

Land Policy on Land Control and Ownership Management in Reformation ERA

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ABSTRACT: Land control and ownership management has always been a substantive issue in the history of the nation of Indonesia. However, in this case, both Old Regime and New Regime have failed to bring about justice to the people. That is indicated by the discrepancies in land control and ownership in Indonesia today. After the collapse of New Order, paving the way for so-called Reformation Era, it was demanded that the use, control, and ownership of land should prioritize public interests or populist economy. To discuss the issue, the writer conducted a juridical-normative study by legal history and legal politics approaches in relation to the developments of national agrarian law and land law, particularly relating to land control and ownership management. From the findings of the study, it could be concluded that agrarian reformation in national land law should be consistently implemented so as to avoid crisis in the future and to realize the aspiration of Article 33 paragraph (3) of the 1945 Constitution, especially linked to chances of gaining land asset and access to land. To successfully realize the aspiration, there are four key prerequisites, namely: 1. Political will of government; 2. Separation of governmental/bureaucratic elites and business elites; 3. Active participation of all communities in supporting reformation; and 4. Availability of complete, accurate land data. If such prerequisites were met, we could build an agrarian reformation model suitable to the condition of Indonesia. In addition, we ought to build a model of land control and ownership management that fits the condition of Indonesia. Of course, such a model should encourage the realization of social justice.

KEYWORDS: *Land policy, Management of land control and ownership, reformation*

I. INTRODUCTION

The proclamation of Indonesian independence on 17 August 1945 was a milestone of the birth of the nation and state of Republic of Indonesia, given that it was on the day that Indonesians, represented by two proclaimers, declared their independence. It was also a momentum of liberating Indonesia's people from the shackle of colonialism. The independence deliberated Indonesians from Dutch legal system that for centuries had governed the societal structures of Indonesia.

Motivated by a desire to immediately establish a national order which was suitable with its own characters and spirit, Indonesia enacted its Constitution, well known as the 1945 Constitution, just one day after the proclamation. For Indonesia, the 1945 Constitution has been the supreme source of laws in its legislation hierarchy. It laid down basic principles for managing national order. Thus, the 1945 Constitution is the spirit or "soul" of the Unitary State of Republic of Indonesia. The meaning and essence of the 1945 Constitution for the nation and state of Indonesia may be inferred from the Preamble of the 1945 Constitution, 4th paragraph, which reads as follows: "Pursuant to which, in order to form a Government of the State of Indonesia that shall protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation's intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice, Indonesia's National Independence shall be laid down in a Constitution of the State of Indonesia, which is to be established as the State of the Republic of Indonesia with sovereignty of the people and based on the belief in the One and Only God, on just and civilized humanity, on the unity of Indonesia and on democratic rule that is guided by the strength of wisdom resulting from deliberation/ representation, so as to realize social justice for all the people of Indonesia (Fourth Paragraph of the 1945 Constitution).

Observing the wording of the 1945 Constitution, one could infer that, in term of philosophy, the establishment of the Unitary State of Indonesia was to advance general prosperity for the whole people of Indonesia, and to protect the entire homeland of Indonesia, as explicitly formulated in the following phrase: “to protect the whole people of Indonesia and the entire homeland of Indonesia, and in order to advance general prosperity, to develop the nation’s intellectual life, and to contribute to the implementation of a world order based on freedom, lasting peace and social justice”.

As an endeavor to realize the aspiration of the proclamation for advancing general prosperity and justice for the whole people of Indonesia, the government has managed and regulated the control and use of land and water as well as the natural riches therein. To the end, the founding fathers as the maker of the 1945 Constitution have laid down the legal basics of the nation to serve as the national constitution. The provisions on the principles of land control and use are stipulated in Article 33 paragraph (3) of the 1945 Constitution, which reads as follows: The land and the waters as well as the natural riches therein are to be controlled by the state to be exploited to the greatest benefit of the people. From the provision of the Article 33 paragraph (3) above it could be concluded that it mandates the state to utilize the land, waters and space, and natural riches therein for advancing prosperity of the whole people of Indonesia (Elucidation of the 1945 Constitution).

Given that the entire body of the 1945 Constitution is derived from Pancasila (Indonesian ideology), then by prosperity here is intended being the material and spiritual prosperity which is fair and equitable for the entire people of Indonesia. This is reflected on the fifth principle of Pancasila: “social justice for all the people of Indonesia.” Seeing the provision of Article 33 paragraph (3) of the 1945 Constitution, one may comprehend the purpose and objective the state of Indonesia as envisioned by the founding fathers of Republic of Indonesia, which are principle, fundamental, and eternal in nature.

As a follow-up of the measures of accomplishing the purpose and objective of land ownership and use regulation the philosophical and constitutional bases of which have been lain down in Pancasila and Article 33 paragraph (3) of the 1945 Constitution, then within the first five-year period since the enactment of UUPA (Agrarian Law), a policy of agricultural land ownership reformation, called land reform, was pursued. The agrarian reformation policy is the major policy in land area, delimiting the width of land ownership and redistributing lands to sharecroppers. The policy was grounded in a fact that during East Indie colonialism there had been massive land ownerships in Indonesia, by corporations and individuals, natives and foreign privates.

The 1998 reformation movement has revived the spirit of people to demand changes in various life aspects, including in governmental structure, and rearrangement of land ownerships and uses in all dimensions. As a measure of realizing the mandate of reformation, the 1945 Constitution was amended. However, though the Constitution have been amended four times, the form of the state didn’t change, being still an Unitary State in form of republic, and even the fourth amendment has fortified the status of the State of Republic of Indonesia as an unitary state. This is reflected in Chapter XVI on Amendment of the 1945 Constitution, Article 37 paragraph (5) which reads “Especially those provisions regarding the form of the Unitary State of the Republic of Indonesia may not be amended.” In addition, in a bid to strengthen the existence of the Unitary State of Republic of Indonesia, it is noteworthy that in the 1945 Constitution no article, before and after the amendments, provides for a mechanism or procedure of changing the form of the Unitary State of Republic of Indonesia. Thus, it could be said that the form of Unitary State of Republic of Indonesia has been “final” and unquestionable.

Another agenda demanded by the reformation, inseparable from the policy of agrarian reformation, is regarding the change of regional governmental system, particularly a demand of granting autonomous right as wide as possible to regions in managing their own regional household. The change for autonomy is closely related to a fact in the past, i.e., a decentralized governmental system. The demand of regional governmental reformation was aimed to end the decentralized governmental system. Thus, the change was from a centralized system to a decentralized one. Such a change would directly or indirectly be linked to a policy of automation of land affairs. According to Brahmana Andi, thoughts on the types of authorities and to the extent of which land affairs can be delegated to regions are our homework (Adhi and Menggala, 2001).

II. LAND, HUMAN RIGHTS, AND JUSTICE

Land, besides from having a deep spiritual value for the people of Indonesia, serves very strategically in meeting increasingly diverse and growing needs of the state and people, at national level and in relation to international world. Though land can be sold-bought, for those Indonesians who are not yet affected by eastern thinking conception land is not a tradable commodity, as it appears in the attitudes and acts of some businessmen in doing their economic activities. Land is not an investment object, let alone an object of speculation. Being a gift from God to Indonesia’s people, land is one of the major sources for the survival dan livelihood of people all time in optimally achieving fairly and equally distributed public prosperity (Decree of MPR RI No. IX/MPR/2001 on Agrarian Reformation and Natural Resource Management).

In term of law, land is the surface of the earth, as stipulated on Article 4 UUPA that reads as follows: “Based on the State's right of control as it is meant in Article 2, several kinds of rights are determined concerning the surface of the earth, which is called land, which may be granted to and owned by persons and by Corporations” (Harsono, 2003).

Agrarian law is a law that provides for the rights of control of land, waters, space, and natural riches therein. On the other side, Land Law is a law that provides for rights of land control, including Right of Nation, Right of Control by Nation, Right of *Ulayat*, Right of Cultivation, *Wakaf*, and land rights (such as Ownership Right on Land, Cultivation Right on Land, Building Right on Land, Use Right on Land, and other rights on land originated in the customary law of local customary law communities) (Budi Harsono, 2003).

In western (the Dutch) law system, land law is known as “*Grondrecht*” to refer “Rights on Land”, and “*Agrarische Rechten*” (Agrarian Rights) as rights of land cultivation. Land law, laying down land rights, is contained in *Burgerlijke Wetboek*, commonly abbreviated B.W., while agrarian rights are regulated in laws or regulations, in forms of *ordonantie*, *wet*, or *regelingen*. The applicability of B.W. In Indonesia is based on a principle of concordance (*Concordantie Beginsel*), and till now there is known a term KUHPdt-Indonesia, or abridged as KUHPdt.

In KUHPdt, lands are commonly termed as *Grond* or *Grond Eigendom*, i.e., “Land” or “Ownership Right on Land”. However, because KUHPdt had not been applied to native group, term *Grondrechten* for Land Law was uncommon to use for native population. After the enactment of East Indie Agrarian Law, *Agrarische Wet 1870*, later translated into Agrarian Law, term Agrarian Law became common to use till now. While term Land Law became uncommon to use (Soesangobeng, 2001).

In relation to the reformation of policies in laws, it also needs to pay attention on the reformation of policy in Agrarian Law as mandated on TAP MPR No. X/MPR/1999 Chapter IV letter C Law point (1) and letter K, formulated as follows: “intended to enforce and implement laws the target of which is to realize order, peace, and tranquility in society. And one of the targets is to promote respect on human rights by enforcing law and enhancing law-awareness for the whole people”.

For some three decades, the *developmentalism*-based economic growth was mostly supported by exploiting and exploring agrarian or natural resources. Such huge benefits, with relatively easy effort to gain, were sanctioned by some policies that were very accommodative and responsive to the needs of massive exploitation and exploration of agrarian/natural resources, but in fact have degraded the agrarian/natural resources in terms of quality and quantity, besides from the social impact that accompanied any irresponsible measures. All physical, social, cultural, and economic environments are heavily burdened by the increasing exploitation impact (Sumardjono, 2008, p.89).

The prolonged monetary crisis did not halt the exploitative and explorative efforts. Contrarily, in attempt to seek a way out of the state's financial setback, a relatively easy way to go through was to gain foreign exchange by exploiting agrarian or natural resources, without being accompanied by a serious attention to the support capability of the agrarian or natural resources. As a further consequence, the access of community to getting and utilizing agrarian/natural resources came to be narrower and harder to gain.

The excesses of the agrarian or natural resource exploitation and exploration have thus far given a rise to some problems. In empirical level, vertical and horizontal conflicts relating to the use of agrarian or natural resources turned into daily occurrences, the resolution of which have never been endeavored completely. Traditional and local communities are ones marginalized most by the measures of exploiting the agrarian/natural resources because their existence is neither honored nor protected, though the sources of their livelihood are derived from the agrarian or natural resources.

The local wisdoms of keeping, developing, and preserving the agrarian or natural resources have succumbed to irresponsibly employed modern technology. In the same time, the institutions that are alive in traditional or local community environment are powerless in facing formal legal rules. Vulnerable groups (women, the poor in urban and rural areas), and the owners of lands with no legal evidence, suffer injustice in access to the ownership and use of the agrarian/natural resources, especially land.

State, as an institution authorized by the people to regulate the agrarian/natural resources in the interest of people and thus accountable to the people, very often does not take on its role as a facilitator or, if needed, nor act as a fair referee. At a normative level, Article 33 paragraph (3) of the 1945 Constitution is loosely interpreted regarding the concept of “State's right of control” of land, and “to the greatest benefit of the people,” the operational of which is realized in some organic laws (UUPA, Law of Forestry, Law of Mine, etc.), which in the name of state land, state forest, and so on directly or indirectly reduces the right of people to exploit the agrarian/natural resources. Meanwhile, those traditional communities that exploit forestry yields on a basis of a right of forest control grounded in a right of *ulayat* inherited are frequently treated as illegal logging criminal, forest destroyer, with some stigmas of alleged criminal.

III. LAND LAW REFORMATION

Agrarian Reform is a reformation of the structures of ownership, control, and use of agrarian sources (especially land), in the interest of grassroots (farmer, farming worker, homeless, etc.), totally and comprehensively (National Land Agency of Republic of Indonesia, 2009, p.25).

Agrarian Reform is meant as a management of control, ownership, use, and utilization of land (P4T) or agrarian sources toward a fair P4T structure by directly resolving the subject matter of the problem or whether the land should be cultivated actively by the owner.

The implementation of the Agrarian Reform is intended to, among others: *first*, settle conflicts and problems in agrarian area proportionally and fairly, from their legal issues to the implementation in the field. *Second*, lay down legislations on Agrarian Reform. And *three*, facilitate Access Reform for grassroots, particularly farmers.

The issuance of Presidential Decree No. 34 of 2003 on National Policy in Land Area showed a further commitment of the government. The Presidential Decree instructed inventory and registration of controls, ownerships, uses, and utilizations of lands (P4T) as soon as possible, as a support database of the implementation of *Landreform*.

The Agrarian Reform was followed up by the issuance of Presidential Regulation Number 10 of 2006 on National Land Agency (BPN), declaring that National Land Agency is a non-Departmental Public Agency under and responsible to the President. The Presidential Regulation mandated BPN RI to perform administration in land affairs at national, regional, and sector levels. The Agrarian Reformation policy was implemented by broadening the duties of BPN RI and outlined in 11 Priority Policy Agendas of BPN RI.

A vision of land affairs to uphold and to be made as a foundation in implementing a land policy is "Land for the fair prosperity of people, by developing a land management policy in a framework of the Unitary State of Republic of Indonesia (NKRI)." Meanwhile, the missions to achieve in developing the land management policy are as follows:

1. To carry out a reformation of policies and legislations in land area;
2. To resolve disputes in land area;
3. To enhance the quality of services and administration of land affairs;
4. To regulate and implement the management of control, use, utilization, and ownership of lands;
5. To supply information on land in the interest of people, development, and investment; and
6. To develop and strengthen land institutionalization.

A land-related problem to deal with urgently is the point 1 above, i.e., legislations of land that cannot yet ensure legal protection and certainty on land for the majority of people and for *ulayat* land. Some of the legislations on the management of agrarian resources are overlapping and contradictory. The demands of people on the implementation of agrarian reformation in law include improvement and/or enactment of legislations. There are lots of land legislations with contradictory visions and missions so that there occurs collisions in the implementation of the legislations, particularly ones relating to agrarian/land affairs, leading to protruded complexity in the management of the resources.

Observing the planned changes laid down in Bill (RUU) of National Land Law, Draft dated of 26 January 2001 consisting of 126 articles, replacing UUPA, there is a concern that some philosophical facts are neglected, especially *adat* philosophy as the foundation of UUPA and land management nationally in a framework of Unitary State of Republic of Indonesia, in the draft National Land Law now being prepared.

The nationalism insight of the National Land Law in a framework of NKRI is an outlook that provides the symbols of identity so that it can really be named as National Land Law. The nationalism nature is marked by not only its enactment by national legislature, but also reflected in the elements that characterize the nationalism of the norms and politics of the land law. Therefore, it is noteworthy that the properties of *ulayat* law can be kept, and even promoted to be a National *Ulayat* Law, or so-called nation's right.

Barriers to Reformation in Managing Land Control and Ownership, and their Solutions

Conventionally, both rural development and agricultural development are deemed as part of modernization process. Broadly speaking, it can be said that modernization paradigm rests on a viewpoint that the development itself generally consists of four processes, namely:

1. Addition of capital to boost productivity;
2. Processes of technology transfer from developed countries to developing ones in a bid to apply sci-tech to production and service activities;
3. Processes of the emergence of states and big-scale politic and economic organizations;
4. Urbanization processes

Accordingly, developing countries have been built on the aid of foreign investment, for them to go through a process of becoming a modern community like the countries deemed as advanced. Thus, modernized western countries are made as a model (Shepherd, 1998). In practice, a development based on modernization paradigm displays a number of characteristics. To say just a few, the characteristics that immediately come up are as follows:

1. Economic growth is everything. All money and energy are mobilized to that, at any cost. No matter whom the outcome of the growth goes to;
2. One of the prices to pay is: even authoritarian and repressive government is tolerated for the sake of stability, because stability is a key condition for economic growth;
3. State/government plays great roles: as producer, as the supplier of diverse facilities, and as the regulator and operator. On the other side, however, market economy is promoted;
4. Planning is a nexus of thoughts, but it is top-down, being resting on elites. It is of fragmentary, sectoral, non-holistic, and non-participatory viewpoints (Shepherd, 1998, p.17).

Even among world-class experts an awareness eventually arises that in fact the mechanistic, rigid modernization paradigm failed to realize its targets. Gradually, there occurred a shift in viewpoint, and then an effort of adjustment (by Structural Adjustment Program and trade liberalization by GATT-WTO) was done. In fact, there is no outcome gained till now. That is a global macro picture.

Amid the rage of cold war between Western Bloc and socialistic countries block in 1960s decade, Indonesia actually fell into the lap of Western Block just like a rotten apple, that is, when Old Order was overthrown by New Order. A spirit of self-reliance was replaced by that of modernization, heavily relying on both foreign aids and loans. Term development was gradually shifting to be a sacral term. Any critical voices would easily be suspected as a barrier to or anti development. The modernization paradigm came to be a main reference: advanced countries are industrial ones. Therefore, agrarian countries ought to be changed into industrial ones. At the first stages of *Pelita* (five-year development), agriculture indeed became a major priority, but its goal was only as a support for industrialization process (Wiradi, 1979, p.170).

Where at global level adjustments were made, in Indonesia some improvements were also carried out. From one GBHN (Broad Outlines of Nation's Directions) to another, there were always change and improvement in formulations, which were actually a reflection of swing in viewpoint. However, in practice, they were all just on paper. Essentially, the core of their perspective was the same, to pursue economic growth. Any activities, then, must create some added value. It could only be achieved by commercial approach, hence commercial spirit was encouraged and professionalism honored. Other meaning was assigned to term professional. All activity ought to be managed commercially and professionally. It was made as a kind of slogan implanted enthusiastically. As a result, moral aspect was neglected, and KKN (corruption, collusion, nepotism) practices proliferate. Not only moral aspects, other factors rationally fundamental for rural life were also subordinated to the goal of creating commercial perspective. As a consequence, farmers were removed, land speculation rampant, and then there emerged so-called idle lands. These were one of the sources of the economic crisis (Harrison, 1983).

In post-New Order era, firstly we should be able to arrive at an agreement concerning the meaning and goal of development. Development is any activity which is a transitional process in a context of societal transformation, intended to transform the structure of society toward a more just, more democratic, and more prosperous structure.

If the meaning above were accepted, then a further question is, What path we should pass through so as to achieve the goal? As we know, both in theory and in reality of history that has occurred, there are three paths of transformations in the world, namely: (a) capitalistic; (b) socialistic; and (c) neo-populistic. If we reject all the three, we should be capable of creatively creating or formulating a new path ourselves. However, I am frankly pessimistic, given that for 30 years our thinkers had been suppressed by New Order. Therefore, any concept currently claimed as a "new paradigm" can always be put into one of the aforementioned three paths.

As suggested before, New Order was not frank. It tacitly took capitalism path, but the "feet" of New Order were tied by its own rhetoric, that is, "implements Pancasila in a pure and consequent way." As a result, there was a quasi capitalism, ending up in a total crisis nowadays.

In view of the current situation and condition, then the path suitable for the nation of Indonesia presently is neo-populistic path. A populist economic system (in a genuine, rather than rhetoric, meaning) essentially is a neo-populistic path. The path of Pancasila in its genuine meaning is actually neo-populistic.

A new paradigm of Indonesia's agricultural development after the 1999 general elections should be grounded in the following bases:

1. Land determines some aspects of life. All human activity require some land;
2. Reformation of land affairs should come to be a basis of developmental strategy: Agrarian Reformation in its genuine meaning. Not reformism!;

3. Our experience of Green Revolution gives a lesson that technology-intensive agricultural enterprise badly destroys environment. Therefore, techno farming must be subordinated to eco farming;
4. If we are still faithful in the aspirations of our Independence Proclamation, we should revive the characteristics of an independent nation. It has to be accomplished by real steps in forms of confirmation, recognition, and protection of the rights of farmers, and that of people in general;
5. A viewpoint that globalization is apparently a fortune-bestowing god should be abandoned; and even we should respond it very carefully (Wiradi, 2000, p.174).

The New Order's rural developmental strategy had been wrong from its inception, because it placed agrarian issue as a basis of development. Based on the preceding description, what is needed to reform is a basic view of rural development. Our economic structure has to be based on people economic concept. It means that rural should be the basis, also meaning that land control must be reformed. Agrarian structure should be predominated by efficient family farm, advanced technology, and mainly cultivated by family labor. The rights and needs of woman farmer and farm labors should receive more attention. Access to and certainty of land and water rights should be endeavored actively. Where lands are not equally distributed, a decentralized, participatory agrarian reformation is needed.

Rural communities have to be built as a robust basis of People Economy, one that survives any shock, by empowerment measures. Some democratic institutions should be developed. Through democratization, self-reliance, self-confidence, and self-organizing capacity would be built, so that rural people have a strong bargaining power.

People economy rests on some principles, namely:

1. Production oriented to people needs, not to sale promotion;
2. Prioritizes the benefits for general public, not the greatest profits for individuals;
3. Involves general public, and preserves environment, not produces massive, cheap products;
4. Increases social accountability in production, distribution, and consumption activities, not engineered market promotion;
5. Enhances the life quality of general public, not accumulation of individual wealth; and
6. Respects ethics in economic life where fairness and business security are secured, and moral decadency is avoided (Wiradi, 2000, p.176).

Lots of people agree that globalization is inevitable. In facing the globalization, however, they are divided. Some see it as an opportunity while others envisage it as a threat. I personally incline to share the latter. According to Mubyarto (1988), meant by globalization is *extension of economic activities across national and regional politic borders in a form of the increasing movements of goods and services, including workers, capital, technology, and information, by goods and services trades*. Lets me paraphrase the definition: *globalization is essentially an international capitalism movement*. In this case, agribusiness movement is essentially a part of globalization. Agribusiness movement is, according to the history of its birth, an effort to get facilities of using lands in developing countries, in the interest of international capitalists, by "freely riding" industrial countries' governments.

Developing countries are made as an investment field by industrial countries. As Mubyarto (1999) suggests, though globalization may boost economic growth, it can simultaneously increase economic and social gaps in developing countries domestically, and increase their dependence to industrial countries. Therefore, we should face globalization with an extra caution.

Though in globalization and free market era everything may be made a commodity, land has to be exempted. If lands are treated as a commodity then the practices of land speculation would be rampant. It is land speculation the main source of economic crises that the world ever gone through.

If we are really still faithful in self-reliance principle, self-sufficiency principle, then we may still have to facilitate foreign capital, though temporarily, but the rights of people should be consistently protected. Arbitrary removal must be stopped soon. It is here the relevance of Agrarian Reformation in facing globalization. If it is to be a success, Agrarian Reformation needs to fulfill some unmet perquisites.

Moreover, if Agrarian Reformation is not maturely prepared, it may turn into a boomerang. Crisis occurred from increasing land speculation. The research result of Fred Harrison (1983) proved it. Harrison conducted an investigation into all crises the world has ever undergone in different countries (since the crises in 1818 those in the 20th century). Thus, Agrarian Reformation is needed to prevent similar crises from repeating in the future, or to overcome any economic crisis if it does occur due to other reasons.

Different countries that have ever performed Agrarian Reformation held different varying models.

1. On a basis of economic ideology, the models can be classified into three: capitalist, socialist, and neo-populist;
2. On a basis of the direction of transaction, the models can be classified into two: collectivist reform and redistributive reform. The former 'takes from the smaller and gives to the greater,' while the latter 'takes from the greater and gives to the smaller.'
3. Among redistributive form models, three models can be distinguished on a basis of technical criteria: (i) the maximum and minimum limits are set; (ii) maximum limit is set but minimum limit floated; and (iii) both (maximum and minimum) are floated.
4. On a basis of the extent of role, be it in program planning and in implementation, two models can be distinguished: reform-by-grace and reform-by-leverage. In the former, the government's role is very predominant. In the latter, the role of people organized by farm organizations is great and secured by national legislations.

Whichever the model is, in the implementation of Agrarian Reformation there would be always a chance of being faced with barriers, such as:

1. Challenges from those who have a vested interest in or perceive that they are disadvantaged by the reformation.
2. Deficient understanding among different community groups or layers on the Agrarian Reformation concerning its goal or the mechanism of its implementation (including among farmers, officials, and elites).
3. Careless management of operational fund is a barrier that often results in chaos. If corruption, collusion, and nepotism are not eradicated yet it would be a big barrier.
4. Other technical barriers which highly relies on the design of the reformation itself.

Actually, the formulation of some prerequisites above is intended to avoid or overcome the barriers. The expected positive impacts of the Agrarian Reformation are, among others:

1. Legal aspect: legal certainty on the rights of people, particularly farmers, would be realized;
2. Social aspect: social structure perceived as more fair would be created;
3. Psychological aspect: the two preceding points will in turn result in social euphoria and family security atmospheres, such that farmers get motivated to better manage their farm;
4. Economic aspect: the point (*c*) may in turn become an initial means for increasing production;
5. Political aspect: all of them may diminish unrest in the end, so that violence can be prevented.

They are all simply expectation, only inference. Therefore, probable negative impacts should be anticipated early, among them:

1. Soon after a reformation, national agriculture production tends to decrease for a certain time period (in Taiwan, for example, post-reformation production decreased for some three years. However, it then increased rapidly). It is because landless farmers, who were not yet familiar with farming, were still awkward. In addition, the frenzy of reformation made productive activities stumbled. Such condition also potentially leads to unrest.
2. Varied qualities of the implementers often produce varied interpretation on the applicable rules, in turn resulting in local conflicts between different groups.
3. Beyond socialist countries, redistribution is implemented by some compensation for excess lands over maximum width allowed by law. It means money. There are always participants with speculative intention, who distort reformation as well cause conflicts.

In fact, various components included in Redistributive Land Reform concept (so that become an Agrarian Reformation) as described before are also intended to optimally overcome the negative impacts. To deal with the conflicts potentially occurring during the implementation of reformation, it needs to form a Dispute Resolution Committee, at regional and local levels. Such committee should consist of the representatives of diverse groups which are generally led by government representative (except in Ethiopia). In 1960s era, there was a Land Reform Court. The term "court", the status of which was outside formal tribunal, was probably perceived as something "horrible", and thus in the New Order era it was abolished. It could have been renamed, rather than abolished, given that it is strongly needed in a context of Agrarian Reformation.

IV. CONCLUSION

The essence of Agrarian Reformation in the agrarian law of Indonesia is that Agrarian Reformation is needed to prevent similar crises from repeating in the future, or to overcome any economic crisis if it does occur due to other reasons. Based on the historic experience of some countries, the goals of Agrarian Reformation can be distinguished into two: manifest and latent. Manifest goals are generally similar, that is, to create a fair societal structure, to prevent politic restless and turmoil, to optimize resource allocation such that it becomes more efficient, to build a strong agricultural economic basis, to empower farmer, to eliminate poverty, to

enhance legal security of land rights and production responsibility, etc. However, latent goals vary, depending on who are the national rulers and on the timing of the reformation. There are indeed those who genuinely have the same goals as that of the manifest, but there are those who just want to keep their group interest which, due to certain conditions, must be adjusted. And even are there some who have a goal of simply preventing a revolution. Therefore, the manifest goal is employed as just rhetoric in order to win mass support. It is because the existence of the latent goal that, in some developing countries, their Agrarian Reformation, as measured against their manifest goal, has failed, for being implemented halfheartedly.

The natures of Agrarian Reformation in some countries (beyond socialist countries) also vary. Some are coercive and some democratic. In substance, some are soft, some moderate, and another radical. Based on the observation of FAO's experts who studied Agrarian Reformation in some countries in the world, as well as that of other experts who conducted a study in a certain country, it was concluded that if a Agrarian Reformation program is to be a success, it needs several prerequisites to meet. Four most important prerequisites are as follows:

1. Political will (in its proper meaning) of the ruling elites;
2. Separation of governmental/bureaucratic elites from business elites (it is hard to realize);
3. Active participation of all social groups;
4. Complete and accurate agrarian data.

In view of the prerequisites, it is now an appropriate momentum to appeal awareness, to synchronize outlooks, and to awaken interest in consolidating for preparing everything so that immediately after political will has been really unanimous then the reformation movement can go on. Indeed, we may well take other option, particularly in dealing with problems existing on our desk, by a gradual, piecemeal, pragmatic approach. However, it means that we do not talk about Agrarian Reformation, because such insight is not an Agrarian Reformation in its genuine meaning. We should think of a new model suitable for the condition of Indonesia. It means that we should create our own model. However, we can learn a lesson (not imitate) from the experiences of other countries.

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