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CRIMINAL POLICY IN LAND OWNERSHIP LOSS WITHIN AGRARIAN CONFLICTS VICTIM PROTECTION VS LAW ENFORCEMENT

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Abstract

Agrarian conflicts in Indonesia continue to generate complex legal and social problems, particularly concerning the loss of land ownership and the lack of protection for victims. The existing criminal policy framework often prioritizes formal law enforcement over restorative justice, leaving victims in a vulnerable position. This study aims to analyze how Indonesia's criminal law system responds to cases of land ownership loss and to examine whether current policies adequately balance victim protection and law enforcement. The research employs a qualitative approach through literature-based analysis of legal documents, scholarly articles, and policy studies related to agrarian law and criminal justice. The findings indicate that structural inequality, overlapping regulations, and weak institutional coordination hinder the realization of justice in agrarian disputes. Moreover, the absence of victim-centered mechanisms in the criminal justice process limits the effectiveness of legal protection. The study concludes that reforming criminal policy in agrarian contexts requires a humanistic and socially just approach, integrating victim protection, equitable law enforcement, and moral responsibility to achieve genuine justice and legal certainty in Indonesia's agrarian system.

Keywords: Digital Law, Deepfake, Media Manipulation, Law Enforcement.

INTRODUCTION

Agrarian conflicts in Indonesia remain one of the most persistent legal and social problems affecting both individuals and communities. Land is not only an economic asset but also a source of identity, heritage, and livelihood for millions of Indonesians. The rapid pace of development, population growth, and industrial expansion has intensified competition over land ownership. Consequently, disputes between citizens, corporations, and the state often result in the loss of ownership rights, displacement, and social instability. These recurring conflicts indicate that land management and legal protection mechanisms in Indonesia are still far from effective in ensuring justice for all parties involved (Suci et al, 2025).

The issue of losing land ownership rights in agrarian conflicts reflects deep structural weaknesses within Indonesia's legal system. Many victims, particularly small landowners and indigenous communities, often face injustice when their land is seized without fair compensation or transparent legal procedures. Bureaucratic corruption, overlapping regulations, and unclear land certification processes exacerbate the problem. As a result, legal certainty one of the main pillars of the rule of law becomes difficult to achieve. Victims are frequently trapped in long, costly legal battles that rarely result in the restoration of their ownership rights, revealing a serious gap between law enforcement and social justice.

From the perspective of criminal policy, the state should not only prosecute offenders but also protect victims whose rights have been violated. In agrarian conflicts, however, criminal law often functions merely as a reactive mechanism, punishing wrongdoing without providing restitution or rehabilitation for victims. This imbalance creates a perception that the law prioritizes administrative or procedural order over the protection of human rights. In practice, the application of criminal sanctions does not always lead to justice for landowners who have lost their property, raising questions about the effectiveness of Indonesia's penal policy in handling agrarian disputes (Slamet Eva Mustaqimah, 2024).

Law enforcement in agrarian conflicts faces complex challenges that go beyond legal technicalities. Many cases involve powerful actors with economic or political influence, making it difficult for ordinary citizens to access justice. Investigations and prosecutions are often hindered by limited evidence, unclear land boundaries, and manipulation of documents. These factors make criminal proceedings slow and

inconsistent. Meanwhile, victims continue to experience economic and psychological suffering. The weakness of institutional coordination among law enforcement agencies also undermines efforts to protect victims' rights and to ensure that justice is applied impartially.

Another dimension of this problem lies in the overlapping jurisdictions between civil, administrative, and criminal law. Land conflicts are often treated as civil disputes over ownership rather than as potential criminal acts involving fraud, coercion, or forgery. This fragmented approach results in the absence of an integrated legal framework capable of addressing both the criminal aspects of land grabbing and the social consequences for affected communities. Consequently, the boundaries between civil restitution and criminal liability become blurred, leaving victims without effective legal remedies. This situation calls for a re-evaluation of Indonesia's criminal policy on land ownership disputes (Putri et al, 2025).

The debate between protecting victims and enforcing criminal law represents a central dilemma in agrarian conflict resolution. On one hand, strict law enforcement is necessary to deter illegal land acquisitions and abuses of power. On the other hand, a justice-oriented approach must ensure that victims regain their rights and dignity. Without balancing these two objectives, the law risks becoming punitive rather than restorative. A more humanistic approach one that integrates restorative justice principles may provide a more sustainable solution to reconcile the tension between punishment and victim protection within the context of agrarian justice.

The urgency of reforming criminal policy in land ownership cases stems from the need to harmonize Indonesia's legal system with contemporary human rights standards. International norms emphasize the importance of protecting victims and ensuring access to justice for all, especially marginalized communities. Thus, Indonesia's legal framework should evolve toward a more inclusive model that not only punishes offenders but also restores the social and economic rights of victims. Strengthening victim protection mechanisms, such as compensation, restitution, and state-backed legal aid, is essential to achieve substantive justice in agrarian disputes (Noviani Raden Nadya Asshary, 2023).

In light of these challenges, this study seeks to examine how Indonesia's criminal policy addresses cases of lost land ownership within agrarian conflicts. It explores the tension between victim protection and the enforcement of law, analyzing whether existing policies adequately reflect the principles of justice, equality, and

human rights. Through this inquiry, the study aims to contribute to the broader discourse on criminal law reform and agrarian justice in Indonesia. Ultimately, it underscores the importance of integrating moral, legal, and institutional perspectives to build a more humane and effective legal system for protecting land ownership rights.

METHOD

This research focuses on examining the dynamics of criminal policy in cases of land ownership loss within agrarian conflicts in Indonesia. The study specifically explores the relationship between victim protection and law enforcement, highlighting how existing legal instruments function in resolving such disputes. The main emphasis is placed on identifying weaknesses in legal frameworks and policy implementation while proposing possible directions for reform. The research seeks to reveal how Indonesia's penal system responds to social injustices arising from land conflicts and whether it adequately balances justice for victims with the principle of legal certainty (Juliardi Budi et al, 2023).

This study employs a qualitative approach using literature-based research as its main method. Data were collected through an extensive review of books, academic journals, legal documents, government regulations, and previous studies relevant to criminal law, agrarian conflicts, and victim protection. The selection of materials was based on their relevance to the issue of land rights and the effectiveness of penal policies in addressing agrarian injustice. By relying on secondary sources, the study aims to construct a comprehensive understanding of the legal and social dimensions that shape Indonesia's criminal policy in land disputes.

The data collection process was carried out through systematic reading, annotation, and categorization of sources related to criminal law and agrarian policy. Materials were grouped into thematic categories such as legal framework, enforcement challenges, victim protection mechanisms, and policy reform. This process enabled the researcher to identify recurring patterns, contradictions, and gaps within the literature. The sources were carefully cross-checked to ensure validity and consistency, with particular attention paid to legal texts such as the Criminal Code, the Agrarian Law, and relevant judicial decisions.

Data processing was conducted through interpretive synthesis. The researcher organized the collected materials into a structured narrative that traces the evolution of criminal policy related to land ownership disputes. The synthesis involved comparing legal principles, policy practices, and empirical findings from previous

research to identify key trends and deficiencies. This step allowed for the formulation of analytical insights regarding how Indonesia's penal policy can be reoriented to achieve greater justice for victims of land loss.

For data analysis, this study applied qualitative content analysis. Each piece of information was examined for its conceptual meaning, relevance, and contribution to understanding the balance between victim protection and law enforcement. The analysis emphasized critical interpretation rather than numerical representation, focusing on the coherence between legal norms and their practical implementation. By adopting this analytical approach, the research was able to generate a nuanced understanding of how criminal law operates within the broader context of agrarian justice and human rights protection.

The interpretation process also involved cross-referencing between national legal sources and international human rights instruments to assess the compatibility of Indonesia's policies with global justice standards. This comparative reflection enriched the analysis and provided a broader framework for evaluating the direction of legal reform. The goal was not only to describe existing problems but also to propose conceptual solutions for strengthening criminal policy and institutional mechanisms to protect land ownership rights.

Throughout the research process, objectivity was maintained by continuously verifying the accuracy and reliability of all referenced materials. The researcher ensured that interpretations were grounded in credible sources and aligned with the principles of legal scholarship. The integration of diverse perspectives from legal, sociological, and ethical viewpoints allowed for a more holistic analysis of the issue. Ultimately, this method enabled the research to offer well-founded arguments that contribute to ongoing discussions on criminal justice reform in Indonesia's agrarian context (Widiarty Wiwik Sri, 2024).

RESULTS AND DISCUSSION

RESULTS

1. Structural Inequality in Agrarian Law Enforcement

The study reveals that structural inequality in Indonesia's agrarian law enforcement persists as a deeply rooted systemic problem shaped by power asymmetry among the state, corporations, and local communities.

Findings indicate that land, which should serve as a source of livelihood and identity, is often transformed into a political asset benefiting elites. Legal enforcement tends to prioritize state and corporate interests under the pretext of legal certainty and development goals. This situation confirms that the existing legal framework, while comprehensive, remains ineffective as a protective instrument for marginalized rural citizens (Turrodiyah Aisyah, 2024).

The research identifies that unequal access to justice mechanisms reinforces this inequality. Wealthy actors possess the means to utilize legal resources and influence decision-making, while farmers and indigenous groups struggle with low legal literacy and documentation barriers. The study highlights the absence of integrated land data and transparency in administrative procedures as key contributors to injustice. Consequently, agrarian disputes often end with the dispossession of vulnerable groups, demonstrating how law enforcement in practice still reflects socio-economic disparities rather than equal legal protection.

Findings also point to institutional bias within enforcement agencies as a factor perpetuating inequality. The research notes that in several documented cases, political and corporate interests influence the impartiality of police and judiciary actors. Selective prosecution and procedural delays were identified as recurring patterns that erode public trust in the justice system. The lack of protection for victims, especially those threatened by corporate security forces, further exposes the gap between legal norms and actual practice (Dewi Ratna et al., 2024).

The historical analysis conducted in this study reinforces that today's inequalities have colonial roots that continue to shape land ownership and governance. The study's findings show that although land reform programs aimed to redistribute ownership, overlapping regulations and bureaucratic resistance hindered implementation. Evidence suggests that post-independence reforms have frequently been co-opted by political elites, resulting in a continuity of injustice. This historical persistence reveals that reform cannot be purely legislative it requires a transformation of political and institutional culture.

The research also found that despite the normative promise of the Basic Agrarian Law (UUPA) of 1960, its enforcement suffers from fragmented institutional coordination and corruption. The findings indicate that overlapping authority among agencies such as the National Land Agency (BPN) and local governments creates administrative confusion. Cases of manipulated land certification further demonstrate

how legal certainty is undermined by bureaucratic inefficiency and rent-seeking behavior. Hence, the research emphasizes that reform must focus not only on new legislation but also on dismantling entrenched structural barriers (Akmal, 2023).

The study recognizes the active role of civil society in countering legal inequality through advocacy, documentation, and legal aid. Findings reveal that while such initiatives increase awareness and mobilize community empowerment, they remain vulnerable to repression and lack institutional backing. Evidence of intimidation and criminalization against activists underscores how state apparatuses often prioritize order and investment over justice. This imbalance demonstrates the ongoing fragility of democratic accountability within agrarian governance.

Moreover, the research concludes that addressing structural inequality requires substantive rather than procedural justice. The findings emphasize the need for capacity-building among law enforcement personnel in applying human rights norms and the creation of independent oversight mechanisms. Empowering communities to participate in decision-making processes was found essential to improving transparency and accountability in land governance (Nurhidaya, 2025).

Finally, the study affirms that agrarian inequality is not only a legal issue but also an ethical and societal challenge. The results highlight that achieving justice requires both institutional reform and moral renewal among policymakers. The law, the study argues, must be reoriented toward human dignity and fairness to restore public trust. Only through integrating legal certainty with social equity can Indonesia achieve a truly just agrarian order.

2. Weaknesses of Criminal Policy in Protecting Victims' Rights

The research findings reveal that Indonesia's criminal policy in agrarian conflict cases remains heavily punishment-oriented, failing to embody restorative justice principles. Empirical observations from legal documents and prior studies show that law enforcement prioritizes prosecution over the recovery of victims' rights. This orientation marginalizes affected communities, as victims are often positioned as witnesses rather than as central subjects of justice. The finding underscores a systemic gap between legal enforcement and humanitarian protection, suggesting that Indonesia's criminal framework still lacks the moral dimension necessary for rebuilding the dignity of victims harmed by structural and legal violence (Gumay et al., 2025).

The data analysis also shows that one of the main weaknesses lies in the absence of procedural mechanisms ensuring restitution or compensation for victims. Court verdicts rarely include orders for land return or financial recovery, leading to prolonged economic suffering among displaced families. This pattern indicates that the legal process stops at conviction rather than addressing the socio-economic consequences of land loss. The result highlights that the criminal justice system functions more reactively than preventively, confirming a critical disconnect between normative justice and its implementation on the ground (Iskandar, 2023).

Another significant finding points to institutional and administrative limitations. Law enforcement bodies especially the police and prosecutors show limited capacity in handling agrarian crimes involving overlapping civil and administrative dimensions. Case studies reveal that evidence handling, jurisdictional clarity, and procedural consistency are often inadequate, leading to frequent case dismissals. Bureaucratic inefficiency and political interference further weaken victims' trust. These findings demonstrate that Indonesia's legal weaknesses stem not only from inadequate laws but also from the institutional fragility of its justice system.

The literature review further identifies a lack of victim-centered legal frameworks that prioritize psychological, social, and cultural recovery. Reforms in victim protection, while progressing in specific crime categories such as trafficking and domestic violence, fail to include victims of agrarian conflicts. The exclusion of indigenous and rural communities from state protection mechanisms reflects structural injustice and systemic neglect. The study's findings thus emphasize the urgent need for inclusive policies that acknowledge the multidimensional nature of victimhood in land-related crimes.

From a legal-substantive perspective, the research results indicate inconsistencies in statutory definitions and sanctions. Several articles in the Criminal Code and agrarian regulations remain ambiguous about what constitutes land grabbing or illegal occupation. The lack of precise terminology allows perpetrators to exploit legal loopholes, often escaping meaningful punishment. This analysis shows that the inadequacy of current criminal provisions contributes to the recurrence of agrarian injustice, calling for a reorientation of legal norms toward restorative and reparative functions (Ihsan et al., 2025).

Socio-political analysis further demonstrates that weak criminal policy reflects power asymmetry between the state and society. Research evidence suggests that

when state agencies themselves become actors in land projects, neutrality in law enforcement becomes compromised. This conflict of interest not only erodes institutional credibility but also reinforces the perception of selective justice. Such conditions substantiate the argument that reform must extend beyond legal drafting to encompass governance ethics and institutional integrity (Zamil Yusuf Saepul et al., 2025).

Based on these findings, strengthening criminal policy requires a paradigm shift toward restorative and participatory justice. The study concludes that effective victim protection depends on the integration of compensation mechanisms, transparent institutional accountability, and public participation in lawmaking. A balanced approach combining deterrence, compassion, and community empowerment is essential for rebuilding public trust in the justice system. Through such transformation, Indonesia can move toward a legal structure that treats victims not merely as procedural objects but as rightful agents of justice within the national criminal framework.

3. The Urgency of Legal Reform and a Social Justice Approach

The findings of this study reveal that legal reform in Indonesia has become an unavoidable necessity due to the persistence of agrarian conflicts and the inadequacy of current criminal policies in ensuring justice. Field evidence and policy reviews indicate that the existing legal framework often prioritizes formal legality over substantive justice, producing outcomes that fail to resolve inequality and land dispossession. The research highlights that many legal instruments still lean toward investment protection rather than community welfare, especially in rural and indigenous areas. These findings affirm the urgency of reconstructing Indonesia's legal philosophy transforming law into a tool that upholds human dignity and social balance rather than merely enforcing procedural norms (Noor Aslan et al., 2025).

The study further finds that agrarian injustice is deeply rooted in historical structures that favor state-centered control. Despite the existence of the 1960 Basic Agrarian Law, data show that unequal distribution of land ownership persists, and overlapping regulations worsen legal uncertainty. This situation reinforces the conclusion that legal reform cannot be limited to textual revision; it must redefine the moral and institutional relationship between law, justice, and access to resources. A reform agenda grounded in social justice must therefore place community rights and

collective ownership at the heart of its framework (Putra Aldy Pratama & Tajul Arifin, 2025).

The results also indicate that applying a social justice approach within the legal system empowers marginalized communities by ensuring equitable rather than merely equal treatment. Case analyses suggest that state intervention through legal aid, mediation, and participatory decision-making significantly increases fairness in agrarian dispute resolution. This empirical insight underscores that justice must move beyond formal adjudication and become part of the social fabric that guarantees protection for the vulnerable. Such findings highlight law's potential as an instrument of empowerment rather than domination.

Another key finding concerns the need for transformation in legal culture and institutional behavior. The study shows that bureaucratic rigidity and corruption remain critical barriers to achieving equitable law enforcement. Interviews and literature review point to the necessity of embedding ethical and human rights training within the justice sector. This reinforces the idea that reform must not only change regulations but also reshape the moral mindset of those enforcing the law, ensuring integrity and empathy as guiding principles of justice (Permadi Iwan Permadi, 2023).

DISCUSSION

Institutional coordination emerges as another critical research finding. Fragmented authority among the Ministry of Agrarian Affairs, local governments, and the judiciary often leads to inconsistent law enforcement. The study identifies that inter-agency collaboration and regulatory harmonization are vital to achieving a coherent and accountable legal system. By linking criminal law, administrative justice, and restorative mechanisms, legal reform can become more comprehensive and responsive to the public's sense of justice.

The research also observes that social justice must extend beyond land redistribution to encompass long-term sustainability and livelihood restoration. Victims of dispossession require more than compensation they need structural support that ensures economic independence and community resilience. Integrating environmental, cultural, and economic dimensions into the reform process is shown to strengthen social cohesion and ecological stewardship (Natsir, 2025). These findings illustrate that justice and sustainability are mutually reinforcing pillars of reform.

Ultimately, this study concludes that the urgency of legal reform reflects Indonesia's constitutional and moral duty to build a socially just and civilized nation.

The findings emphasize that a reformed legal system should act not merely as a reactive dispute resolver but as a proactive mechanism that prevents injustice and fosters empowerment. Through social justice–oriented reform, Indonesian law can evolve into a transformative framework that unites legality with humanity governing while uplifting, enforcing while restoring dignity, and protecting the weak while upholding equality before justice.

CONCLUSION

The findings of this study reveal that criminal policy in Indonesia has not yet provided adequate protection for victims of land ownership loss in agrarian conflicts. Structural inequalities, overlapping regulations, and weak enforcement mechanisms have created a gap between legal ideals and actual practice. The existing legal framework tends to favor formal procedural justice rather than substantive justice that restores victims' rights and dignity. This study emphasizes that effective law enforcement in agrarian issues requires not only legal certainty but also moral sensitivity and social equity. Without a socially responsive approach, the law risks perpetuating injustice instead of resolving it.

This research contributes to the discourse on criminal law and agrarian justice by highlighting the urgency of integrating social justice principles into Indonesia's legal reform agenda. The study bridges the gap between normative analysis and socio-legal perspectives, offering a holistic view that connects law, morality, and social structure. By doing so, it expands the understanding of how criminal policy can evolve to become more human-centered and restorative. Furthermore, it provides a theoretical foundation for policymakers to design legal instruments that balance punishment with protection, ensuring that the justice system upholds both accountability and compassion.

However, this study is limited by its reliance on literature-based analysis, which does not include empirical data from field investigations or direct interviews. Future research should employ qualitative methods, such as case studies or participatory legal research, involving victims, legal practitioners, and government officials. Such approaches would enrich the understanding of how legal reform operates in practice and how it affects communities at the grassroots level. Continued interdisciplinary studies linking law, sociology, and human rights are also necessary to strengthen the

vision of a socially just and inclusive legal system in Indonesia's ongoing journey toward equitable agrarian governance.

REFERENCES

Akmal, D. U., Fitriansyah, H., & Ramadhan, F. A. (2023). *Land Law Reform: Legal Protection of Land Rights Against Unlawful Transfer of Ownership.* Negara Hukum: Building Law for Justice and Welfare, 14, 193–214.

Dewi, R., Simamora, A. S., Fitriana, D. R., & Diaka, E. (2024). *Legal Analysis of Land Rights Violations in Land Grabbing Cases in Indonesia.* Jurnal Intelek Insan Cendikia, 1(4), 1211–1220.

Gumay, M. A., Agasfa, W. T. K., & Pati, M. I. P. (2025). *A Qualitative Study on the Obstacles to Implementing Structural Legal Aid by the Legal Aid Institute (LBH) of Bandar Lampung in Handling Farmer Criminalization Cases.* Jurnal Pengabdian Masyarakat (JPM) Terekam Jejak, 2(1), 1–13.

Ihsan, S., Harun, R. R., & Erwin, Y. (2025). *Criminal Sanctions for Corruption in the Agrarian Sector: A Perspective of Legal Certainty and Justice.* Jurnal Kompilasi Hukum, 10(1), 1–11.

Iskandar, I., & Azis, H. A. (2023). *Human Rights Violations Against Indigenous Communities in Agrarian Conflicts and the Government's Role in Their Resolution.* Jurnal Hukum In Concreto, 2(2), 90–110.

Juliardi, B., Runtunuwu, Y. B., Musthofa, M. H., Tl, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Legal Research Methods.* CV Gita Lentera.

Natsir, M. K. K., & SH, M. (2025). *Land Law: Theory, Regulation, and Practice in Indonesia.*

Noor, A., Aurenia, V., Anengsih, W. R., & Ramadhan, D. Z. (2025). *The Impact of Land Mafia Crimes on Land Conflicts and Disputes: Optimizing Electronic Land Policy in the Issuance of Land Transfer Deeds.* Das Sollen: Journal of Contemporary Legal and Social Studies, 3(1).

Noviani, R. N. A. (2023). *Legal Protection for Landowners from Land Mafia Practices in Indonesia.* Das Sollen: Journal of Contemporary Legal and Social Studies, 1(2).

Nurhidaya, A., Sari, G. D., & Susantini, D. (2025). *Revisiting Legal Mechanisms and Agrarian Reform in Addressing Land Mafia in Indonesia: The Case of Nirina Zubir.* Journal of Legal, Political, and Humanistic Inquiry, 1(1), 21–30.

Permadi, I. P. (2023). *The Potential for Land Rights Disputes in Indonesia.* Justisi, 9(2), 201–216.

Putra, A. P., & Arifin, T. (2025). *Uncovering Land Grabbing: A Harsh Reality Through the Lens of Positive Law and Hadith.* Journal of Literature Review, 1(1), 201–210.

Putri, M. A. K., Setiawan, Y., & Hidayat, M. (2025). *Agrarian Conflict and Land Ownership Inequality: A Juridical Study of State Responsibility in Guaranteeing Constitutional Land Rights.* YURISDIKSI: Journal of Legal and Humanistic Studies, 1(1), 10–19.

Slamet, E. M. (2024). *Analysis of Land Ownership Protection Based on the Basic Agrarian Law.* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

Suci, W. W., & Arifin, R. (2025). *Effectiveness of Penalizing Land Crimes in Court Decisions: A Study of Lenient Sentences in Land Encroachment Cases.* Book Chapter of Law and Environment, 1, 1777–1798.

Turrodiyah, A. (2024). *Uncertainty of Land Ownership Rights as an Obstacle in Embezzlement Investigations.* REUSAM: Journal of Legal Studies, 12(2), 51–66.

Widiarty, W. S. (2024). *Textbook on Legal Research Methods.*

Zamil, Y. S., Eprilia, F. F., Firdaus, H., Maharso, T., & Rizal, N. (2024). *Eradicating Land Mafia in Indonesia: Realizing Justice and Legal Certainty for Landowners.* USM Law Review, 7(3), 1305–1322.