

## **Legal Status Of Land Rights Due To Natural Disasters In The National Agrarian Legal System**

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### **Abstract**

Natural disasters are events that not only have an impact on the humanitarian aspect, but also raise agrarian law issues, especially related to the legal status of land rights. Changes in the physical condition of the land due to natural disasters, such as abrasion, landslides, and tsunamis, have the potential to eliminate the object of land rights and create legal uncertainty for rights holders. This article aims to analyze the regulation of the legal status of land rights due to natural disasters in the national agrarian legal system, its juridical implications on the sustainability and abolition of land rights, and the concept of legal protection and certainty for rights holders from the perspective of agrarian justice. The research method used is normative legal research with a legislative and conceptual approach. The results of the study show that the regulation of land destroyed by natural disasters in the national agrarian law is still implicit and does not provide adequate legal certainty. Natural disasters do not necessarily remove land rights, but rather require clear administrative determinations. The State, within the framework of the Right to Control the State, has a constitutional obligation to provide substantive legal protection to disaster victims through compensation, relocation, or the granting of replacement land. Therefore, responsive and fair agrarian law reform is needed to ensure legal certainty and protection of land rights for communities affected by natural disasters.

**Keywords:** Land Rights, Natural Disasters, Destroyed Land, Legal Certainty, Agrarian Justice.

### **A. Introduction**

Land has a very strategic position in the life of the Indonesian nation, not only as an economic source, but also as a social and political means in realizing the welfare of the people. Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia emphasizes that the earth, water, and natural resources contained in it are controlled by the state and used for the greatest possible prosperity of the people.<sup>1</sup> This provision became the constitutional basis for the birth of national agrarian law.

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<sup>1</sup> Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.



Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) then formulated the concept of land rights as the legal relationship between legal subjects and land as an object protected by the state.<sup>2</sup> These legal relationships give rise to individual rights and obligations, while at the same time containing social functions. However, in practice, the continuity of the legal relationship is greatly influenced by the physical condition of the soil. Indonesia as an archipelagic country located on the Pacific *ring of fire* has a high level of vulnerability to natural disasters. Disasters such as earthquakes, tsunamis, coastal abrasion, flash floods, and landslides often result in permanent loss of soil or significant physical changes.<sup>3</sup>

Legal problems arise when land as an object of rights has been factually destroyed, but administratively and juridically it is still recorded as an object of land rights. This condition creates legal uncertainty, land conflicts, and unclear state responsibility for rights holders affected by natural disasters.<sup>4</sup> The UUPA does regulate the removal of land rights if the land is destroyed, but this provision is very general and does not provide clarity on the criteria for land destroyed due to natural disasters, determination procedures, and legal consequences for rights holders. Therefore, an in-depth study of the legal status of land rights due to natural disasters is very important in the framework of national agrarian law reform.<sup>5</sup>

## B. Research Methods

This research is a normative legal research (*doctrinal research*) that aims to analyze the legal status of land rights due to natural disasters in the national agrarian law system. Normative legal research was chosen because the focus of the study lies in the legal norms, principles, and doctrines that govern the legal relationship between the subject and the object of land rights, especially when the land object is changed or destroyed due to natural disasters. This research is descriptive-analytical, namely systematically describing the

applicable legal arrangements as well as analyzing the juridical implications of natural disasters on the enforcement of land rights. In addition, this research is also prescriptive, because it aims to formulate a concept or recommendation for legal regulation that is able to provide certainty and legal protection for land rights holders of natural disaster

victims. The approach used in this study includes: a statute *approach* by examining the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles, as well as laws and regulations related to land registration and disaster management; conceptual *approach* through the study of doctrine and opinions of agrarian law experts regarding land rights, the right to control the State, and the concept of destroyed land; and a case *approach* by analyzing court decisions related to land disputes after natural disasters.

The legal materials used consist of primary legal materials, namely relevant laws and regulations and court decisions; secondary legal materials, in the form of legal textbooks, scientific journals, and research results related to agrarian law and natural disasters; as

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<sup>2</sup> Boedi Harsono, *Indonesian Agrarian Law*, Djambatan, Jakarta, 2008, p. 68.

<sup>3</sup> Maria S.W. Sumardjono, *Land in the Perspective of Economic, Social, and Cultural Rights*, Kompas, Jakarta, 2008, p. 21.

<sup>4</sup> BNPB, *Indonesian Disaster Risk*, Jakarta, 2020, p. 3.

<sup>5</sup> Maria S.W. Sumardjono, *op. cit.*, p. 44.



well as tertiary legal materials, in the form of legal dictionaries and legal encyclopedias. All of these legal materials are collected through *library research*.

The analysis of legal materials was carried out qualitatively using deductive and inductive reasoning methods. Deductive reasoning is used to draw conclusions from general law norms on concrete issues regarding the status of land rights due to natural disasters, while inductive reasoning is used to formulate generalizations based on practice and court decisions. The results of the analysis are presented systematically and argumentatively to answer the formulation of the research problem.

## C. Results and Discussion

### 1. Position of Land Rights in the National Agrarian Law System

The right to land in the national agrarian legal system is a right that comes from the **Right to Control the State (HMN)** as affirmed in Article 2 paragraph (1) of the UUPA. The state is given the authority to regulate, manage, and determine the legal relationship between persons and land, including determining its designation, use, and maintenance in the public interest.<sup>6</sup>

According to Boedi Harsono, HMN does not place the state as the owner of the land, but as a public ruler who is responsible for ensuring the use of land for the greatest possible prosperity of the people.<sup>7</sup> Thus, land rights owned by individuals or legal entities are essentially derivative and subject to the public interest and social functions of land.<sup>8</sup>

In this context, the existence of land objects is an essential element of land rights. If the land object undergoes significant physical changes or even destruction, then the legal relationship between the subject and the object of the right to land should be questioned its juridical sustainability.

### 2. Natural Disasters in the Perspective of Agrarian Law

Natural disasters are natural events that have a serious impact on human life, including land as an agrarian resource that has social, economic, and legal value. Indonesia as a country that is geographically located at the confluence of three major tectonic plates and has a long coastline, making it very vulnerable to various types of natural disasters, such as earthquakes, tsunamis, volcanic eruptions, landslides, coastal abrasion, floods, and tidal floods. These conditions not only have an impact on the safety of life and property, but also have direct implications for the existence, use, and legal status of land.

From the perspective of agrarian law, natural disasters are not solely understood as natural phenomena, but also as legal events that can have juridical consequences on land rights. Land as an object of rights in agrarian law is highly dependent on its physical existence. When a natural disaster results in significant changes to the physical condition of the soil such as land shifts due to earthquakes, soil burial by landslides, soil

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<sup>6</sup> Article 2 paragraph (1) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles.

<sup>7</sup> Boedi Harsono, *Indonesian Agrarian Law*, Djambatan, Jakarta, 2008, p. 102.

<sup>8</sup> Ibid., p. 105.



submerged due to permanent flooding, or soil loss due to abrasion, the legal relationship between the subject of rights and land objects has the potential to change, even severe.

Natural disasters can lead to the loss of land boundaries that were originally the basis for land ownership and control identification. The loss of boundary markers, changes in contours, and shifts in land plots often cause difficulties in the process of proving land rights and registration. In this context, legal certainty as one of the main goals of agrarian law is disturbed, because land rights holders can no longer clearly indicate the object of their rights.

Furthermore, in extreme conditions, natural disasters can result in the permanent destruction of land, for example land that is submerged due to tsunamis or continuous coastal abrasion. In such a situation, the object of the right to land no longer exists physically, thus raising a fundamental question about the sustainability of the right to the land. Conceptually, land rights are *accessoir* to the existence of land itself, so the destruction of land objects can have implications for the abolition of land rights.

However, the national agrarian law system has not expressly and comprehensively qualified natural disasters as a separate legal basis that affects the enforceability of land rights. Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) does not specifically regulate natural disasters, but only implicitly alludes to them through the general concept of the abolition of land rights because the land is destroyed. This provision creates a wide scope of interpretation and has the potential to create legal uncertainty, especially in determining when a land can be declared extinct and how the mechanism for its determination is.

The absence of special regulations regarding the legal status of land due to natural disasters has caused the handling of post-disaster land problems to be resolved more through administrative policies and government discretion. In practice, the government through the National Land Agency (BPN) has taken various steps such as re-measurement, reconstruction of land data, and re-registration of land affected by disasters. Although these measures are solutive, from a legal perspective, the administrative approach alone does not fully guarantee certainty and legal protection for land rights holders.

In the context of the Right to Control the State, the state has the authority as well as the obligation to regulate, manage, and organize the use of land for the maximum prosperity of the people. Therefore, natural disasters should be placed as an important factor in national agrarian policies, especially in order to provide legal protection to people who have lost or been affected by their land rights due to disasters. The protection is not only administrative, but must also have a clear normative basis in laws and regulations.

Natural disasters from the perspective of agrarian law are multidimensional issues that not only concern the physical aspects of the land, but also involve juridical, social, and justice aspects. The absence of special arrangements regarding the legal status of land rights due to natural disasters shows that there is an urgent need to strengthen and



reconstruct national agrarian law norms in order to be able to respond to the reality of disasters in a fair, definite, and sustainable manner.

### 3. The Concept of Destroyed Land and Norm Vacuums

Article 27, Article 34, and Article 40 of Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA) expressly state that the right to land is removed if the land is destroyed. These provisions apply to various types of land rights, including Property Rights, Business Rights, and Building Rights. However, the UUPA does not provide further explanation regarding the definition, limits, or objective criteria regarding what is meant by "destroyed land". The absence of this normative definition raises serious problems in the practice of agrarian law, especially when land is destroyed due to natural disasters.

Conceptually, land as an object of rights in agrarian law is closely related to its physical existence. The right to land is born, lasts, and ends along with the existence of the land. Therefore, the phrase "destroyed land" should be interpreted as a condition in which the object of the right can no longer be maintained its existence juridically or factually. However, in the absence of clear criteria, interpretations of destroyed land have become very diverse and depend on administrative policy alone.

Urip Santoso said that destroyed land can be interpreted as land that can no longer be physically identified or cannot be used properly.<sup>9</sup> This view emphasizes the physical and functional aspects of soil as the basis for determining soil destruction. Thus, land that is permanently submerged by a tsunami, lost due to continuous coastal abrasion, or buried by large-scale landslides can qualify as destroyed land if it can no longer be used or recognized.

Meanwhile, Maria S.W. Sumardjono gave a broader perspective by emphasizing that destroyed land is not only related to the physical loss of land, but also related to the loss of the social and economic function of the land.<sup>10</sup> This view is in line with the principle of the social function of land rights embraced in national agrarian law. If the land can no longer carry out its social function for the rights holder or the community, then substantially the land can be considered destroyed even though it can still be physically found.

The difference in the views of these experts shows that the concept of destroyed land has a physical dimension as well as a juridical-sociological dimension. However, because the UUPA does not explicitly accommodate these dimensions, there is a normative vacuum (*recht vacuum*) in the regulation of land destroyed due to natural disasters. This void in the norm has a direct impact on legal uncertainty for land-rights holders affected by disasters, especially in determining whether their land rights still exist or have been removed.

In land practice, it is often found that land that has been submerged due to coastal abrasion or buried due to landslides is still recorded as an object of land rights in the land registration system.<sup>11</sup> This condition creates a dualism between the physical state of the soil and its juridical state. Administratively, land rights are still recorded and recognized, but factually the land no longer exists or cannot be used. This not only has the potential to cause land disputes, but also hinders the implementation of spatial planning policies and post-disaster land utilization.

Furthermore, the absence of a clear legal mechanism to designate land as destroyed due to natural disasters causes the process of abolishing land rights to be non-uniform. In some cases,

<sup>9</sup> Urip Santoso, , *op. cit.*, p. 95.

<sup>10</sup> Maria S.W. Sumardjono, , *op. cit.*, p. 112.

<sup>11</sup> Boedi Harsono, *op. cit.*, p. 425.



the abolition of rights is done through an administrative decree, while in others it is not done at all due to the absence of an explicit legal basis. This situation is contrary to the principle of legal certainty which is one of the main goals of national agrarian law.

The vacancy of norms related to destroyed land also has implications for the state's responsibility in providing legal protection to disaster-affected communities. Within the framework of the Right to Control the State, the state should be present to provide clarity on the legal status of land, both through the rerecognition of rights, the granting of replacement land, and the determination of land as state land. However, without a clear normative basis, such policies have the potential to cause injustice and unequal treatment.

Thus, the concept of land destroyed by natural disasters requires a more strict and comprehensive regulation in the national agrarian law system. These arrangements are important to avoid legal uncertainty, provide protection for land rights holders, and ensure that post-disaster land policies are implemented based on the principles of justice, utility, and legal certainty.

#### 4. Legal Status of Land Rights Due to Natural Disasters

Normatively, land rights should be abolished when the land object has been destroyed. This provision can be implicitly traced in Article 27, Article 34, and Article 40 of Law Number 5 of 1960 concerning the Basic Regulation on Agrarian Principles (UUPA), which affirms that the abolition of land rights is one of the causes of the destruction of land. Thus, the physical existence of land is a fundamental prerequisite for the continued validity of a land right. However, in the practice of land administration, the abolition of land rights does not occur automatically, but requires an administrative determination from the National Land Agency (BPN).<sup>12</sup>

The absence of a standard procedure to determine land destroyed by natural disasters causes BPN to tend to retain old juridical data on the basis of prudence. As a result, there is a missynchronization between the factual conditions and the juridical conditions of the land.<sup>13</sup>

This condition has the potential to cause land disputes, both between communities and the state and between individuals, and hinder post-disaster regional rearrangement efforts.

#### 5. State Responsibility in the Framework of the Right to Control the State

The State as the holder of the Right to Control the State (HMN) has a constitutional responsibility to ensure the protection and legal certainty of citizens' agrarian rights, including in extraordinary situations such as natural disasters. This responsibility is not only administrative, but also substantive in order to realize social justice.<sup>14</sup>

The concept of HMN as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and described in Article 2 of the UUPA places the state not as a land owner, but as a public ruler who is given the authority to regulate, manage, manage, and supervise the use of land for the greatest prosperity of the people. Therefore, any post-disaster land policy must be placed within the framework of state responsibility to protect the rights of affected communities.

The responsibility of the state is not only administrative, such as re-data collection or the elimination of land rights, but also substantive in order to realize social justice. The state cannot allow land rights holders to simply lose their rights due to natural disasters without protection

<sup>12</sup> Ibid. *Cit.*, p. 418.

<sup>13</sup> Urip Santoso, *Op. Cit.*, p. 173.

<sup>14</sup> Jimly Asshiddiqie, *Constitution and Social Welfare*, Konpress, Jakarta, 2010, p. 89.



or a fair solution. This is in line with the character of a *welfare state* that requires the active presence of the state in protecting citizens from social risks, including the risk of land loss due to natural disasters.

Philipus M. Hadjon emphasized that legal protection for the people is the obligation of the state of law (*rechtstaat*), both through preventive and repressive protection. Preventive legal protection aims to prevent rights violations through clear regulations and fair policies, while repressive legal protection aims to resolve disputes and restore rights when violations have occurred. In the context of natural disasters, preventive legal protection can be realized through special arrangements regarding the legal status of disaster-affected lands, while repressive legal protection is realized through dispute resolution mechanisms and the provision of appropriate compensation. In the context of natural disasters, legal protection must be realized through land policies that are in favor of disaster victims.

The elimination of land rights due to land destruction should not be interpreted as the elimination of state responsibility towards rights holders. Instead, the state is obliged to provide a mechanism for compensation, relocation, or the granting of appropriate replacement land.<sup>15</sup> The abolition of land rights is only a juridical consequence of the destruction of the object of rights, not the abolition of the state's obligation to protect the economic and social rights of citizens. From the perspective of agrarian justice, the state has an obligation to ensure that disaster victims do not fall into conditions of loss of housing, livelihoods, and access to land.

Maria S.W. Sumardjono emphasized that HMN must be run by paying attention to the principles of justice, utility, and protection for vulnerable groups. Victims of natural disasters are a vulnerable group that requires special treatment from the state. Therefore, post-disaster land policy must be directed at the restoration of community rights through compensation mechanisms, relocation, or the provision of suitable and sustainable replacement land.<sup>16</sup>

In practice, state responsibility in this context can be realized through several concrete steps, including: first, the determination of the legal status of disaster-affected lands in a transparent and accountable manner; second, the provision of replacement or relocation land for rights holders whose land is declared destroyed; third, the provision of fair compensation for losses suffered by the community; and fourth, the provision of an objection and dispute resolution mechanism for people who do not accept administrative decisions. These steps are a tangible manifestation of HMN's function as an instrument to achieve social justice.

## 6. Legal Protection and Legal Certainty for Victims of Natural Disasters

Legal certainty is one of the main goals of law besides justice and utility. In the context of land rights due to natural disasters, legal certainty is very important to prevent conflicts and ensure the restoration of the rights of disaster victims.<sup>17</sup> Without legal certainty, disaster victims will be in vulnerable conditions, both socially and economically, and have the potential to face prolonged land conflicts.

Land rights are not only economically valuable, but also have social and cultural dimensions inherent in people's lives. Therefore, the loss or unclear legal status of land rights due to natural disasters can hinder the *post-disaster recovery* process. Legal certainty is a prerequisite for communities to rebuild their homes, access government assistance, and obtain

<sup>15</sup> Maria S.W. Sumardjono, *op. cit.*, p. 171

<sup>16</sup> Maria S.W. Sumardjono, *op. cit.*, p. 53.

<sup>17</sup> Satjipto Rahardjo, *Legal Science*, Citra Aditya Bakti, Bandung, 2012, p. 19.



protection against other parties' claims to the same land.

According to Gustav Radbruch, good law must be able to balance three basic values, namely justice (*gerechtigkeit*), legal certainty (*rechtssicherheit*), and utility (*zweckmäßigkeit*).<sup>18</sup> If one of these values is ignored, then the law will lose its social legitimacy. In the context of natural disasters, excessive emphasis on formalistic legal certainty, for example by removing land rights simply because the land object is declared destroyed without paying attention to aspects of justice and utility, can actually give birth to injustice for disaster victims. Therefore, the regulation of the status of land rights due to natural disasters must be formulated clearly and operationally in order to provide real legal protection.

Legal protection for victims of natural disasters must be understood as a series of state efforts to ensure the recognition, respect, and restoration of the rights of affected communities. This legal protection includes preventive and repressive protection. Preventive protection is realized through clear legal arrangements regarding the status of land rights due to natural disasters, mechanisms for determining destroyed land, and transparent and participatory administrative procedures. Meanwhile, repressive protection is realized through dispute resolution mechanisms, both through administrative and judicial channels, in the event of a post-disaster land conflict.

In practice, the ambiguity of the regulation of land destruction and the abolition of land rights often creates legal uncertainty. Land that has factually disappeared or cannot be used is still recorded as an object of rights in the land registration system, while on the other hand, the community can no longer use the land. This condition creates an imbalance between factual reality and juridical construction, which ultimately harms disaster victims.

Therefore, the reconstruction of agrarian law is an urgent need to answer this problem. The reconstruction of agrarian law is needed to strictly regulate the mechanism for determining destroyed land, the elimination of land rights, and the responsibility of the state to rights holders affected by natural disasters.<sup>19</sup> Reconstruction is not only in the form of normative changes, but also paradigm updates in viewing the relationship between land rights and natural disasters. The regulation of agrarian law in the future needs to strictly regulate the mechanism for determining land destroyed by natural disasters, including objective criteria, assessment procedures, and institutions authorized to determine it. The clarity of this mechanism is important to avoid arbitrariness and ensure that the abolition of land rights is done fairly and proportionately.

In addition, the reconstruction of agrarian law must also explicitly regulate the state's responsibility for land rights holders affected by natural disasters. The removal of land rights due to destroyed land should not be relieved of the state's obligation to provide compensation, relocation, or appropriate replacement land. This is in line with the principles of social justice and the protection of vulnerable groups which are the spirit of national agrarian law.

Legal protection and legal certainty for victims of natural disasters can only be realized if national agrarian law is able to respond to the reality of disasters in an adaptive and fair manner. Strengthening legal norms, institutional structuring, and the state's commitment to implementing the Right to Control the State responsibly is the main key in ensuring that victims of natural disasters do not lose their rights to land and at the same time lose legal protection.

<sup>18</sup> Gustav Radbruch, *Legal Philosophy*, Oxford University Press, 1950, hlm. 107

<sup>19</sup> Maria S.W. Sumardjono, *op. cit.*, p. 182.



## 7. The Urgency of Agrarian Law Reform After Natural Disasters

Empirical conditions suggest that natural disasters will continue to be a serious challenge to the national agrarian legal system. Without an update on the legal arrangements, the issue of the status of land rights due to natural disasters will continue to cause uncertainty and conflict.<sup>20</sup> The intensity and frequency of disasters that tend to increase due to geological factors and climate change place the post-disaster land problem as a structural issue, no longer incidental. Without comprehensive reform of agrarian law regulations, the issue of the status of land rights due to natural disasters will continue to give birth to legal uncertainty, land conflicts, and inequality of protection for disaster victims.

So far, national agrarian law still relies on a normative framework designed under normal conditions, while natural disasters are extraordinary situations that require a special legal approach. The UUPA as the foundation of national agrarian law has not adequately anticipated the impact of natural disasters on the existence of land and land rights. As a result, the settlement of post-disaster land problems is more dependent on sectoral and temporary administrative policies, without a strong and sustainable normative basis.

The reform of agrarian law after natural disasters must be directed at strengthening the role of the state in actively and responsibly exercising the Right to Control the State. The state not only plays a role as a regulator, but also as a facilitator of the restoration of people's rights and the spatial rearrangement of disaster-affected areas. Post-disaster regional planning requires clarity on the legal status of land in order to support the rehabilitation and reconstruction process, including the reconstruction of settlements, public infrastructure, and community economic zones. Thus, agrarian law is not only reactive, but also responsive and fair.<sup>21</sup>

In addition, the reform of agrarian law must place the protection of people's rights as the main orientation. Victims of natural disasters are vulnerable groups who have the potential to lose land, housing, and livelihoods at the same time. Therefore, post-disaster agrarian law regulation must adopt a rights-based approach, which puts the interests and safety of the community as a priority. This approach is important to prevent the occurrence of disenfranchisement, covert evictions, or unfair land transfers in the name of territorial planning.

The urgency of agrarian law reform is also related to the need to integrate land policy with disaster management policy. So far, land policy and disaster policy tend to run separately, resulting in overlapping authority and policy insynchronization. Agrarian law reform must be able to bridge the two legal regimes through integrated arrangements, starting from the mitigation stage, emergency response, to rehabilitation and post-disaster reconstruction. This integration is important so that land policies are not only reactive, but also preventive and adaptive to disaster risks.

Furthermore, post-disaster agrarian law reform needs to clarify the mechanism for determining destroyed land, eliminating land rights, and providing compensation or replacement land. The clarity of this mechanism will provide legal certainty for the community as well as be the basis for the government to take fair and accountable policies. Without a clear mechanism, the elimination of land rights has the potential to be abused and cause structural

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<sup>20</sup> BNPB, *op. cit.*, p. 11.

<sup>21</sup> Satjipto Rahardjo, *Progressive Law*, Kompas, Jakarta, 2009, p. 45.



injustice for disaster victims.

Thus, the urgency of the reform of agrarian law after natural disasters cannot be postponed. The reform is a prerequisite for realizing an agrarian legal system that is responsive to the reality of disasters, ensuring legal protection and certainty for the community, and supporting sustainable development based on social justice. Agrarian law in the future must be able to transform from just an instrument of land regulation to an instrument of protection and restoration of people's rights in the face of increasingly complex natural disaster risks.

#### **D. Conclusions and Recommendations**

The regulation of the legal status of land rights due to natural disasters in the national agrarian legal system is still implicit and not comprehensive. Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) only recognizes the concept of the abolition of land rights because the land is destroyed without providing a definition, criteria, or procedure for determining land destroyed due to natural disasters. As a result, the determination of the legal status of post-disaster land rights is mostly resolved through sectoral and situational administrative policies, so that it does not fully guarantee legal certainty for rights holders. Juridical Implications of Natural Disasters on the Sustainability and Abolition of Land Rights

Normatively, natural disasters do not necessarily eliminate land rights. The removal of land rights only occurs when the land object is declared permanently destroyed and determined through a legitimate administrative mechanism. In practice, the absence of standard procedures leads to an inconsistency between the factual conditions of the land and its juridical conditions in the land registration system. This condition creates legal uncertainty, opens up space for land disputes, and hinders the rehabilitation and reconstruction process of post-disaster areas. Legal Protection and Certainty for Land Rights Holders in the Perspective of Agrarian Justice The protection and legal certainty for land rights holders due to natural disasters have not fully reflected the principles of agrarian justice. The elimination of land rights due to land destruction is often understood formalistically without being balanced with substantive protection mechanisms for disaster victims. In the perspective of agrarian justice, the state as the holder of the Right to Control the State has a constitutional obligation to not only stipulate the abolition of rights, but also to guarantee the restoration of community rights through compensation, relocation, or the provision of suitable replacement land.



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