

BHUMI: Jurnal Agraria dan Pertanahan

Received: August 20, 2019; Reviewed: October 10, 2019; Accepted: November 17, 2019.

To cite this article: Nurrokhman, A 2019, 'Quo vadis Indonesian agrarian reform: implementation of UUPA in the president regulation no. 86 of 2018', *Bhumi, Jurnal Agraria dan Pertanahan*, volume 5, no. 3 (special edition), hlm. 19-24.

DOI: 10.31292/jb.v5i3.385

Copyright: ©2019 Arsan Nurrokhman. All articles published in Jurnal Bhumi are licensed under a Creative Commons Attribution-ShareAlike 4.0 International license.

---

## QUO VADIS INDONESIAN AGRARIAN REFORM: IMPLEMENTATION OF UUPA IN THE PRESIDENT REGULATION NO. 86 OF 2018

**Arsan Nurrokhman**

Research and Development Center

Ministry of Agrarian Affairs and Spatial Planning/National Land Agency

Email: [arsannur@gmail.com](mailto:arsannur@gmail.com)

**Abstract:** Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) is widely praised as the great work of the Indonesian nation which is revolutionary and responsive, combining good elements between individualism and communalism. However, the unachieved objectives of the UUPA is hard to deny and the majority of the defense of its failure tends to be normative and ideological. This paper aims to bring the study of the UUPA to a more empirical direction by using theories of public policy implementation, as introduced by Grindle (1980) about content variables and policy contexts, and the theory of critical implementation researchers who use a bottom-up perspective and highlight the actions of implementing bureaucrats. The research used qualitative methods through the study of literature and focused on executive policy, bureaucrats' actions and the context that surrounds them. The study found that the executive policy with the issuance of Presidential Regulation of the Republic of Indonesia Number 86 of 2018 was precisely not in line with several provisions of the UUPA. The presidential regulation has a paradox, wants to accommodate many variables but is confused about the main purpose of agrarian reform. As a relatively top-down policy, the implementation of the UUPA requires the existence of a dominant actor. However, the actions of implementing bureaucrats have long reduced the purpose of the law to merely being an act of legalization of accounting transactions for land that are running according to market mechanisms. Now, the increasing number of Indonesians living in urban areas makes the issue of land more complex, related to land use change and various challenges of sustainable development.

**Keywords:** Agrarian Reform, Land Administration, Public Policy Implementation.

### A. Introduction

Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA) is widely praised as the great work of the Indonesian nation which is revolutionary and responsive, combining good elements of individualism and communalism. Sodiki (2013) explains that the inherited values in the UUPA that are still relevant are anti-colonialism, anti-wealth exploitation and populism. The UUPA has a strong tendency to

display the original Indonesian legal, egalitarian identity, creating a strong state position, so that the state can guarantee the fulfillment of the public interest. The UUPA is the only law that has succeeded in embodying every precepts of the Pancasila in several points (Soetiknyo 1990). The UUPA also has a responsive character even though it was born when the political configuration was very authoritarian (Mahfud MD in Sodiki et al. 2013).

But the unachieved the objectives of the law, the welfare of farmers and the principle of land to the tiller, is a fact that is difficult to deny. If the land tenure ratio is used as a measurement, then the number of land tenure inequality remains high after the UUPA which is more than half a century old. The current ratio of land tenure in Indonesia in 1973 was 0.70; in 1983 was 0.64; in 1993 was 0.67; in 2003 was 0.72 (Bachriadi and Wiradi 2011) and in 2013 was 0.64 (INDEF 2017).

The defense for not achieving the objectives of the UUPA has been made by many groups. According to Soetiknjo (1990), UUPA has not been able to solve the land problem because the law is a law in a state of immovability which only contains the main points. The thing that moves the implementing regulations (Sodiki 2013) is awareness of the problem of the effectiveness of the UUPA. However, he precisely mentioned the possibility of the lack of success of the UUPA because it ignored local provisions that were more able to solve local problems than the UUPA that wanted to abolish adat institutions. Meanwhile, according to Mahfud MD (2018), now the UUPA and several associated laws have never been implemented because of situational development policies. He argued that agrarian laws must be regulated again.

The regulations for implementing the UUPA have actually been widely published in the forms of government regulations, presidential regulations and ministerial regulations. However, many of the objectives of the UUPA that have not yet been realized, particularly those related to agrarian reform, evoke a study of the UUPA using the perspective of implementing public policy. Are there problems occurred in the implementation of agrarian reform policies in the policy content and environmental context? What was done by the bureaucrats who were given the mandate to carry out the law?

The method used in this research is qualitative method. The research was conducted through a literature study of policies made as a derivative of the UUPA and observations at the Land Office. The data used are secondary data

in the form of regulations and primary data in the form of observations of bureaucrats' actions in carrying out regulations.

## **B. Theoretical framework for public policy implementation**

Implementation is what happens after laws are enacted that provide program authority, policy, benefits or a tangible type of output. The term implementation includes actions (and without actions) by various actors, especially bureaucrats who are intended to make the program work (Ripley and Franklin in Winarno 2014). According to Matland (in Hamdi 2014), the literature on policy implementation in general is divided into two groups, namely groups with a top-down approach and groups with a bottom-up approach. Groups with a top-down approach see policy designers as central actors in policy implementation. In addition, those groups also focus on factors that can be manipulated at the central level or on macro. Meanwhile, the bottom-up groups emphasize two things, namely the target groups and service providers.

The first known experts to create an implementation model with a top-down approach are Van Meter and Van Horn (1975), although he is not the first to conduct a policy implementation study. They stated that the implementation of the policy concerned encompasses all actions by individuals or public and private groups directed at the realization of the goals that were set in advance in the policy decision. Their model consists of six variables that form the link between policy and performance as follows: 1) standards and objectives of the policy, 2) policy resources, 3) communication and strengthening activities between organizations, 4) Characteristics of implementing agencies, 5) economic, political and social aspects and 6) disposition of implementers (Hamdi 2014).

In addition to Van Meter and Van Horn, the expert who then formulated the implementation model was Grindle (1980) who stated that implementation was a political process and an administrative process whose success was influenced by

two fundamental variables, namely the content of the policy and the context of implementation. However, from a number of experts who can be classified as top-down followers, the model developed by Sabatier and Mazmanian (1983) is the most complete in combining various variables of the works of previous experts to become a comprehensive model. These variables are grouped into three types, namely: 1) tractability of the problem; 2) ability of statute to structure implementation; and 3) non statutory variable (Purwanto & Sulistyastuti 2015).

In addition to the top-down views, bottom-up criticism must also be noted. According to Sabatier (in Purwanto 2015), there are basically four criticisms made against the top-down approach by critical implementation researchers such as Hjern and Hull (1982), Hanf (1982), Barrett and Fudge (1981) and Elmore (1979). The four weaknesses of the approach are: 1) assuming that the main actors who have the most influence on implementation are policy makers, they forget that the success or failure of implementation can be influenced by other actors namely the vanguard bureaucrats, target groups, the private sector and others; 2) top-down approach is difficult to apply when there are no dominant actors; 3) the top-down approach forgets the fact that the vanguard bureaucrats and the target groups have a tendency to distort the policy direction for their respective interests; 4) the policy cycle itself is often not clear-cut in stages, thus opening space for the vanguard bureaucrats and target groups to influence and negotiate during policy formulation.

Several variables from the theory of policy implementation will be used to examine agrarian reform policies. The executive policy that will be reviewed is the Republic of Indonesia Presidential Regulation Number 86 of 2018. The vanguard of bureaucrats is implementing the policies in the Ministry of Agrarian Affairs and Spatial Planning /BPN. The policy context is a condition in Indonesia related to land and population.

### **C. The Agrarian Reform Executive Policy in The Presidential Regulation No. 86 of 2018**

Variable clarity and consistency of objectives are part of the category of law ability to be implemented in the Mazmanian and Sabatier (1983) implementation model. If it is applied to examine this presidential regulation, it will find inconsistencies in its contents. These inconsistencies exist in several aspects, both regarding activities to be carried out, subjects and objects of agrarian reform.

Article 5 of Presidential Regulation No. 86 of 2018 states that the implementation of Agrarian Reform is carried out through the stages of assets structuring and access structuring. The sequence of implementation is that the structuring of assets becomes the basis for structuring access as a series of ongoing activities. It is as if after a farmer acquires land (through assets structuring) it will proceed with empowerment to gain access to capital, increase production and markets. The series that matches the role of reform and development, as stated by Dorner (1972), explains that "reform has a dual purpose of serving as both a redistributive instrument and vehicle for achieving increased productivity. To achieve the latter, land reform must be accompanied by changes in the pre-reform structure of supporting services - agricultural credit, marketing, research and extension, input supply, and processing and storage".

But, the arrangement of these assets was reduced in Article 6 as a separate activity in the form of asset redistribution or legalization only. Asset legalization activities can be claimed as asset management activities based on this regulation. Whereas, the core of agrarian reform activities is land redistribution because the first objective of agrarian reform as mentioned in Article 2 is to reduce inequality in land tenure and ownership in order to create justice.

Article 6 of Presidential Regulation No. 86 of 2018 seems to emphasize that agrarian reform can proceed without land redistribution. This agrarian reform regulation does not intend to give land

to farmers and increase its access to capital, but rather replace land redistribution activities by legalizing assets. In fact, there are many farmers who do not have land to be legalized and there are groups of people who accumulate ownership or control of land.

In reality, it has not yet been realized. Even the distribution of tenure, ownership, use and use of land structures are actually recognized because it is mentioned in the considerations of the presidential regulation. The first consideration of this regulation states "that land within the territory of the Unitary Republic of Indonesia as a gift of God Almighty for all Indonesians at the highest level is controlled by the state used for the greatest prosperity of the people". This point wants to show the right to control the state as it also exists in Article 2 of the UUPA.

But in fact, eleven objects of agrarian reform mentioned in the regulation (Article 7) are almost all used (residual land). Even former mining land which is not productive enough and insignificant in arising land is also mentioned. The right to control the state as stated in Article 2 Paragraph (2) of the UUPA has not yet been realized. The state apparently has not been able to provide a clear stock of land to be the object of agrarian reform.

The agrarian reform subject referred to in Article 12 Paragraph (3) which consists of 20 types of professions also shows the inconsistency of the objectives of this regulation. The mention of work outside the agricultural sector, even government officials, the army and the police, is not in line with the UUPA principle where the principle of land is for tiller. Provisions on the subject are not in line with Article 10 Paragraph (1) of the UUPA: "Every person and legal entity that has a right to agricultural land in principle is required to work on it or work on it himself actively, by preventing exploitation methods."

These facts show that Presidential Regulation No. 86 of 2018 has many paradoxes. The regulation has a discrepancy with the principles in the above regulation and the principles of agrarian reform in general. The regulation wants to ac-

commodate the resolution of many land problems in Indonesia, both in rural and urban areas, but in the end has experienced confusion over the main objectives of agrarian reform. Inconsistencies that occur in its contents will make this regulation difficult to implement to achieve its objectives. There would only be a symbolic implementation, marked by high levels of conflict and ambiguity (Richard Matland in Lester & Goggin, 1998) unless agrarian reform is only meant by legalizing assets to strengthen inequality and the status quo.

#### **D. The Actions Of Street-Level Bureaucrats**

As a relatively top-down policy, implementing agrarian reform policies as a mission of the UUPA requires the existence of a dominant actor. However, the actions of the implementing bureaucrats (street-level bureaucrats) have reduced the purpose of the law to merely act as a legalization of accounting transactions for land that are running according to market mechanisms.

In practice, the action taken by officials of the Land Office (Ministry of Agrarian Affairs and Spatial Planning / BPN) is to register or just record transactions that have been carried out by the people who are applying for rights. Observations made by researchers at the Land Office show that the activities carried out by bureaucrats are really just simply registering the evidence of sale or purchase transactions or grants and evidence of physical mastery. Selection of the possibility of accumulation of ownership or control of land is practically not done. Applicants who come from outside the province and who are not civil servants are still given the right to agricultural land.

Any selection carried out is only based on unilateral information from the public without further review. The material truth of the contents of the statement was also not carried out since it is not the authority of BPN. In the Complete Systematic Land Registration (PTSL) activities, the executors in the Land Office use the Technical Guidelines issued by the Directorate General of Legal Relations, which provide instructions that

“Implementing PTSL in conducting Juridical Data Research for Proof of Rights is limited to formal truths, while material truth is the responsibility replied the PTSL participant” (Complete Systematic Land Registration Technical Guide for 2019, Letter G Number 1).

The stages in the policy cycle of the bottom-up implementation analysis as conveyed by Sabatier (in Purwanto 2015) are often not clear-cut, thus opening space for the vanguard bureaucrats and target groups to influence and negotiate during the policy formulation. The agrarian reform policy formulation as in Presidential Regulation No. 86 of 2018 is actually very influenced by what has been done so far by the implementing bureaucrats in the Ministry of Agrarian Affairs and Spatial Planning/BPN. The Presidential Regulation is very similar in substance to the Regulation of the Minister of Agrarian Affairs and Spatial Planning related to Prona or Complete Systematic Land Registration. Only the legalization of assets is supplemented by the inclusion of empowerment efforts (structuring of access).

The unclear definition of state land in practice also makes land redistribution activities at the Land Office merely an asset legalization. Land that is used as an object of land redistribution is actually also land that has been controlled by the community. Even if there were some that were not controlled by the community before, the number was not significant. Whereas, land redistribution is the beginning and part of actual agrarian reform. *“Agrarian reform to cover all aspects of institutional development including land reform, tenure production and supporting services structure and related institutions, such as local government, public administration in rural areas, rural education and rural social welfare institution, and so forth.”* (United Nations in “Progress in Land Reform, NY Fifth Report, 1970, Vol. III, in Wilonoyudho et al. 2017)

### E. The Context Of The Current Agrarian Reform Policy

The increasing number of Indonesians living in urban areas makes the issue of land more com-

plex. Land issues will be related to land use change and various challenges of sustainable development. Data from the Central Statistics Agency (2014) shows that the percentage of urban population in Indonesia continues to increase from year to year. In 2010 the percentage was 49.8%; in 2015 it increased to 53.3% and it is projected that in 2020 it will reach 56.7% and in 2025 it will reach 60%.

The consequences arising from the increasing number of residents living in urban areas make land-related problems even more complex. The need for land is no longer just for agricultural land, but also housing. The challenge is no longer just that agricultural land accumulates, but because agricultural land has changed functions. More people living in urban areas turned out not only to migrate to cities, but because of the phenomenon of urban sprawl (irregular physical expansion of cities). Problems no longer only threaten farmers, but also the entire population and the environment.

New and complex problems can no longer be solved by old paradigms. A more systematic approach with more sophisticated tools is needed to answer these challenges. A system that can gather a variety of important information related to land, textually and spatially, needs to be made to make important decisions. The lack of integrated information makes land-related policies often do not answer the actual problem.

### F. Conclusions

Executive policy with the issuance of Presidential Regulation of the Republic of Indonesia No. 86 of 2018 concerning Agrarian Reform is not in line with several provisions of the UUPA. The presidential regulation has a paradox: it wants to accommodate many variables but is confused about the main purpose of agrarian reform. As a relatively top-down policy, the implementation of the UUPA actually requires a dominant actor. However, the actions of the implementing bureaucrats (street-level bureaucrats) have reduced the purpose of the law to merely being an act of legalization of physical control and transactions over

land that operate according to market mechanisms. The present context with the increasing number of Indonesians living in urban areas makes the issue of land more complex, related to land use change and various challenges of sustainable development. A system that can gather a variety of important information related to land, textually and spatially, needs to be made to make important decisions that are multi-purpose.

## References

- Bachriadi, D, Wiradi, G, Bachrioktora, Y, Safitri, H, & Agung 2011, *Enam dekade ketimpangan: masalah penguasaan tanah di Indonesia*, Agrarian Resource Centre (ARC).
- Badan Pusat Statistik 2014, Persentase penduduk daerah perkotaan menurut provinsi 2010-2035, accessed 9 November 2019, <https://www.bps.go.id/statictable/2014/02/18/1276/persentase-penduduk-daerah-perkotaan-menurut-provinsi-2010-2035>.
- Dorner, P 1972, *Land reform and economic development*, Penguin Books, Harmondsworth, Middlesex.
- Guntur, M, & Yamin, MN 2017, 'Determinant factors of village fund policy implementation in Selayar, South Sulawesi Province', *The 2nd International Conference on Education, Science, and Technology (ICEST 2017)*, Atlantis Press, Paris.
- Hamdi, M 2014, *Kebijakan publik: proses, analisis dan partisipasi*, Ghalia Indonesia, Bogor.
- INDEF 2017, 'Turunnya Kesejahteraan, Ketimpangan Lahan, dan Klaim Kepuasan Petani', accessed November 2019, <https://money.kompas.com/read/2017/07/11/070000526/turunnya.kesejahteraan.ketimpangan.lahan.dan.klaim.kepuasan.petani?page=all>.
- Lee Peluso, N, Afiff, S & Rachman, NF 2008, 'Claiming the grounds for reform: agrarian and environmental movements in Indonesia', *Journal of Agrarian Change*, vol. 8, no.2 3, p. 377-407.
- Lester, JP & Goggin, ML 1998, 'Back to the future: the rediscovery of implementation studies', *Policy Currents*, vol. 8 no. 3, p. 1-9.
- Lucas, A & Warren C 2013, *Land for the people: The state and agrarian conflict in Indonesia*, Ohio University Press, Ohio.
- Maladi, Y 2013, 'Reforma agraria berparadigma Pancasila dalam penataan kembali politik agraria nasional', *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*, 25(1), 27-41.
- Purwanto, EA & Sulistyastuti, DR 2015, *Implementasi kebijakan publik: konsep dan aplikasinya di Indonesia*, Gava Media, Yogyakarta.
- Sodiki, A, Huda, M, Ana, NR & Ali, MM 2013, *Politik hukum agraria*, Konstitusi Press (Konpress), Jakarta.
- Soetiknjo, I 1990, *Politik Agraria Nasional*, Gadjah Mada University Press, Yogyakarta.
- Widodo, S 2017, 'A critical review of Indonesia's agrarian reform policy', *Journal of Regional and City Planning*, vol. 8 , no. 3, p. 204-218.
- Williamson, I, Enemark, S, Wallace, J, & Rajabifard, A 2010, *Land administration for sustainable development*, ESRI Press Academic, Redlands, CA.
- Wilonoyudho, S, Rijanta, R, Keban, YT, & Setiawan, B 2017, 'Urbanization and regional imbalances in Indonesia', *Indonesian Journal of Geography*, vol. 49, no. 2, pp. 125-132.