

LEGAL CERTAINTY ANALYSIS IN THE EXTENSION OF LAND RIGHTS BASED ON THE AGRARIAN LAW

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Abstract

This study aims to analyse legal certainty in the extension of land rights based on the Basic Agrarian Law (UUPA). The research method used is a literature review, examining various laws and regulations, scientific literature, and court decisions related to the extension of land rights. The analysis reveals that the UUPA has established a clear legal framework to provide protection and legal certainty for rights holders such as the Right to Use for Business (HGU), the Right to Build (HGB), and the Right to Use. However, implementation in the field still faces a number of challenges, such as the complexity of administrative procedures, overlapping land data, and coordination issues between institutions, which have the potential to cause legal uncertainty and disputes. Therefore, it is necessary to strengthen regulations, modernise the land administration system, and enhance public literacy to ensure that legal certainty regarding the extension of land rights can be achieved optimally in accordance with the provisions of the UUPA.

Keywords: legal certainty, extension of land rights, Basic Agrarian Law, land administration, literature review

Introduction

Legal certainty is one of the fundamental aspects of land rights management in Indonesia. Legal certainty is a state in which the law is clear, definite, and must be obeyed by the entire community. Radbruch explains that legal certainty is the product of positive law or legislation that must be based on factual realities, clearly formulated to avoid misinterpretation, and not easily altered (, *Law No. 5 of 19 1960 , on the Basic Provisions of Agrarian Law (UUPA)*, n.d.) . With legal certainty, everyone can predict the legal consequences of their actions and act in accordance with the applicable rules without fear or hesitation. This legal certainty is important to ensure justice, benefit, and order in social life. Land, as a limited natural resource, plays a vital role in the economic, social, and political life of society. Therefore, the implementation of land law that ensures legal certainty is essential to protect land rights clearly and fairly (Baedlowi, 2023) .

After Indonesia's independence, the agrarian legal system experienced dualism, where Dutch colonial inheritance laws remained in effect alongside customary laws

adopted by indigenous Indonesian communities. This legal dualism led to uncertainty and disputes over land rights, necessitating regulations that integrated the two systems (Yani & Isnaeni, 2021). To address this dualism, the Government enacted Law No. 5 of 1960 on the Basic Principles of Agrarian Law (UUPA). The UUPA serves as the sole legal framework governing land rights in Indonesia, with the core principles of unity in agrarian law and the affirmation of the people's right to land (Murni, 2022).

The UUPA provides the basis for the implementation of national land registration, which aims to provide legal certainty regarding land rights. Land registration is an important instrument in avoiding disputes and establishing effective land administration. However, in practice, the extension of land rights often raises legal issues such as complex procedures, uncertainty regarding the status of rights, and potential conflicts between rights holders and other parties. These challenges hinder the achievement of legal certainty as mandated by the UUPA (Anggraini, 2024).

Legal certainty in the context of land tenure extension is not only related to formal legal aspects, but also concerns the clarity of procedures, administrative transparency, and protection of landholders' rights so that they are not easily disadvantaged.

Previous studies have shown that legal uncertainty in the extension of rights is the primary source of agrarian disputes. This has a negative impact on social stability and economic development, as certainty regarding land rights is a prerequisite for investment and sustainable resource management (Krismantoro, 2024).

The theory of legal certainty developed by Gustav Radbruch, which states that law must fulfil three elements, namely justice, utility, and legal certainty, is relevant as a basis for analysis in this study. Legal certainty must be a priority so that the law can be accepted and obeyed by the community (Rosyidi & Muliawan, 2021).

The government's role as the administrator of land registration and the implementer of land rights extensions must be carried out professionally and accountably to ensure legal protection for land rights holders. Effective regulations and administrative mechanisms are necessary to support this.

Thus, this study is urgent to support efforts to improve land regulation and administration, resulting in greater legal certainty, so that the rights of the community to land can be optimally protected in accordance with the spirit of the Basic Agrarian Law.

Research

The research method used in this study is library research, which involves collecting, analysing, and interpreting various secondary data sources in the form of legislation, particularly the Basic Agrarian Law and its implementing regulations, legal literature on agrarian law, scientific journals, and relevant court decisions related to the extension of land rights, using descriptive-qualitative analysis techniques to understand

and explain the aspects of legal certainty in that context (Eliyah & Aslan, 2025) ; (Tranfield et al., 2003) .

Results and Discussion

Law on the Extension of Land Rights

The law on the extension of land rights in Indonesia is comprehensively regulated in the Basic Agrarian Law (UUPA) No. 5 of 1960 and its implementing regulations. The UUPA establishes several types of land rights, including Freehold Rights, Right to Use for Business (HGU), Right to Build (HGB), and Right to Use, each with specific time limits and provisions regarding the extension of rights. Freehold Rights are the strongest and most comprehensive land rights, where the subject is limited and not granted to foreign nationals or foreign legal entities. Ownership Rights do not have a renewal mechanism due to their permanent nature, provided that the owner continues to meet the requirements and there is no legal transfer of rights. (Pranata, 2022) .

Conversely, rights such as HGU, HGB, and Hak Pakai are explicitly regulated regarding the possibility of extension, which is stipulated in separate articles in the UUPA and its derivative regulations. The extension of these rights is important for rights holders to ensure the continued legal and secure use of land in the long term. The process of applying for an extension of rights must be initiated before the rights expire, and is typically further regulated through Government Regulations and technical regulations issued by the National Land Agency (BPN) to ensure that the process is conducted in an orderly and accountable manner. (Prabowo, 2024) .

The extension request is submitted along with administrative documents such as title certificates, proof of tax payment, and other required documents. Land administration authorities then review the documents and, if necessary, conduct on-site verification to ensure there are no violations of land use or boundary disputes with other parties. The government provides legal protection in the form of priority rights to rights holders to extend the period, provided that the rights are used in accordance with their intended purpose and there are no higher-priority national interests. (Sutedi, 2007).

In practice, various obstacles often arise in the process of extending land rights. One of them is incomplete administrative documents or land boundary disputes that cause applications to be delayed or even rejected. On the other hand, advancements in technology and land digitalisation programmes are expected to minimise administrative challenges by providing more transparent and efficient access, such as the implementation of electronic registration and digital certification of land rights (Putri & Putra, 2021) .

Legal certainty is the benchmark for the success of the land rights extension system. Without clarity and a definitive system, rights holders face the risk of losing their

rights or becoming involved in protracted disputes. The Supreme Court and the Administrative Court frequently handle cases involving the rejection or disputes over land rights extensions, where the principles of legal certainty and protection of rights holders in good faith always form the basis of judicial consideration (Suherman, 2020) .

The state has the right to refuse the extension of land rights in the event of substantial violations, such as the use of land that is not in accordance with its designated purpose or does not provide benefits to the wider community, or if the land is located in a national strategic area that requires direct management by the state. To provide legal certainty, the government has also established a grace period for submitting extension requests and the right to appeal if the request is denied. (Lex Privatum, 2023) .

In addition to regulations at the law level, procedures and technical requirements for extensions are further regulated through Government Regulations, Ministerial Regulations, and circular letters or technical guidelines from the National Land Agency (BPN). These regulations are intended to ensure efficient and transparent implementation and to fulfil the principles of prudence and protection for all interested parties (Pranata, 2022) .

From an economic and development perspective, legal certainty regarding land tenure extension is vital, especially for the industrial, agribusiness, and property sectors, which require continuity of land ownership as a key asset in conducting their activities. Investors and business operators tend to avoid land with unclear legal status or high risk, so a clear and reliable system will encourage business sector growth and sustainable development (Satriani, 2025) .

Another challenge arises from administrative overlap and a lack of data synchronisation between agencies, such as differences in basic maps between the Ministry of Agrarian Affairs/National Land Agency, local governments, and other relevant agencies. This often hinders or delays the process of extending land rights, and can even lead to new conflicts within communities. Efforts to harmonise and integrate land data have become a priority for the government in its land bureaucratic reform programme, " " (Sutedi, 2007) .

The application of the principles of prudence and transparency in procedures has also been emphasised, both in the internal audit of the National Land Agency (BPN) and in the recommendations of the Ombudsman and the Corruption Eradication Commission (KPK), to ensure that there is no abuse of authority and to prevent corruption and illegal levies, which have often been complained about by the public. The mass certification programme and accelerated land rights services through digital platforms aim to provide easier access and expedite administrative processes for all segments of society, particularly the poor and marginalised () (Abdurrachman, 2008) .

From the perspective of justice, the law on the extension of rights must be able to ensure that the rights of the community are not degraded by the power of capital or

certain institutions. The state is also obligated to ensure that land is used for the greatest possible benefit of the people, in accordance with Article 33 of the 1945 Constitution. Therefore, all procedures for extending rights, from the initial application to the final decision, must be transparent, accessible, and subject to review if there are indications of irregularities (Wahid, 2008).

The role of advocates and legal aid institutions is central in assisting communities facing obstacles in the process of extending their rights. Legal literacy and government outreach on regulations must also be continuously improved so that communities understand their rights and obligations, as well as the proper procedures for extending land rights (Almira & Anggraini, 2023).

Nowadays, the practice of extending land rights in Indonesia continues to evolve in line with the needs of society and the challenges of globalisation. Regulatory updates and adaptation to technological advances are essential to ensure that the national agrarian system can operate flexibly, orderly, and, of course, provide the legal certainty needed by all elements of the nation (Dewi & Satwika, 2023).

Thus, the law on land tenure extension under the UUPA not only serves as an administrative instrument but also guarantees justice, certainty, and benefits for all stakeholders. While practices on the ground still face challenges, with a commitment to reform and integrity from all parties, it is hoped that the national land tenure system will become increasingly robust and responsive to the needs of the community.

Legal Certainty and Challenges in the Extension of Land Rights Under the UUPA (Basic Agrarian Law)

Legal certainty in the extension of land rights is a fundamental aspect that is clearly regulated in the Basic Agrarian Law (UUPA) Number 5 of 1960. The UUPA guarantees that every holder of land rights, such as the Right to Use for Business (HGU), the Right to Build (HGB), and the Right to Use, has the opportunity to extend the duration of their rights provided they meet the required conditions and procedures. This legal certainty provides security and protection for rights holders, enabling them to plan the sustainable use of land over the long term. (Anak Agung Istri Agung et al., 2022).

Legal certainty is also closely related to the land registration system mandated by the UUPA. Through a national land registration process, the status of land rights, along with their duration and transfer, are recorded administratively. This step aims to prevent disputes, ensure the accuracy of the subject and object of rights, and support economic and social development. However, in practice, there are many challenges faced in the extension of land rights. One of them is the complexity of administrative procedures that often change, making it difficult for applicants, especially the general public. Diverse document requirements, lengthy processes, and the lack of data synchronization between agencies often become major obstacles (Salim et al., 2024).

The lack of clarity in technical regulations in some cases of right extensions has also triggered new disputes between right holders and the government or the surrounding community. Disputes can arise from issues such as land boundaries, ownership status, and delays in the extension process due to complex bureaucracy. This results in legal uncertainty regarding the status of the land in question (Holla et al., 2024).

In terms of institutions, coordination between the National Land Agency (BPN), local governments, and other relevant agencies has not been optimal. Overlapping authority and land data remain classic problems that result in slow renewal processes and potential irregularities.

The UUPA provides a clear normative basis regarding priority rights for rights holders in extensions. However, in practice, these priority rights are sometimes not fulfilled due to unilateral government policies in the context of land acquisition for public interests or areas included in national strategic zones, resulting in rights holders losing their rights without adequate compensation (Fitri, 2023).

The Administrative Court and the Supreme Court are often the forums for resolving disputes over land tenure extensions that have not been resolved. In every decision, considerations of legal certainty, justice, and protection of citizens acting in good faith are always the main reference points, although it is not uncommon for decisions to be overturned at the appeal or cassation level (Napitupulu, 2024).

The modernisation of land administration undertaken by the government, including through the digitisation of land registration and online services for the extension of land rights, is a progressive step that is expected to improve transparency and efficiency and reduce opportunities for abuse of authority and illegal levies. In addition to procedural aspects, legal certainty is also significantly influenced by the strengthening of regulations and the harmonisation of laws and regulations at both the central and local levels. Implementing regulations of the Land Law (UUPA), such as Government Regulations and Ministerial Regulations, must continue to be improved to align with the dynamic needs of society and advancements in technology (Harianto, 2024).

The role of the community and advocates in overseeing the land rights extension process is important to ensure that there is no discriminatory practice or manipulation by unscrupulous officials. Active socialisation by the government together with academics and community organisations must be carried out continuously to improve land law literacy (Widiyono & Khan, 2023).

On the other hand, the development of investment and the need for land for national infrastructure development sometimes pose challenges in enforcing legal certainty. The state faces a dilemma between the need for land for public interests and the protection of individual rights to legally owned land (Naibaho & Syaputra, 2025).

Another challenge is the resolution of overlapping administrative rights, both as a result of weak conventional archiving in the past and the lack of synchronisation of land data updates in the digital era. Land inventory and data updating programmes need to be improved so that all land rights are recorded and can be easily verified. Legal certainty in the extension of land rights is also an important element in creating a conducive investment climate in Indonesia. Clear legal ownership or control of land gives investors confidence to invest and develop their businesses (Geglion & Syaputra, 2025).

The government recognises that legal certainty in the extension of land rights is key to the success of agrarian reform. Therefore, a number of initiatives for digitisation, mass certification, and improved public services in the land sector continue to be launched to accelerate the process and increase public trust. To ensure social justice, the UUPA stipulates that land must be utilised to the fullest extent for the prosperity of the people. Therefore, in every land rights extension process, public interest and fairness in land distribution must be the primary considerations, not solely the interests of existing rights holders. (Gulo & Astuti, 2022).

Ultimately, policy updates, procedural simplification, strengthened supervision, and human resource development in the land sector are shared responsibilities to achieve a transparent, fair, and legally certain national land system in accordance with the mandate of the Basic Agrarian Law. The integrity and synergy of all parties are essential to ensure that land rights are enjoyed fairly, sustainably, and provide optimal benefits for all Indonesians.

Conclusion

Based on an analysis of legal certainty in the extension of land rights under the Basic Agrarian Law (UUPA), it can be concluded that the UUPA has provided a strong normative basis to ensure that all rights holders, such as HGU, HGB, and Hak Pakai, receive protection and the opportunity to extend their rights legally. This legal certainty is further strengthened by a transparent land registration system and clearly defined extension procedures, enabling rights holders to plan the long-term use of land without concern.

However, in practice, various challenges remain, particularly related to the complexity of administrative procedures, overlapping data between agencies, and a lack of synchronisation between the relevant authorities. Disputes, bureaucratic delays, and uncertainty over land status sometimes arise due to ineffective implementation of regulations and a lack of public awareness of their rights in the renewal process.

Therefore, continuous efforts are needed from the government to strengthen regulatory harmonisation, modernise administrative systems, improve transparency, and educate the public about land rights. With synergy between clear regulations, efficient services, and strict supervision, land reform is expected to bring about optimal

legal certainty, protect land rights, and create a more conducive investment and development environment for the wider community.

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