ramifications of a registered deed. Furthermore, the Land Registry Office strives to ensure accurate general recording through modern technology and the imposition of stringent responsibilities on legal notaries of the Dutch civil service.⁶³

The public law that limit real estate owners' legal power when it comes to the right to use include zoning plan conditions, environmental laws, building regulations, and tolerance obligations for maintaining public underground cables, pipes, and other similar things.⁶⁴ Other examples are registrations under the Soil Protection Act (*Wet Bodembescherming*) and limited rights under the Public Works Act (*Removal of Impediments*). A municipality may possess a right of first refusal at the time of real estate sales by the Municipalities (*Preferential Rights*) Act. The government may expropriate the proprietor in specific situations. Furthermore, the general rule of private law restricts the right of ownership, so that no proprietor may use their property in a manner that violates the rights of others. Limited rights to real estate derived from the right of ownership may be subject to the majority of the aforementioned restrictions. The Disclosure of Impediments under Public Law in Regard to Real Estate Act (*Wet kenbaarheid publiekrechtelijke beperkingen*) serves an important purpose. It obligates the government to record the aforementioned restrictions in the Land Registry's public registers, among

⁶¹ Björn Hoops, 'The Protection of Publicly Owned Land from Acquisitions through Long-Term Possession', *European Property Law Journal*, 9.1 (2020), 4–20 <https://doi.org/10.1515/eplj-2020-0002>

⁶² Agus Riwanto, Sukarni Suryaningsih, and Delasari Krisda Putri, 'Reform and Breakthrough in Business Regulations for Empowering MSMEs in Indonesia and the Netherlands', *Journal of Human Rights, Culture and Legal System*, 3.3 (2023), 513–40 <https://doi.org/10.53955/jhcls.v3i3.109>

⁶³ Quirijn Lodder and Jill Slinger, 'The "Research for Policy" Cycle in Dutch Coastal Flood Risk Management: The Coastal Genesis 2 Research Programme', *Ocean & Coastal Management*, 219 (2022), 106066 <https://doi.org/10.1016/j.ocecoaman.2022.106066>

⁶⁴ Yi hyun Kang, Carel Dieperink, and Dries Hegger, 'Policy Translation and Dynamics: The Role of Dutch Ideas in Developing South Korea's Coastal Management Policies', *Ocean & Coastal Management*, 221 (2022), 106102 <https://doi.org/10.1016/j.ocecoaman.2022.106102>

other things. This is done to ensure transparency and inform third parties about the public restrictions that apply to specific real estate properties.⁶⁵

Common ownership (*mandeligheid*) refers to two or more parcels of property and is a distinct type of joint real estate ownership. An entitlement is established when an immovable asset is held in joint ownership, and the owners designate it for everyday use by executing a public (notarial) deed before a notary is authorized by Dutch civil law. Subsequently, the owners must register a certified copy of said deed in the Land Registry's public registers. When a typical arrangement interdependent on the quality of ownership of immovable property is required, joint ownership may be implemented; for instance, parking spaces, parks with footpaths, green sections, and fencing may be owned collectively. In principle, one cannot unilaterally assert partition. Moreover, the essence of the right is dependent on ownership, as it is fundamentally inseparable from it. To establish joint ownership rights, legal principles can be used, which are the basis of the legal system. These principles ensure fairness and clarity in the process. Additionally, common ownership holds the dividing wall that separates two buildings or works of distinct owners, further illustrating the practical application of these legal principles.⁶⁶

The primary reason for establishing the Netherlands Land Registry is to fulfill various statutory obligations. The Civil Code and the Land Registry Land Legislation delineate the specific duties that fall under the purview of geoinformation services. The Land Registry Organizational Act regulates the legal and administrative standing of the land registry in the Netherlands in addition to these statutes. The land registry in the Netherlands serves as the legal framework for public records, land registration, topography, and geometry activities. The provisions of the Civil Code partially regulate its operations. This legislation guarantees that the input and processing are executed with the utmost reliability, ensuring the perpetual accessibility of comprehensive and up-to-date real estate data, information about aircraft and ships, and geospatial data.

The land policy framework in the Netherlands is defined and described precisely and unambiguously. Within the context of the Netherlands, land policy functions as a means for municipalities to accomplish their spatial-political aspirations. Therefore, land policy serves as a facilitator for spatial policy, characterizing the actions and regulations that governing bodies of government implement about and concerning land. Active land policy-implementing

⁶⁵ Edwin Buitelaar and Hans Leinfelder, 'Public Design of Urban Sprawl: Governments and the Extension of the Urban Fabric in Flanders and the Netherlands', *Urban Planning*, 5.1 (2020), 46–57 <https://doi.org/10.17645/up.v5i1.2669>

⁶⁶ Vera Götze and Thomas Hartmann, 'Why Municipalities Grow: The Influence of Fiscal Incentives on Municipal Land Policies in Germany and the Netherlands', *Land Use Policy*, 109 (2021), 105681 <https://doi.org/10.1016/j.landusepol.2021.105681>

municipal governments behave similarly to real estate developers while exercising political control as municipal governments. The dynamics of active land policy in small communities may cause a decline in democratic legitimacy. From an international perspective, the Netherlands' land policy is exceptionally market-oriented. In contrast to numerous other nations, municipalities operate like that of real estate developers. The Netherlands exemplifies an extreme form of active land policy due to the city government's substantial involvement in land development, which appears to be partly motivated by the city government's institutional framework, ideology, and strategy enrichment.⁶⁷

The Dutch Regulation permits real estate proprietors to consent to land readjustment (LR) without public administration intervention. The LR proposal would, however, grant municipalities the authority to compel the readjustment of minority properties if a minority of owner object, provided that a majority of owners support the plan.⁶⁸ The city must ensure adequate coverage of all essential development expenses before approving the readjustment plan and modifying the land use plan. Section 6.4 of the Physical Planning Act (*Wet ruimtelijke ordening*) of 2008 authorizes Dutch municipalities to charge landowners for infrastructure expenses through a Development Contribution Plan.⁶⁹ When municipalities cannot agree voluntarily with the landowner regarding his contributions to the required infrastructure and need to modify the Land Use Plan to accommodate new construction or uses, they may approve this Development Contribution Plan in conjunction with the Land Use Plan modification. The plan includes a calculation of the costs that landowners must bear.⁷⁰ After the municipality has approved both this plan and the new land use plan, it may impose a condition on the building permit granting the contribution. The city will revoke the building permit if the landowner fails to pay. Thus, municipalities have the authority to impose these expenses on landowners as a requirement. The proprietor can build on this parcel and change its uses with payment.⁷¹

⁶⁷ Thomas van Oosten, Patrick Witte, and Thomas Hartmann, 'Active Land Policy in Small Municipalities in the Netherlands: "We Don't Do It, Unless..."', *Land Use Policy*, 77 (2018), 829–36 <https://doi.org/10.1016/j.landusepol.2017.10.029>

⁶⁸ Sanne Holtslag-Broekhof, 'Urban Land Readjustment: Necessary for Effective Urban Renewal? Analysing the Dutch Quest for New Legislation', *Land Use Policy*, 77 (2018), 821–28 <https://doi.org/10.1016/j.landusepol.2017.07.062>

⁶⁹ Sina Shahab, Thomas Hartmann, and Arend Jonkman, 'Strategies of Municipal Land Policies: Housing Development in Germany, Belgium, and Netherlands', *European Planning Studies*, 29.6 (2021), 1132–50 <https://doi.org/10.1080/09654313.2020.1817867>

⁷⁰ Demetrio Muñoz Gielen, 'Proposal of Land Readjustment for the Netherlands: An Analysis of Its Effectiveness from an International Perspective', *Cities*, 53 (2016), 78–86 <https://doi.org/10.1016/j.cities.2016.02.001>

⁷¹ Arend Jonkman, Rick Meijer, and Thomas Hartmann, 'Land for Housing: Quantitative Targets and Qualitative Ambitions in Dutch Housing Development', *Land Use Policy*, 114 (2022), 105957 <https://doi.org/10.1016/j.landusepol.2021.105957>

It is evident from the preceding description that the Dutch government regulates land ownership significantly.⁷² The Netherlands, renowned for its robust and well-organized legal framework, enforces stringent regulations about land ownership. The Dutch government is responsible for auditing and legally recording land ownership. A transparent and systematic land registration system facilitates property transactions and helps to prevent ownership disputes. In addition to determining zoning and spatial planning, the Dutch government regulates land use sustainably and efficiently. The Dutch government includes a land division for habitation, industry, agriculture, and green open space. The government is responsible for designing and constructing public infrastructure, including railroads, highways, and bridges. This may impact land ownership via land use rights regulation and land acquisition for infrastructure initiatives. Land ownership regulations that are unambiguous and effectively enforced afford legal assurance to landowners, investors, and other relevant parties. This enhances the level of trust and consistency in real estate transactions.⁷³ Land registration that is open and transparent reduces the likelihood of ownership disputes and expedites the legal process. In the Netherlands, the public's participation in spatial planning and land use decision-making is an essential tenet. Incorporating community interests into the spatial planning process through this participatory mechanism reduces the likelihood of conflicts and enhances policy acceptance.

Does the Government's Regulations in Land Ownership Empower the Protection of Human Rights?

Human activities such as population growth, technological advancements, policy modifications, institutional adjustments, and cultural preferences, all aimed at enhancing the quality of life, induce land-use changes. Additionally, biophysical factors such as land topography, relief, elevation, accessibility, capability, and suitability also contribute to these changes.⁷⁴ Public administration and infrastructure require land. Even public fallow land can be beneficial in the future, if only for cash from developers. Poor land management can lead to citizens invading public land. Most jurisdictions allow the user of another's land to acquire it after a set time if their physical control is strong enough to qualify as

⁷² I Gede Adhi Mulyawarman, Putu Gede Arya Sumerta Yasa, and Lamberton Cait, 'Blocking Dangerous Content in Electronic Communications Networks: Evidence from Netherlands, United States and Singapore', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 237–62 <https://doi.org/10.53955/jhcls.v4i1.216>

⁷³ Suparto Suparto and others, 'Administrative Discretion in Indonesia & Netherland Administrative Court: Authorities and Regulations', *Journal of Human Rights, Culture and Legal System*, 4.1 (2024), 75–100 <https://doi.org/10.53955/jhcls.v4i1.189>

⁷⁴ Taslim Arifin and others, 'Forecasting Land-Use Changes Due to Coastal City Development on the Peri-Urban Area in Makassar City, Indonesia', *The Egyptian Journal of Remote Sensing and Space Science*, 26.1 (2023), 197–206 <https://doi.org/10.1016/j.ejrs.2023.02.002>

"proprietary" possession. Notarial deeds and other registered papers do not detail land borders.⁷⁵

The Dutch Colonial administration initially established the *Domein* principle (*Domein verklaring*), which held that land is state property, but in Indonesia, the idea of state control has supplanted it.⁷⁶ Pancasila serves as the foundational principle underlying UUPA's concept of state control. Antithetical to as opposed to recognizing the principle of horizontal separation, the UUPA is an organization that facilitates the classification of land rights, including the allocation of rights to plantation and mining enterprises. Despite the mandatory nature of land registration, customary law may protect unregistered land.⁷⁷ There are notable distinctions between Indonesia and the Netherlands, such as the civil code governing land ownership in right-limited property. In the Netherlands, land ownership is the most comprehensive property right an individual can possess over an object, as stated in Article 5:1 of the Dutch Civil Code. The right of ownership bestows restricted property rights that are relatively less comprehensive in scope. Limited property rights, once vested, remain "fixed" to the property and are thus transferable to subsequent proprietors.⁷⁸

The Netherlands' examination of housing challenges, land ownership, land preservation, and land policy revealed several land policy instruments. An illustration of land banking in the Netherlands is provided below. His proactive stance on land policy extends beyond this particular aspect.⁷⁹ When the government establishes the price of a taxable object (below the market price) by the sales value of the item, horizontal conflicts may arise in Indonesian land banking, which is distinct from land banking in the Netherlands. Moreover, the proprietors actively pursue a price exceeding the current market rate. Hypotheses regarding social inequalities that might emerge after establishing public infrastructure may also give rise to horizontal disputes. The presence of shanty settlements is one of the challenges that land bank operational mechanisms face. Budgetary and schedule estimations are also difficult to accomplish. As a result, it is critical to manage the project's finances, oversee matters of value, and provide compensation to landowners entitled to relief throughout its execution.

⁷⁵ Thomson, Parada-Hernández, and Acero.

⁷⁶ D W Ningsih, R Kurniawan, and M Nasichin, 'The Concept Of Domein Verklaring And Nature Of State Control Over Land In The Land Bank Concept.', *Baltic Journal of Law & ...*, 15.7 (2022), 350–55 <https://doi.org/10.2478/bjlp-2022-007024>

⁷⁷ Nuzon Sugito, Ratu Aulia, and Lisa Rukmana, 'Pancasila as the Establishing Ideology of Nationalism Indonesian Young Generation', in *Proceedings of the 1st International Conference on Character Education (ICCE 2020)* (Paris, France: Atlantis Press, 2021), DXXIV, 177–82 <https://doi.org/10.2991/assehr.k.210204.027>

⁷⁸ De Vries-Stotijn, Van Ham, and Bastmeijer.

⁷⁹ Alexander Sasu, Graham Squires, and Arshad Javed, 'Land Banking and Land Markets: A Literature Review', *Habitat International*, 130 (2022), 102698 <https://doi.org/10.1016/j.habitatint.2022.102698>

A potential distinguishment from Indonesia was that the Dutch granted land ownership rights. Possess redeemable rights in Dutch: Re-emotion rights serve as a policy instrument that grants local governments the authority to acquire property before the procurement process officially begins.⁸⁰ However, Indonesia lacks an equivalent recognized right to redeemable rights; therefore, it is necessary to advocate for and safeguard land ownership. The Complete Systematic Land Registration (PTSL) program aims to provide legal protection and certainty of land rights for the community in a manner that is certain, swift, uncomplicated, secure, seamless, fair, equitable, and transparent. The Participatory Land Title System (PTSL) is an inaugural simultaneous land registration procedure encompassing all unregistered land registration objects within an urban village.⁸¹

Land tenure protection in the Netherlands. The Dutch council endorsed the land policy agenda, outlining the fundamental principles that guide the municipality's approach to various aspects of land policy. In a broad sense, this document augments the transparency and impartiality of a municipality's land policy. Land policy memoranda, described in Dutch as "self-imposed regulation," refers to municipal authorities making land policy decisions. The itinerary is an example of such a document. However, Indonesia needs comparable detailed documentation, while municipalities in the Netherlands must develop and ratify a land policy agenda.⁸² Similar perspectives on land ownership protection exist in Indonesia and the Netherlands. The complex legal environment created by historical Dutch colonial law, post-independence reforms, and modern policy impedes the implementation of land rights. This creates uncertainty regarding economic growth, and disputes between customary law and contemporary legal frameworks may lead to the displacement of indigenous populations and increased land prices. Land rights ignorance and unequal access to legal resources impede marginalized people's ability to navigate the legal system and assert their justifiable claims.⁸³

Land administration in the Netherlands and Indonesia needs to be addressed more than housing and land ownership. A persistent housing shortage is a shared challenge between the Netherlands and Indonesia, except for a spatially constrained intermediate housing segment. The middle segment of the rental housing market perceives rental price increases in newly signed rental contracts as

⁸⁰ Shahab, Hartmann, and Jonkman.

⁸¹ Helianus Rudianto and Muhamad Heriyanto, 'Penerapan Program Pendaftaran Tanah Sistematis Lengkap (PTSL) Di Kabupaten Ngada', *Jurnal Ilmiah Administrasi Pemerintahan Daerah*, 14.1 (2022), 53–65 <https://doi.org/10.33701/jiapd.v14i1.2705>

⁸² Pauliina Krigsholm, Tuulia Puustinen, and Heidi Falkenbach, 'Understanding Variation in Municipal Land Policy Strategies: An Empirical Typology', *Cities*, 126 (2022), 103710 <https://doi.org/10.1016/j.cities.2022.103710>

⁸³ Basri, 'Land Rights and Legislation: Uncovering the Veil of Property Law in Indonesia', *Ilomata International Journal of Social Science*, 5.1 (2024), 105–23 <https://doi.org/10.52728/ijss.v5i1.1060>

a hazard.⁸⁴ As it reduces residential mobility, generates suboptimal outcomes, and impacts labor mobility, the absence of liberalized rental housing is detrimental to the operation of the housing market. Indonesia faces numerous challenges.⁸⁵

Obstacles to land ownership include land grabbing for investment purposes. In confronting this challenge, it is evident that land appropriation generates ostensibly positive economic and social results, implying a period of progress for the recipient countries and their residents. From this particular standpoint, land expropriation would result in many benefits.⁸⁶ Nevertheless, when applied practically, landtaking leads to severe violations of the impacted communities' human rights, environmental degradation, and biodiversity reduction. As a result, land appropriation engenders a plethora of noteworthy concerns, the foremost of which is safeguarding the principle of self-determination of the people.⁸⁷

In the context of rising agricultural productivity, land tenure arrangements that challenge ingenious land ownership and recognize the rights of indigenous peoples and local communities tend to strengthen land conservation. Expanding the forested region under indigenous governance yields more significant long-term benefits than complete forest ownership. Allocating forested areas for indigenous peoples and local communities to manage or own is consistent with previous research indicating that such initiatives reduce agricultural expansion, deforestation, and fire incidents.⁸⁸

The recommendation regarding human rights land ownership, one of the primary policy recommendations put forth by the Indigenous communities in the three case studies, which possesses global applicability, is briefly stated as follows: "Any disruption to our (Indigenous) territory and subsoil extraction (such as bauxite, iron-ore, or coal), deforestation, and biodiversity loss for mining purposes without the consent of local communities should be regarded as a trajectory towards an unjust world." Indigenous Peoples regard themselves as the "red thread" that sustains not only the ecological equilibrium of their habitat, but also

⁸⁴ Elham Maghsoudi Nia, Queena K. Qian, and Henk J. Visscher, 'Occupants' Inquiries for Energy Efficiency Retrofitting in the Netherlands', *Energy and Buildings*, 308 (2024), 113990 <https://doi.org/10.1016/j.enbuild.2024.113990>

⁸⁵ M. A. Berawi and others, 'Developing Affordable Housing for Low-Income Households in Developing Countries Using Participative Payment', *IOP Conference Series: Materials Science and Engineering*, 650.1 (2019) <https://doi.org/10.1088/1757-899X/650/1/012013>

⁸⁶ Hanson Nyantakyi-Frimpong, 'What Lies beneath: Climate Change, Land Expropriation, and Zai Agroecological Innovations by Smallholder Farmers in Northern Ghana', *Land Use Policy*, 92 (2020), 104469 <https://doi.org/10.1016/j.landusepol.2020.104469>

⁸⁷ Giuseppe Poderati, 'Human Rights Aspects and Soil Governance. A Special Focus on Land Grabbing', *Soil Security*, 6 (2022), 100042 <https://doi.org/10.1016/j.soisec.2022.100042>

⁸⁸ Michele Graziano Ceddia, Ulrich Gunter, and Pasquale Paziienza, 'Indigenous Peoples' Land Rights and Agricultural Expansion in Latin America: A Dynamic Panel Data Approach', *Forest Policy and Economics*, 109 (2019), 102001 <https://doi.org/10.1016/j.forpol.2019.102001>

voluminous Indigenous Knowledge Systems containing exclusive data on a variety of natural elements, untamed edible forest foods, and beliefs.⁸⁹

Protecting landowners' human rights was a pivotal concern that initiated the formation of an emerging human rights framework. Suggestions for Attaining Land Protection Through Public Consultation and Transparency: Incorporate a transparent land acquisition procedure that encompasses public consultation and considers the perspectives of all relevant stakeholders, including indigenous peoples and local communities. This promotes transparency regarding the land acquisition plans, enabling all involved parties to communicate their apprehensions and engage in negotiations regarding compensation adequately. Just Remuneration and Assistance: It is imperative to guarantee equitable and just compensation for land acquisition while considering the economic and social repercussions on the communities and individuals impacted. Furthermore, it ensures that individuals affected or displaced by the land acquisition have access to social services and relocation assistance.⁹⁰

4. Conclusion

Based on the analysis and discussion, a conclusion is drawn: First, the government guarantees the protection of land ownership through UUPA by supporting land registration, including activities such as topographic surveys, documentation, transfer, registration, and verification of rights. However, obstacles such as unclaimed and uncertified land and encroachment on indigenous communities' territories often arise throughout the implementation process. Therefore, the Indonesian government is trying to protect land ownership by registering land, limiting foreign land ownership, and developing governance plans at the regional level. Second, the Netherlands, renowned for its rigorous and well-structured legal system, rigorously enforces land ownership regulations. The Dutch government is responsible for auditing and legally documenting land tenure. Unambiguous and efficiently enforced land ownership regulations provide legal certainty for proprietors, investors, and other pertinent stakeholders. Transparent and open land registration reduces the likelihood of ownership disputes and expedites legal proceedings. Third, the regulatory approach in Indonesia adheres to the UUPA system, while the Netherlands uses civil law. There are also differences in approach to the Pancasila values adopted by Indonesia. Thus, the orientation of the protection policy is different from that of the Netherlands. Despite these differences, the challenges faced remain the same, from increasingly limited land supplies to land conflicts still rife. The government

⁸⁹ Purabi Bose, 'Equitable Land-Use Policy? Indigenous Peoples' Resistance to Mining-Induced Deforestation', *Land Use Policy*, 129 (2023), 106648 <https://doi.org/10.1016/j.landusepol.2023.106648>

⁹⁰ Prabath Suranga Morawakage and others, 'A Win-Win Partnership for Affordable Homeownership Solutions by Connecting Responsible Investors, Community Housing Providers, and Government', *Habitat International*, 134 (2023), 102781 <https://doi.org/10.1016/j.habitatint.2023.102781>

should enact land protection policies based on human rights recommendations to address this. Establishing a transparent land tenure process that includes public consultation and considers the viewpoints of all relevant stakeholders, including indigenous peoples and local communities, is critical.

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