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Politics of Land Grabbing: The Silent Death of Emancipation in Agrarian Law

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Abstract

In the midst of Indonesia's ongoing wave of development, agrarian conflicts that manifest in land grabbing have become increasingly prominent, despite frequently lacking clear legal justification. This study critically examines the role of law in facilitating and grabbing and interrogates the mechanism through which legal frameworks come to serve such a function. It addresses a significant gap in the scholarly discourse concerningthe legal dimensions of land dispossession. Employing a non-doctrinal approach, this research draws upon an extensive literature studies, regulatory analysis, and judicial decision reviews. The findings reveal that land grabbing in Indonesia is not merely driven by informal practices or extralegal coercion. Rather, it is frequently facilitated through legal instruments, most notably within the framework of National Strategic Projects (PSN). These projects demonstrate how the law is mobilized to legitimize dispossession, masking structural violence behind the veneer of legality. In this context, the emancipatory vision of Indonesian agrarian law faces systemic erosion. Rather than fading passively, it is actively dismantled under the influence of neoliberal imperatives embedded in post-1997 policy reforms. Ultimately, this study shows that law is not a neutral arbiter in agrarian conflict, but a powerful tool of accumulation by dispossession.

1. Introduction

Land has long been an essential component of human existence, making it evident why many scholars have sought to position land as a fundamental part of human rights. Despite such recognition, land grabbing has become an increasingly prevalent phenomenon in recent times.[1] This trend became particularly pronounced after the 2008 economic crisis, when numerous industrial sectors seemed to collapse, yet the food and fuel sectors remained highly profitable. As a result, these two sectors have drawn significant investment, driven by the belief that they offer financial security for capital owners, even in times of crisis. With the continuous expansion of food and fuel production, waves of investment in these industries have periodically surged. This capital influx has been paralleled by the emergence ofthe formation of land markets, where land transactions exacerbate injustice and reinforce existing power imbalances in society.[2] Under these structuralpreconditions, the accumulation of capital in these two sectors has directly contributed to the widespread occurrence of land grabbing. It is therefore unsurprising that in the decades following the crisis, discourse on the "global land grab" has taken a central position in

1 See, for instance: Konsorsium Pembaruan Agraria, *Bara Konflik Agraria: PTPN Tak Tersentuh, Kriminalisasi Rakyat Meningkat* (Jakarta: KPA, 2023); Konsorsium Pembaruan Agraria, *Penggusuran Skala Nasional (PSN)* (Jakarta: KPA, 2022).

2 Anna Jurkevics, "Land Grabbing and the Perplexities of Territorial Sovereignty," Political Theory 50, no. 1 (2021): 48.

various studies.[3]

Land grabbing as a means of capital accumulation is not a new phenomenon. Marx, in his daily inquiries, developed the concept of "*so-called primitive accumulation*" to explain the inherent violence within capitalism. He emphasized that capitalism, as a specific mode of production, not only operates through the exploitation of human labor but also relies on 'extra-economic' resources. Marx sought to resolve this issue by posing two fundamental questions: How does the process of capital accumulation originate, and why underlying dynamics frive its emergence? His analysis concluded that capital accumulation, in general, is rooted in the forced conversion of small farmers—who once prossessed and subsisted on their land—into wage laborers compelled to sell their labor in the market. Importantly, Marx highlighted that this process does not occur through purely economic mechanisms of capital exchange but rather through extra-economic mechanisms that employ coercive state power—one of which is law. It is thus unsuprising that Marx explicitly described this historical process as being recorded "*in the annals of mankind in letters of blood and fire*."[4]

This theoretical foundation is further affirmed by the ethnographic study conducted by Tania Li in Kalimantan between 2010 to 2015. In her research, Li found that land dispossession driven by waves of investment in Kalimantan not only physically separated communities from their land but also fundamentally transformed the social structures that had long sustained local livelihoods. This process did not merely reduce land to a tradable commodity; it also reshaped the social relationships between communities and their land, as well as among individuals within these communities. In other words, land grabbing is not merely an economic act but a deeply social and political process that reconstructs power relations within society.[5] A concrete example of this dynamic can be found in the case of ExxonMobil's oil exploitation project in Bojonegoro, East Java. Despite its legal appearance as part of a National Strategic Project, the initiative involved large-scale land acquisition that displaced local residents, facilitated speculative land markets, and dismantled the foundations of community-based land control.[6] Legal instruments and state planning played central roles in legitimizing this process, allowing corporate actors to convert land into capital under the banner of national development.

Practices that are rooted in the urban-industrial logic of accumulation are not confined to metropolitan centers; rather, they are diffused into rural and peripheral regions, albeit in varying forms, however with similar objectives: the reorganization of territory for capital expansion. Building on these discussions, land grabbing in this context can be understood instrumentally as the forced takeover of land for the purpose of capital accumulation. From this perspective, land grabbing functions not only as a mechanism for physical dispossession but also as a means of reorganizing control over resources and consolidating the dominance of specific economic and political actors. Thus, understanding land grabbing requires more than merely analyzing it as a legal or policy phenomenon. Instead, it must be examined in relation to the broader dynamics of capitalism, which continually expand accumulation through the transformation of space and social relations.

Based on the preceding discussion, land grabbing can be understood instrumentally as the forced appropriation of land for the purpose of capital accumulation. In this perspective, land grabbing functions not only as a mechanism for physical dispossession but also as a means of reorganizing control over resources and consolidating the dominance of specific economic and political actors. Therefore, understanding land grabbing requires more than just viewing it as a legal or policy-related phenomenon. Instead, it must be analyzed in relation to the broader dynamics of capitalism, which continuously expands its scope of accumulation through the transformation of space and social relations.

Considering the far-reaching consequences associated with land grabbing, including widespread displacement, loss of livelihoods, ecological degradation, and the erosion of indigenous and local communities' rights, it is unsurprising that this practice has sparked various forms of resistance organized by civil society. A notable example is the opposition led by the Awyu Indigenous community, who staged a legal mobilization and a symbolic protest in front of the Supreme Court building. In this demonstration, they wore traditional attire, performed prayers and rituals, and showcased traditional dances—acts that functioned as both cultural expressions

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3 Wendy W. Wolford et.al, "Global Land Deals: What Has Been Done, What Has Changed, and What's Next?," The Journal of Peasant Studies 51, no. 1 (2024): 1–38.

4 Karl Marx, *Capital: Critique of Political Economy–Vol. 1* (London: Penguin, 1976), 871-889.

5 Tania Murray Li, "After the Land Grab: Infrastructural Violence and the "Mafia System" in Indonesia's Oil Palm Plantation Zones," Geoforum 96, no. 1 (2018): 328-337.

6 Dianto Bachriadi and Erwin Suryana, "Land Grabbing and Speculation for Energy Business: A Case Study of ExxonMobil in East Java, Indonesia," Canadian Journal of Development Studies / Revue Canadienne d'études Du Développement 37, no. 4 (2016): 578–94.

and symbolic protests. This demonstration was part of the Awyu people's ongoing legal mobilization struggle to protect their customary forests, which are under threat of being converted into palm oil plantations.[7] Such symbolic resistance should be understood as a direct response to the threat of land grabbing faced by the Awyu community. However, despite the growing waves of resistance accompanying land grabbing, the practice remains legally sanctioned—endorsed and legitimized by the law itself. In the case of the Awyu Indigenous community, the threat of land grabbing became possible following the issuance of permits allowing for the deforestation of thousands of hectares of customary land. Worse still, these permits were later upheld by judicial institutions, further reinforcing the legal legitimacy of land grabbing and leaving affected communities with little recourse.[8]

The foregoing example demonstrates the centrality of law in legitimizing and facilitating processes of land grabbing. In many empirical cases, law does not merely function as a neutral instrument of legitimacy but operates as a structural mechanism that enables and sustains dispossession under the guise of legal formalism. Rather than viewing land grabbing as a sporadic or accidental phenomenon, it must be understood as part of a systemic process embedded in institutional, political, and economic structures. Accordingly, a structural analysis is indispensable for elucidating the complex interplay between legal frameworks and overarching power structures.[9] The conceptual framework of "regimes of dispossession" underscores that land dispossession unfolds through relatively stable and patterned mechanisms shaped by historical legacies, institutional practices, and ideological narratives.[10] These regimes are not random; they are deliberately produced and reproduced through the interplay of market logics, state policies, and legal-rational justifications. Law is a key variable in this constellation, not simply as a reflection of dominant interests but as an active agent that creates enabling conditions for dispossession to appear lawful, orderly, and even developmental.[11] For example, through legal instruments such as spatial planning regulations, state-sanctioned land conversion schemes, or judicial decisions that prioritize investment interests, the law can manufacture the legitimacy of land acquisition, even when it undermines customary or communal rights. Thus, law must be critically examined not only as a set of rules but as a practice embedded in power relations.

Through the explication of this framework, the study endeavors to mitigate the influence of normative and ideological assumptions in analyzing land conflict dynamics. Instead of assuming law to be inherently protective or neutral, the research interrogates how and why law assumes a dispossessive role under certain regimes. In other words, this study does not begin with the presumption that law always serves justice or public interest. Rather, it critically explores the various ways in which law becomes implicated in the production and maintenance of land dispossession. Adopting this analytical stance prompts the formulation of the following research inquiries: *What is the role of law in enabling land grabbing practices, and through what mechanisms does it come to occupy this position?* The first question investigates the concrete functions and mechanisms through which law operates in facilitating land dispossession—whether as a legitimating tool, a coercive force, or a regulatory framework. The second question probes deeper into the structural and historical reasons behind the alignment of legal systems with dispossessive agendas, including the influence of state power, capitalist development, and ideological narratives that render such legal interventions appear necessary or even progressive.

Various studies have extensively examined the practice of land grabbing, making it necessary for us to situate our research within the existing body of scholarship. The first relevant study is that of Tania Murray Li, a prominent scholar in Indonesian agrarian studies. In her 2018 and 2021 studies, she revealed the phenomenon of excessive land dispossession in Indonesia.[12] While both her study and ours focus on land grabbing as a reality, Li's research primarily investigates its impacts, particularly in West Kalimantan. In contrast, our study centers on the process of land grabbing itself, with a specific emphasis on the role of law in facilitating this practice. Other scholars, such as Noer Fauzi Rachman and Hasriadi Masalam, have also examined the impacts of land grabbing and the resistance efforts of Indigenous communities in Indonesia. Their studies contribute to an understanding

7 Syahwal, "Kelindan Identitas dan Lingkungan: Perjuangan Masyarakat Awyu Menggapai Keadilan," Jurnal Pro Natura 1, no. 1 (2024): 58-75.

8 Syahwal, "Kelindan Identitas dan Lingkungan," 65.

9 Julia Chuang and Nick R. Smith, "Regimes of Dispossession in China: Intra-State Competition and Land Dispossession Outcomes," The Journal of Peasant Studies, (2025): 1–22.

10 Praxis of this discourse can be read in: Rizki M Hakim, *Kapitalisme Militer: Akumulasi Sumber Daya Ekonomi Militer melalui Perampasan Lahan (Studi Kasus Perampasan Lahan oleh TNI/AD di Urutsewu)* (Bandung: ARC, 2025).

11 Agung Wardana and Dzaki Aribawa Darmawardana, "Pembangunan Sebagai Proses Eksklusi: Kajian Hukum dan Ekonomi-Politik atas Proyek Strategis Nasional," Jurnal Hukum dan Pembangunan 54, no. 2 (2024): 259-287.

12 Tania Murray Li, "After the Land Grab: Infrastructural Violence and the "Mafia System" in Indonesia's Oil Palm Plantation Zones," Geoforum 96, no. 1 (2018): 328-337; Tania Murray Li, "Commons, Co-Ops, and Corporations: Assembling Indonesia's Twenty-First Century Land Reform," The Journal of Peasant Studies 48, no. 3 (2021): 613–39.

of how land dispossession affects local populations and how they mobilize against it.[13] As a legal study, our research also intersects with the work of Umut Özsu, who analyzes land grabbing through the lens of primitive accumulation as legitimized by law.[14] While both studies focus on law, Özsu's research provides a prescriptive analysis of the abstraction of international legal norms, whereas our study offers a descriptive account of the role of law in enabling land grabbing in Indonesia. Through these discussions, it becomes evident that our study offers a distinct contribution to the discourse on agrarian law and land grabbing in Indonesia, particularly by highlighting the ideological role of law in this phenomenon.[15]

This study is divided into three connected parts, each aiming to answer the main research question. The first part looks at the original purpose and ideas behind Indonesia's Basic Agrarian Law (*Undang-Undang Pokok-Pokok Agraria*-UUPA). It discusses how the UUPA was created to break away from colonial land systems and to support the rights of peasants and customary communities. Law, in this sense, was seen as a tool for justice and social change. This section explores how the UUPA was intended to bring about agrarian reform and protect people's access to land. The second part focuses on how land grabbing happens today in Indonesia. The analysis reveals that legal instruments are often mobilized not to safeguard the rights of affected communities, but to facilitate the appropriation of land by dominant interests. Subsections such as "Legal Mechanisms in the Legitimation of Land Grabbing" and "Seizing People's Land with an Iron Fist" explain how legal rules and processes can be used alongside force and informal influence to make land grabbing seem legal and acceptable. The third part examines how the UUPA has failed to achieve its original goals. It looks at court decisions and legal arguments in land disputes to show how the law now often supports market interests instead of protecting people's land rights. The subsections highlight how the legal system has become disconnected from the law's original vision of justice. Overall, the study shows that law plays a key role in land grabbing by not only giving legal cover to land dispossession, but also by helping maintain the power structures that make it possible.

2. Method

This research begins with a simple yet critical question, and to answer the question, the study adopts a non-doctrinal approach, moving beyond the traditional view of law as a collection of written norms or abstract principles. Departing from the notion of law as an impartial and self-contained system, this research treats law as something deeply embedded in social, political, and economic realities. It recognizes that in many cases, law does not merely regulate land relations, but it also actively shapes, justifies, and even enables the dispossession of land. By using a non-doctrinal perspective, the study is able to explore how legal instruments and institutions are influenced by broader structures of power. This includes examining how laws are interpreted, implemented, or strategically used by states, corporations, and other actors in ways that serve particular interests. Rather than asking whether land grabbing is legal or illegal, the study investigates how legality itself can be constructed to support or disguise unjust practices. The research relies on library-based methods, analyzing relevant laws, policies, and court decisions. These materials are studied qualitatively and interpreted within their social and political contexts. Through this approach, the study aims to reveal how law operates not in isolation, but as a dynamic part of the machinery that governs access to land. Ultimately, the goal is to offer a grounded understanding of law's function in land grabbing, both as a tool of governance and as a reflection of deeper structural forces.

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13 Noer Fauzi Rachman and Hasriadi Masalam, "The Trajectory of Indigeneity Politics Against Land Dispossession in Indonesia," Sriwijaya Law Review 1, no. 1 (2017): 122-142.

14 Umut Özsu, "Grabbing Land Legally: A Marxist Analysis," Leiden Journal of International Law 32, no. 2 (2019): 215-233; Liz Alden Wily, "The Law and Land Grabbing: Friend or Foe?," Law and Development Review 7, no. 2 (2014): 207-242.

15 Law does not operate merely in a technical or procedural manner; it also disseminates ideas and narratives that make land grabbing appear legitimate, acceptable, or even necessary. Through legal language, processes that are in fact harmful to communities can be framed as development, investment, or public interest. In this way, law performs an ideological function: it creates an illusion of neutrality and justice, while in reality aligning with the interests of capital or the state. See for example: Syahwal, "Kekerasan dan Kuasa Simbolik dalam Hukum: Sebuah Kritik Ideologi atas Legitimasi Cipta Kerja," Undang: Jurnal Hukum 7, no. 1 (2024): 1-41

3. Findings and Discussion

To facilitate a coherent response to the study's research questions, the discussion is systematically arranged into analytically linked sections. The first section focuses on the discourse and praxis of Indonesian agrarian law as an emancipatory tool for the poor and marginalized. Rather than viewing law instrumentally—as a mere tool for capitalists to maintain their economic and political dominance—this study considers law in its constitutive role, acknowledging its determining position in shaping agrarian relations. Following this, as agrarian law intertwines with power structures, the second section delves into the power dynamics of land grabbing, highlighting how law and violence function in the process of land dispossession. This section demonstrates the role that law plays in facilitating and legitimizing land expropriation in Indonesia. Finally, the third section explores the neoliberalization of Indonesian agrarian law, aiming to uncover the underlying reasons behind the law's role in land grabbing. This section examines how legal transformations, driven by neoliberal economic policies, shape the structural conditions that enable land dispossession.

3.1. From Discourse to Praxis of The Emancipatory Project of Agrarian Law

Land must be recognized as holding an instrumental position in human survival. Given its significant role, it is no surprise that land issues have drawn legal attention. As seen in Soekarno's revolutionary agendas, agrarian law was designed to realize Indonesia's revolution in a way that ensures the welfare of its people. It is therefore understandable that the state positions itself as a central actor in land affairs, given its authority to regulate land use. This was intended to enable the state, as a political institution, to act as a superpower in ensuring equitable land distribution. This principle is clearly reflected in Article 33 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which later inspired the enactment of the UUPA. This legal framework is regarded as sacred due to its clear alignment with marginalized communities, as many scholars consider the UUPA to be inherently anti-market. Consequently, this legal provision rejects the logic of capital accumulation and instead prioritizes the creation of social welfare.

The refusal to submit to the logic of a capitalist market is also evident in the provisions of the UUPA, which incorporate the principle of the social function of land. This principle means that individual land ownership cannot be exercised in absolute terms for private gain without considering its impact on society. Land must be utilized in accordance with its characteristics and designated rights to ensure optimal benefits, both for its owner and for society and the state as a whole. However, this principle does not eliminate individual rights; rather, it seeks to balance private interests with communal needs to achieve prosperity, justice, and well-being for all, as stipulated in Article 2(3) of the UUPA. As a consequence of land's social function, landowners or rights holders are obliged to maintain and prevent the degradation of land to preserve its fertility. This obligation is not only imposed on landowners but also extends to individuals, legal entities, or institutions with legal ties to the land, as outlined in Article 15 of the UUPA. In implementing these provisions, special attention must be given to economically vulnerable groups to ensure that land management policies remain just and do not disproportionately disadvantage them.[16]

Focusing specifically on the concept of '*Hak Menguasai dari Negara* (HMN)', it is important to emphasize that while the state exercises control over all land within its jurisdiction, the nature of this control under HMN is fundamentally different from the colonial government's land control under the *domein verklaring* doctrine. Under HMN, the state functions merely as a steward of the land rather than its owner (*dominum*), as was the case in the *domein verklaring* framework. Furthermore, HMN, as outlined in the UUPA, emphasizes the principle of land to the tillers and imposes limits on private land ownership based on land quality and location, with different restrictions for irrigated land and dry or highland areas.[17] Between 1960 and 1963, the imperative of equitable land redistribution emerged as a hegemonic narrative, clearly reflected in the formulation and promotion of agrarian reform policie.[18] Within this framework, the UUPA emerged as an emancipatory legal instrument for marginalized groups such as smallholder farmers, agricultural laborers, and the landless. This is because agrarian reform aimed to restructure the control, use, and management of agrarian resources—particularly land—as a means to establish a more prosperous and just society.[19]

16 See further in: General Explanations of the 1960 Basic Agrarian Law.

17 Nancy Lee Peluso et.al, "Claiming the Grounds for Reform: Agrarian and Environmental Movements in Indonesia," Journal of Agrarian Change 8, no. 2-3 (2008): 377-407.

18 Rofi Wahanisa, *Reforma Agraria Untuk Kesejahteraan Rakyat* (Semarang: Fastindo, 2019).

19 Gunawan Wiradi, *Reforma Agraria: Perjalanan yang Belum Berakhir* (Yogyakarta: Insist Press, 2000).

In many studies, the UUPA is regarded as one of the most revolutionary legal frameworks in Indonesia's legal history. This is because the UUPA was designed as an instrument to replace the colonial agrarian system, which had perpetuated land ownership disparities, and to establish a more just order in terms of land control, use, and management. Rooted in the spirit of nationalism and social justice, the UUPA asserts that land must be utilized for the greatest benefit of the people. One of the key aspects that makes the UUPA an emancipatory project is its commitment to redistributing land rights more equitably to marginalized groups, such as smallholder farmers and Indigenous communities, through agrarian reform. The UUPA created a legal basis for agrarian reform policies aimed at eliminating unproductive land ownership and restructuring land distribution to favor the interests of the common people. Thus, the UUPA is not merely a legal instrument but also a political project of emancipation, seeking to dismantle the entrenched agrarian inequalities and provide space for social justice. Consequently, the UUPA is widely recognized as one of the few socialist-oriented policies implemented in Indonesia as part of Soekarno's vision of Indonesian socialism.[20]

This emancipatory project gained momentum during the 1960s, as various actors sought to contribute to the success of agrarian reform, ensuring that no one in this agrarian country would be left without sufficient land to secure a decent livelihood.[21] Utrecht further emphasized that agrarian reform aimed to eliminate the class of landowners whose lands were cultivated by tenant farmers while reducing the number of landless peasants by granting land ownership only to those who worked the land themselves. In Indonesia, Soekarno asserted that it had been clearly proven that farmers who owned their own land would cultivate it more intensively.[22] Many fertile lands left unproductive by landlords could be transformed into thriving farmlands. Landlords who were required to relinquish their holdings would receive fair compensation and, with efficient planning, could transition into prosperous entrepreneurs. If properly implemented, agrarian reform could also lead to a more equitable distribution of income among citizens and create a social structure that would pave the way for increased national production.

However, following the mass killings of members and sympathizers of the Indonesian Communist Party (PKI) between 1965 and 1966—which marked the demarcation between Soekarno's revolutionary government and Suharto's authoritarian military regime—the emancipatory project came to an abrupt halt. Under the rule of the "smiling general," the agrarian justice agenda was overturned and replaced by one of exploitation. During the New Order era, Suharto's administration aggressively granted concessions for mining, forestry, and plantation industries, as well as land acquisitions for state-led development projects. Consequently, land grabbing by those in power became a routine practice. The suppression of land redistribution demands—propagandized as a communist agenda—made these land grabs even easier.[23] Furthermore, lands that had been redistributed under agrarian reform policies were seized once again. Under these conditions, the emancipatory ideals embedded in the UUPA were effectively erased. It must be acknowledged that since the New Order era, the UUPA's emancipatory vision has never been fully realized. As Rachman noted, in the decades following the mass killings, Indonesia transformed from a benevolent state into a rent-seeking state—shifting from a government that viewed HMN as a tool for agrarian reform to one that weaponized HMN to dispossess its own citizens.[24]

From this analysis, it becomes evident that the emancipatory discourse embedded in the UUPA cannot be separated from power dynamics. A regulation that was originally designed as a tool for the liberation of Indigenous communities and small farmers has often been co-opted by the interests of political elites and corporations. In this context, UUPA is not merely a standalone legal product but rather a contested arena where competing interests shape its implementation. Before analyzing the role of law in the practice of land grabbing, it is crucial to first examine the workings of power within this phenomenon in Indonesia.[25] Land grabbing does not occur in a vacuum; rather, it is a consequence of economic and political policies that prioritize investment and the exploitation of natural resources. The dispossession of land often takes place through legal mechanisms legitimized by the state—whether through concession permits, land acquisitions for development projects, or other regulatory frameworks that sideline the rights of local communities. By understanding the political dimensions of land grabbing, it becomes clear that the law is not a neutral entity. It can function as an instrument of legitimacy for capital interests

20 Ernst Utrecht, "Land Reform in Indonesia," Bulletin of Indonesian Economic Studies 5, no. 3 (1969): 71–88.

21 Bayu Dwi Anggono and Rofi Wahanisa, "The Implementation Of Agrarian Reform In Semarang Regency," Journal of Strategic and Global Studies 1, no. 2 (2018): 28-42.

22 Ernst Utrecht, "Land Reform in Indonesia," 72.

23 Ernst Utrecht, "Land Reform in Indonesia," 86; See also: Ben White et.al, "Agrarian Movements and Rural Populism in Indonesia." Journal of Agrarian Change 23, no. 1 (2023): 68-84.

24 Noer Fauzi Rachman, *Land Reform Dari Masa Ke Masa* (Yogyakarta: STPN Press, 2012), 134.

25 Rofi Wahanisa, *Reforma Agraria Untuk Kesejahteraan Rakyat*, 21.

or, conversely, as a means of resistance for affected communities. Therefore, any study on law and land grabbing must account for how power operates in shaping and influencing agrarian dynamics in Indonesia.

3.2. Power Dynamics of Land Grabbing in Indonesia

Wolford et al. highlight that land grabbing cannot be separated from a broader political context. They emphasize that the global political shift over the past 15 years toward the rise of right-wing authoritarian populism has fueled numerous land grabs, often accompanied by populist narratives.[26] Hall concurs with this view, framing land grabbing not merely as an economic transaction but as a phenomenon deeply intertwined with power.[27] Thus, in the dynamics of land control, land grabbing is not merely a process of large-scale land acquisition but also an arena of contestation among various actors with conflicting interests. One prominent actor frequently examined in land-grabbing studies is the state, which is often positioned as the sole key player in these practices. However, Wolford et al. critique the perspective that views the "state" as a singular, monolithic entity acting uniformly in land grabbing.[28] In reality, the state never speaks with one voice. Instead, it comprises various institutions, individuals, and interests that often conflict with one another. They argue that in studying land grabbing, politics should be understood as a bundle of powers—both formal and informal—exercised by multiple actors.

In Indonesia, the contestation of actors in land grabbing can be mapped into two groups: the executors and the affected communities. The first group consists of those who carry out land dispossession to safeguard their interests, primarily the accumulation of capital.[29] This group includes the state, private actors—both national and multinational—as well as local elites. Within this group, the state aligns itself with capital owners. The Indonesian case illustrates how the distinction between state institutions and capitalist actors is frequently obscured, revealing a structural convergence of political and economic elites. Today's state is effectively controlled by capitalists who wear the cloak of oligarchy, behaving much like corporate entities constantly seeking to maximize profits. It is no surprise, then, that within this group, the state acts as the frontman of a famous punk band—speaking on behalf of all the other actors who share the same overarching interest: capital accumulation. The second group consists of those affected by land dispossession, encompassing various communities that suffer from land grabbing, most commonly local populations and Indigenous peoples.

The interests of these two groups are fundamentally opposed. However, because power is concentrated within the first group—particularly with the state embedded within it—this group holds a dominant position in shaping policies and controlling resource distribution. This power imbalance allows the first group to more easily secure victories in conflicts of interest, including struggles over land access and control. In the context of land grabbing, the state plays a central role in safeguarding the interests of the dominant group by deploying various forms of power. One of the primary instruments used is the monopoly over coercive means, which can be categorized into two forms. First, legitimate violence, exercised through legal frameworks that are constructed to legitimize land control by the dominant group. In this case, the law functions not only as a regulatory tool but also as a mechanism of control that legalizes the dispossession of weaker groups. Second, illegitimate violence involves the use of security forces and other coercive mechanisms to suppress, intimidate, or even carry out repressive actions against those who resist land dispossession.[30] These two forms of violence serve as the focal points of the following discussion.

3.2.1. Legal Mechanisms in the Legitimation of Land Grabbing

Legal scholars, across various approaches and intellectual traditions, often place law within an esoteric realm, as if it were an entity that stands independently, detached from the social, political, and economic dynamics surrounding it. This viewpoint posits law as an impartial and autonomous system governed by universally

26 Wendy W. Wolford et.al, "Global Land Deals," 15.

27 Derek Hall, "Russia's Invasion of Ukraine and Critical Agrarian Studies," The Journal of Peasant Studies 50, no. 1 (2022): 26–46.

28 Wendy Wolford et.al., "Governing Global Land Deals," 20.

29 Siobhan McDonnell, "Urban Land Grabbing by Political Elites: Exploring the Political Economy of Land and the Challenges of Regulation," in Siobhan Mcdonnell et.al., (ed.s), *Kastom, Property and Ideology: Land Transformations in Melanesia* (Canberra: Australian National University, 2017), 283.

30 To some extent, this paragraph is structured based on David Harvey's theoretical framework, in which the state in the neoliberal era is capable of mobilizing the law to evict marginalized subjects from their land for the sake of capital accumulation. Read further in: David Harvey, *The New Imperialism* (United Kingdom: Oxford University Press, 2003).

applicable norms, ostensibly uninfluenced by specific social or political interests. This belief in the neutrality of law is often rooted in legal positivism, which emphasizes that law is a set of rules that must be followed without questioning its socio-political context. This perspective perceives law as a rational and autonomous mechanism, where legal rules are formulated and applied formally, without bias toward any particular group.

However, Hall et al. argue that law plays a central role in the process of exclusion, which, in essence, constitutes land grabbing. They view law not merely as a regulatory mechanism but as a tool of legitimacy for the state and corporations in seizing control over land. This process cannot take place without the active involvement of the state, which deliberately employs law as an instrument of violence to ensure its continuity.[31] In the context of land grabbing, law functions as a tool of legalization, where the state creates regulations that transform land into an asset that can be controlled by capital. This practice is, of course, accompanied by the legal erasure of local communities' rights to their land through mechanisms such as land expropriation, forced displacement, or reclassification of land status. Through these legal frameworks, the state restructures land ownership in ways that favor capital interests. Thus, law in land grabbing is not a neutral instrument but an integral part of the power mechanisms that actively operate to protect the interests of capital accumulation by a small elite that dominates the state. Through the framework of regimes of dispossession, the state structures produced through various legal policies are a critical component in facilitating land dispossession.

This conceptual foundation thus underscores the urgency of examining various claims of legality—whether through legal documents or the acceptance of mafia actions as legitimate—that are used to reinforce forced land dispossession, ultimately granting de facto access to land. In other words, legality is often manipulated as a tool of legitimacy for acts of violence and land grabbing. This reflects how law can be used to obscure or justify unjust practices, particularly in situations where powerful groups—including both state and non-state actors—exploit legal frameworks for their own interests, even at the expense of local communities.

We agree that law cannot be reduced solely to an instrument of power that deterministically legitimizes land grabbing. Beyond that, law can also serve as a tool of resistance in the pursuit of emancipatory projects, as evidenced in struggles for the implementation of agrarian rights mandated by the UUPA. This perspective aligns with Poulantzas' view, which rejects the notion of the state—and, by extension, the law—as an entity operating in a vacuum or merely functioning instrumentally for dominant interests.[32] Instead, law is a contested arena where competing interests are continuously negotiated. In this dynamic, law can play a dual role: at one moment, it serves as an exploitative mechanism that perpetuates structural inequality; at another, it becomes a means of emancipation for marginalized groups. The function of law as a medium of resistance is increasingly evident in various legal mobilizations by marginalized communities, whether through strategic litigation, policy advocacy, or social movements that intervene in legislative processes and legal implementation. The following section will further explore the role of law in defending agrarian rights, particularly through legal strategies employed by vulnerable groups.

As previously discussed, land grabbing in Indonesia has become increasingly pervasive in tandem with the expansion of the PSN agenda. This phenomenon cannot be separated from legal policies that systematically legitimize land dispossession. The practice of land grabbing has intensified following the enactment of the Omnibus Law on Job Creation,[33] the framework for the PSN was formally established2016 through Presidential Regulation No. 3 of 2016 on the Acceleration of National Strategic Projects (Perpres 3/2016). The Omnibus Law strengthens and expands the scope of PSN by granting various privileges, including easing spatial planning regulations and permitting processes, ultimately leading to excessive land dispossession. In his study, Wardana explicitly illustrates how law plays a role in the production of space in Wadas through a case study of the Bener Dam construction—one of the projects under PSN. He demonstrates that law not only serves as a legitimizing instrument for the project but also functions as a mechanism that enables the state and capital to seize control of space at the expense of local communities' rights.[34] Further research conducted by Wardana and Darmawardana reinforces these findings, emphasizing that PSN operates through a form of regulatory power that actively works to marginalize people from their land.[35]

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31 Derek Hall et.al., *Kuasa Eksklusi: Dilema Pertanahan di Asia Tenggara* (Yogyakarta: Insist Press, 2020).

32 Nicos Poulantzas, *State, Power, Socialism* (London: Verso, 1978), 128.

33 The term Job Creation Law used here refers to a series of legal products enacted by the state under the title "Job Creation Law", starting from Law No. 11 of 2020 to Law No. 6 of 2023.

34 Agung Wardana, "Geografi Hukum Proyek Strategis Nasional: Studi Kasus Bendungan Bener di Purworejo, Jawa Tengah," Undang: Jurnal Hukum 5, no. 1 (2022): 1-41.

35 Agung Wardana and Dzaki Aribawa Darmawardana, "Pembangunan Sebagai Proses Eksklusi," 279-287.

Similarly, Batubara et al., through their study on the construction of the Semarang-Demak Sea Wall Toll Road (*Tol Tanggul Laut Semarang-Demak*), highlight the significant role of law in legitimizing land dispossession. Initially, the construction of this overwater toll road was not included in Presidential Regulation No. 3 of 2016 (Perpres 3/2016). However, in 2017, the regulation was amended, and one of the key changes was the inclusion of this toll road project under the label of a National Strategic Project.[36] This project led to extensive land release processes, legitimized through various legal instruments, most notably Government Regulation No. 19 of 2021 on Land Procurement for Development in the Public Interest (PP 19/2021). This regulation provided the legal basis for land acquisition under the guise of development, significantly reducing the rights of affected communities by streamlining the land procurement process and minimizing legal obstacles. Under the pretext of serving the "public interest," PP 19/2021 further facilitated the acquisition of land by both the government and corporations, particularly for strategic infrastructure projects. In this context, residents whose land was affected by the development faced a heightened risk of losing their land rights through legal procedures that overwhelmingly favored the interests of capital and the state.

The preceding discussion illustrates that in land grabbing, law plays a central role in legitimizing various efforts to dispossess people of their land. Law is no longer merely a set of rules governing rights and obligations; rather, it has transformed into an instrument of power—what is referred to in discourse as regulatory power. This regulatory power is not only reflected in legal aspects governing permits and land acquisition but also in how the state constructs development narratives that justify land dispossession as part of the national interest. In this context, land grabbing does not always occur through illegal mechanisms or blatant violations of the law. Rather than acting as a protective mechanism, law becomes a vehicle for the legalization of land dispossession, operationalized through various regulations that facilitate land acquisition in the name of development. This stands in contrast to the findings of Bachriadi and Aspinall, who highlight the role of land mafias as highly mobile actors in illegal land transactions in Indonesia.[37] While land mafias play a role in land deals—another form of land dispossession—the legal facilitation of land grabbing demonstrates that dispossession can occur formally and legally, even though it remains problematic in terms of justice and substantive fairness.

3.2.2. Seizing People's Land with an Iron Fist

Jurkevics' study aptly demonstrates that land grabbing would be impossible without the presence of the state. The state, after all, acts as a broker, peddling land to investors and using its monopoly on violence to seize land for the benefit of capital.[38] This study highlights that one of the key preconditions for land grabbing is the presence of violence. However, violence in this context does not always manifest as direct physical force. As Hall argues, land grabbing can take shape in two commonly observed practices. First, 'economic' or 'market-based' land sales occur when landowners face severe financial pressure, such as mounting debt, forcing them to sell their land in order to survive. Although these transactions are often labeled as voluntary—since there is no legal obligation to sell at a specific price or to a specific buyer—the harsh economic realities leave landowners with little real choice. Second, 'extra-economic' land acquisition involves the use of legal, political, or even violent coercion to force land transfers. In these cases, while landowners may receive compensation, the transaction does not occur within a fair market context, as they are compelled to relinquish their land due to external pressures.[39] However, in this section, the focus is specifically on analyzing the role of power in land grabbing in its most tangible form—physical violence as a means of dispossession.

The Consortium for Agrarian Reform (KPA) recorded that between 2014 and 2024, under Joko Widodo's administration, agrarian conflicts driven by power relations increased by 100% compared to the 10 years under Susilo Bambang Yudhoyono. In 2024 alone, there were 295 agrarian conflicts, resulting in at least 556 victims of violence and criminalization.[40] In many cases, the violence led to civilian deaths. One such case was recorded by KPA in North Sumatra, where two civilians were killed by thugs who were allegedly hired by a company. The deaths of these two civilians stemmed from an eviction carried out by the company and the resistance of

36 Bosman Batubara et al., *Maleh Dadi Segoro: Krisis Sosial-Ekologis Kawasan Pesisir Semarang Demak* (Bantul: Lintas Nalar, 2020), 70.

37 Dianto Bachriadi and Edward Aspinall, "Land Mafia in Indonesia,"Critical Asian Studies 55, no. 3 (2023): 331-353.

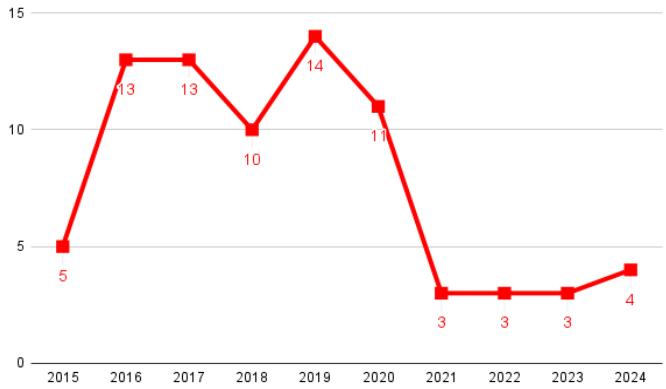
38 Anna Jurkevics, "Land Grabbing and the Perplexities of Territorial Sovereignty," 36.

39 Derek Hall, "Primitive Accumulation, Accumulation by Dispossession and the Global Land Grab," Third World Quarterly 34, no. 9 (2013): 1582–1604.

40 Konsorsium Pembaruan Agraria, *Adakah Reforma Agraria di Bawah Komando Prabowo?* (Jakarta: Konsorsium Pembaruan Agraria, 2024), 4.

the affected residents trying to defend their land.[41] Between 2015 and 2024, at least 79 people lost their lives in agrarian conflict zones due to repressive measures by security forces and acts of vigilantism mobilized by either the government or private entities.[42] Below is a graph illustrating the violence surrounding agrarian conflicts.

Figure 1. Deaths Due to Agrarian Conflicts, 2015-2024



Source: The Consortium for Agrarian Reform, 2024.

It is broadly recognized that violence in land grabbing is a political praxis of land grabbing itself. However, the significant question is: why must power resort to violence in land grabbing? Borras et al. reveal that land grabbing should be understood as the large-scale seizure of control over land and natural resources through various mechanisms and forms, shifting resource use toward exploitation.[43] Consequently, they formulate that one of the central aspects of land grabbing is control grabbing. Land dispossession should not be framed merely as an issue of land ownership but, more broadly, as a form of control grabbing—the seizure of power to control land and related resources such as water to extract economic benefits.[44] In this context, the function and meaning of land are transformed by the logic of capital accumulation, where land is repurposed for resource extraction or alienation, serving both national and global interests. This phenomenon emerges as capital's response to the growing demand for resources from new centers of capital while simultaneously creating new circuits of capital circulation. It is at this juncture that power must deploy its instruments of violence.

With land positioned as a modality of profit accumulation, as outlined within the framework of primitive accumulation discussed in the background, the rationale behind the power's deployment of its authority in land grabbing becomes increasingly clear.[45] In the process of capital accumulation, land functions not only as a factor of production but also as a strategic commodity that determines the expansion and reproduction of capital. When access to land is beyond the control of capital owners, dispossession becomes an imperative—executed through coercive mechanisms, whether via state policies favoring capitalist interests or through the direct use of violence. Thus, land grabbing is not merely an extension of capitalism but a concrete manifestation of an accumulation logic rooted in exclusion, marginalization, and even the criminalization of communities that have long depended on the land for their survival.

With this framework, it is unsurprising that land grabbing is frequently found in various development projects. Development, at its core, is inseparable from the logic of capital accumulation, where each project becomes part of the circuit that sustains capital expansion. Batubara et al., in their study of the Semarang-Demak Sea Wall and Toll Road, assert that modern development projects are no longer merely infrastructure initiatives but have become primary instruments in the scheme of capital accumulation.[46] Thus, the close relationship between

41 Konsorsium Pembaruan Agraria, *Adakah Reforma Agraria di Bawah Komando Prabowo?,* 27.
42 Konsorsium Pembaruan Agraria, *Adakah Reforma Agraria di Bawah Komando Prabowo?,* 42.
43 Saturnino M. Borras et.al., "Land Grabbing and Global Capitalist Accumulation: Key Features in Latin America," Canadian Journal of Development Studies 33, no. 4 (2012): 402–16.
44 Saturnino M. Borras et.al., "Land Grabbing and Global Capitalist Accumulation," 404-5.
45 Karl Marx, *Capital: Critique of Political Economy–Vol. 1,* 875.
46 Bosman Batubara et al., *Maleh Dadi Segoro*.

development and land grabbing becomes inevitable, as—just as previously outlined—land grabbing is not merely a side effect but a prerequisite for capital accumulation itself. The clearest illustration of this concept can be seen in the state's ambitious development agenda under the PSN, which the KPA later rebranded as "*Penggusuran Skala Nasional*–National-Scale Evictions". KPA's renaming is well-founded, as evidenced by its findings in numerous conflicts arising from PSN. In Bone Bolango, Gorontalo, for instance, a total of 747 households are at risk of displacement as a consequence of the construction of the Bulango Ulu Dam, a project classified under PSN.[47]

Land grabbing under the PSN framework consistently employs instruments of violence, both legitimate and illegitimate. This is clearly evident in two cases: the construction of Rempang Eco City on Rempang Island and the development of the Bener Dam in Wadas. On Rempang Island, a joint security force consisting of the Indonesian National Police (Polri), the Indonesian National Armed Forces (TNI), the Security Directorate of the Free Trade Zone Authority (Ditpam Badan Pengusahaan), and the Civil Service Police Unit (Satpol PP) was deployed to facilitate the land survey that would displace Rempang residents from their land. At least 1,010 security personnel were mobilized to ensure the land-grabbing process under the guise of PSN proceeded smoothly. The consequences were predictable—several residents sustained injuries, including elementary school students and infants, while one resident required at least 12 stitches.[48] Similarly, the construction of the Bener Dam in Wadas also involved significant violence. As is widely known, Wadas residents opposed the project because it would turn their village into an andesite mining site to supply materials for the dam's construction, thereby threatening their livelihoods.[49] Like in Rempang, the residents' resistance was met with excessive force. The National Commission on Human Rights (Komnas HAM) reported that approximately 250 security personnel were deployed, consisting of 200 uniformed officers and 50 plainclothes personnel, including suspected hired thugs. As in previous cases, the deployment of security forces resulted in excessive violence against civilians.[50]

Considering the previous discussion, it can be concluded that the exercise of power in land grabbing is inherently dependent on the use of violence in its various forms. Violence is not merely a consequence of land dispossession but an intrinsic element that ensures the continuation of capital accumulation through exclusion and marginalization. As outlined in the framework of primitive accumulation, land is not only a factor of production but also a strategic commodity that determines the expansion of capital. Therefore, when access to land is not under the control of capital owners, dispossession becomes an inevitability, materializing through various coercive mechanisms. In short, violence in land grabbing should not be understood merely as a repressive measure accompanying development projects but as a fundamental instrument that guarantees the continuity of capital accumulation. The state, in its capacity as a facilitator of capital interests, plays a central role in legitimizing and facilitating this process, both through legal policies that sanction land dispossession and through the excessive use of coercive force. In other words, land grabbing does not solely rely on a legal framework that enables dispossession but also on the state's capacity to exercise its coercive function in perpetuating capital accumulation.

3.3. A Silent Death for the Emancipatory Project of Agrarian Law

By examining the political praxis of land grabbing as previously outlined, a fundamental question arises: why has the law abandoned its emancipatory project in Indonesia? If land grabbing consistently leads to excessive agrarian conflicts, why does the law not put an end to it? Is it not widely taught in legal literature that the law exists to create order and justice? These questions form the core focus of this section, which explores how the law loses its emancipatory power in the face of agrarian inequality. This discussion is divided into two dimensions. First, law in its abstract sense, which encompasses the values embedded in legal norms, the process of norm formulation, and how the interests of certain actors transform into regulatory legal policies. Second, law in its concrete sense, referring to how law operates in practice—particularly within judicial processes—where existing

47 Konsorsium Pembaruan Agraria, *Penggusuran Skala Nasional (PSN),* (Jakarta: KPA, 2021).

48 Solidaritas Nasional untuk Rempang, *Keadilan Timpang di Pulau Rempang: Temuan Awal Investigasi atas Peristiwa Kekerasan dan Pelanggaran HAM 7 September 2023 di Pulau Rempang,* (Jakarta: Solidaritas Nasional untuk Rempang, 2023).

49 Lembaga Bantuan Hukum Yogyakarta, *Investasi Subur, Rakyat Digusur: Catatan Akhir Tahun LBH Yogyakarta 2019* (Yogyakarta: LBH Yogyakarta, 2019), 26.

50 Komisi Nasional Hak Asasi Manusia, "Keterangan Pers No. 006/HM.00/II/2022 tentang Ringkasan Eksekutif Pemantauan dan Penyelidikan Penggunaan Kekuatan Secara Berlebihan (Excessive Use of Force) dalam Proses Pengukuran Lahan di Desa Wadas 8 Februari 2022," https://www.komnasham.go.id/files/20220224-keterangan-pers-nomor-006-hm-00-$YJR6AOIO.pdf, accessed January 23, 2025.

legal rules are tested in specific cases, often revealing that law does not always function as an instrument of justice but rather as a medium for reproducing asymmetrical power relations.

3.3.1. The Law Exists to Serve Market Interests: A Reflection on the Neoliberalization of Agrarian Affairs

For Indonesia, the term neoliberalism is far from unfamiliar. Since President Soeharto signed the Letter of Intent with the International Monetary Fund (IMF) during the 1997–1998 economic crisis, neoliberalism has become a fundamental part of national economic and political discourse.[51] The iconic photograph of Soeharto signing the document remains accessible today, symbolizing a major shift in Indonesia's economic policy orientation. From that moment on, neoliberalism has not only been an academic debate but has also become part of the everyday language of many social scientists in Indonesia. Numerous studies on neoliberalism in Indonesia have demonstrated how this ideology has permeated various aspects of social, economic, and political life. The privatization of public sectors, economic deregulation, labor flexibility, and the reduction of the state's role in providing social welfare are some of the most prominent manifestations of neoliberalism observed in policies implemented since the reform era. One of the many fields deeply influenced by neoliberal logic is law. Today, both the formation and enforcement of law in Indonesia are inseparable from neoliberal assumptions that prioritize market efficiency, investment security, and the supremacy of capital interests.[52] This is evident in legislative policies that increasingly focus on facilitating investment and creating a business-friendly climate for capital, as reflected in the Job Creation Law.[53]

In the agrarian sector, the intervention of international institutions—key proponents of neoliberalism—has led to a fundamental shift in Indonesia's agrarian legal paradigm.[54] The notion of collectivism, which once embodied the emancipatory spirit of the UUPA, has gradually faded. This transformation aligns with policies guided by the World Bank, which emphasize the strengthening of private land ownership as part of a market-based agrarian reform and economic liberalization strategy. In this context, the "logic promoted by the World Bank" refers to the principle that legal certainty over land ownership through individual certification is considered a crucial step in boosting investment, productivity, and economic efficiency. This approach operates under the assumption that individually owned land, freely tradable in the market, will create a dynamic land market and accelerate economic growth. However, this model often contradicts the social function of land, where land is not merely an economic asset but also holds profound social, cultural, and ecological significance.

The implications of post-Reformasi land policies, which lean heavily toward privatization and market mechanisms, are highly complex. On the one hand, land privatization can facilitate access to credit and increase investment in the agricultural and industrial sectors. On the other hand, this approach tends to benefit large capital owners with greater capacity to accumulate land, while indigenous communities and other vulnerable groups face increasing marginalization in their access to land. As a result, agrarian conflicts have intensified, large-scale land-use conversions have escalated, and local communities' sovereignty over their natural resources has been further weakened. Moreover, the adoption of market-based land policies has exacerbated socio economic inequalities in rural areas. The increasing fragmentation of agrarian structures and corporate dominance over land ownership have led to small farmers losing access to agrarian resources that have long sustained their livelihoods. Furthermore, the individual land certification mechanism, which is promoted as a solution, often accelerates land dispossession, as local communities lack the bargaining power to compete in free-market land transactions. At this point, the critique by Bachriadi and Wiradi proves accurate: from the New Order to the post-New Order era, land redistribution for the welfare of the people has never been more than an empty promise.[55]

With a legal framework that favors market interests, it becomes clear why law, as previously discussed, plays a central role in land dispossession in Indonesia. It must be acknowledged that the emancipatory project

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51 Syahriza Alkohir Anggoro, "Rule of Law, Neoliberalisme, dan Proyek Reformasi Hukum World Bank: Perspektif Critical Legal Studies," Jurnal Hukum dan Pembangunan 50, no. 1 (2020): 267-283.

52 See for instance in: Petra Mahy, "Indonesia's Omnibus Law on Job Creation: Legal Hierarchy and Responses to Judicial Review in the Labour Cluster of Amendments," Asian Journal of Comparative Law 17, (2022): 51–75.

53 See, for example: Syahwal, "Gerakan Sosial dalam Politik Hukum Pembentukan Undang-Undang di Bidang Hukum Perburuhan," Jurnal Legislasi Indonesia 21, no. 3 (2024): 423-435.

54 Noer Fauzi Rachman, *Land Reform Dari Masa Ke Masa*, 13.

55 Dianto Bachriadi and Gunawan Wiradi, *Enam Dekade Ketimpangan: Masalah Penguasaan Tanah di Indonesia* (Bandung: Agrarian Resource Centre (ARC), Bina Desa, Konsorsium Pembaruan Agraria (KPA), 2011).

envisioned by the UUPA did not merely stall during the New Order era but remains effectively dormant to this day. Contemporary development practices reinforce this argument, as the forced displacement of communities from their land has become a common occurrence. A striking example can be seen in the second term of Joko Widodo's administration (2019–2024), during which the PSN revealed its destructive nature. PSN refers to projects and/or programs implemented by the central government, regional governments, and/or business entities that are deemed strategic for economic growth and equitable development, aimed at job creation and improving public welfare.[56] The initiative is intended to accelerate economic development and enhance prosperity through infrastructure projects and developments that significantly contribute to economic growth and attract investment. Under the pretext of PSN, various projects have been granted extensive facilitation, both in terms of licensing and non-licensing aspects (e.g., financing).[57]

The "golden treatment" granted to PSN has, in turn, triggered various conflicts surrounding these projects. The KPA recorded that between 2020 and 2023, PSN resulted in 115 agrarian conflicts, with approximately 85,555 families losing their land and/or sources of livelihood.

Table 1. Agrarian Conflicts caused by PSN

Years	Amount of Conflicts
2020	17
2021	40
2022	16
2023	42
Total	**115**

Source: The Consortium for Agrarian Reform, 2023.

The distribution of agrarian conflicts includes one in Rempang, Batam. This conflict arose from the development of Rempang Eco City, a PSN project covering 7,572 hectares—equivalent to 45.89% of Rempang Island's total area.[58] The project was framed as part of Indonesia's green transition agenda to fulfill its Net Zero Emission commitment. Initially, Rempang Eco City was not designated as a PSN, but in 2023, despite local resistance due to threats to their livelihood, it was officially labeled as such. The residents' opposition was well-founded. As a PSN, the project would receive special treatment, making it easier to resolve any issues that arose—including those caused by community resistance. The development of Rempang Eco City requires the relocation of at least 7,000 to 10,000 people from the island to designated resettlement areas. Worse, it threatens the eviction of 16 historic Malay villages that have existed on Rempang since 1834. Additionally, the indigenous community of Rempang faces the risk of being forcibly uprooted from their ancestral land, severing their cultural identity. Due to these threats, the residents of Rempang have remained steadfast in their resistance to the PSN on their island.[59]

Beyond Rempang Eco City, PSN-related issues have also emerged in Wadas, Central Java. In Wadas, the PSN designation was attached to the construction of the Bener Dam. The conflict arose from the issuance of Central Java Governor's Decree No. 590/41/2018, which designated Wadas Village as a mining site for andesite rock to supply the dam's construction needs.[60] At least 539 plantation plots covering 145 hectares—supporting 500 families—would be lost due to mining, along with the potential destruction of 27 water sources crucial for the community's daily needs. Given these severe impacts, it is unsurprising that Wadas residents organized strong resistance against the project.[61] In response, the state deployed its coercive apparatus to "resolve" opposition to the PSN in Wadas. Consequently, the Komnas HAM found that the Central Java Regional Police engaged in

56 See Article 1(1) Presidential Decree No. 42 of 2021.

57 gung Wardana, "Geografi Hukum Proyek Strategis Nasional," 38. One of the privileges granted to National Strategic Projects (PSN) can be seen in the provisions of Article 19(2) of Presidential Regulation No. 3 of 2016. This provision allows a PSN to serve as a justification for making fundamental and principal changes to spatial planning to ensure the project's implementation.

58 Konsorsium Pembaruan Agraria, *Dekade Krisis Agraria: Warisan Nawacita dan Masa Depan Reforma Agraria Pasca Perubahan Politik,* (Jakarta: KPA, 2023).

59 Solidaritas Nasional untuk Rempang, *Keadilan Timpang di Pulau Rempang,* 3.

60 Lembaga Bantuan Hukum Yogyakarta, *Investasi Subur, Rakyat Digusur*, 24.

61 Konsorsium Pembaruan Agraria, *Dekade Krisis Agraria,* 33-35; Lembaga Bantuan Hukum Yogyakarta, *Investasi Subur, Rakyat Digusur,* 25.

excessive use of force. This escalation began with a land survey for the andesite mining site on February 8, 2022. Confronted with substantial resistance from local communities, security forces were deployed, accompanied by acts of violence. Komnas HAM reported that on that day alone, at least 67 Wadas residents were arrested and taken to the Purworejo Police Station.[62]

In the future, land dispossession will likely become even more prevalent under neoliberal agendas promoted by the Land Bank, as formally legitimized through Government Regulation No. 64 of 2021 on the Land Bank Agency (PP 64/2021). This regulation serves as the implementing rule for the Job Creation Law in the land sector. Under the framework of PP 64/2021, the Land Bank is viewed as an instrument of neoliberalism in Indonesia, concentrating land management into a single institution—the Land Bank itself. This process is accompanied by promises of land redistribution, as the land is formally controlled by the state. However, Peterson et al.'s skepticism deserves attention: they argue that the concept of state-controlled land creates opportunities for collusion between the government and corporations in land grabbing.[63] This is precisely the role that the Land Bank is set to fulfill. Unsurprisingly, the KPA has identified the Land Bank as a new actor in the orchestration of land dispossession in Indonesia.[64]

Considering all the aspects discussed, it becomes increasingly clear that the neoliberal agenda in Indonesia's agrarian law not only suppresses and dismantles the emancipatory project envisioned by the UUPA but also systematically transforms agrarian law into an instrument that legitimizes large-scale land dispossession. The neoliberalization of agrarian law is evident not only in various deregulation policies and the flexibilization of land ownership that favor corporations and large capital but also in legal practices that restrict communities' access to agrarian rights, which the state should protect. In this context, agrarian law no longer functions as a tool for redistributive social justice, as envisioned in the UUPA. Instead, it has been transformed into a legal apparatus that facilitates capital accumulation through schemes that ease large-scale investors' access to land. As a result, agrarian law has become a mechanism of structural repression that entrenches agrarian inequality and accelerates the marginalization of historically disadvantaged groups in land ownership. Thus, neoliberalism in agrarian law impacts not only legal-formal aspects but also exacerbates socio-economic inequalities, where land—once a fundamental source of livelihood—has become a contested commodity, pursued by economic elites with the state's approval through legal mechanisms designed to serve capital interests.

3.3.2. The Court Operates in a Void When Seizing Land

The orchestration of law in legitimizing land grabbing in Indonesia does not only take place within the realm of lawmaking. It also extends to spaces where corrective measures against exploitative legal regulations should be possible—namely, the courts. At first glance, the judiciary constitutes a crucial node in the institutional continuum of land dispossession, rendering it untenable to dismiss its role as merely peripheral. After all, the courts have the authority to declare land grabbing unlawful and annul its execution. However, in practice, courts often become part of the legal orchestration that legitimizes land grabbing rather than serving as the last bastion of agrarian justice. Instead of acting as a corrective institution capable of overturning land grabs that contradict the principles of social justice, courts frequently become entangled in legal reasoning that prioritizes investment certainty over the protection of community rights.

In many cases, courts tend to side with corporate and state actors who have vested interests in large-scale investment projects. The legal mechanisms that should serve to correct exploitative agrarian policies are instead instrumentalized to maintain the status quo, which disadvantages Indigenous communities, farmers, and other vulnerable groups. Rather than functioning as spaces of resistance, courts often transform into mechanisms that reinforce the neoliberalization of agrarian policies. In this situation, the law no longer operates as a tool for emancipation but rather as an instrument of domination that locks in structural inequalities in land ownership in Indonesia. To illustrate this judicial tendency, we briefly analyze several court rulings related to land dispossession. These include Decision No. 6/G/LH/2023/PTUN.JPR, which resulted in the seizure of 36,094.4 hectares of Indigenous Awyu land by a corporation, and Decision No. 68/G/PU/2021/PTUN.SMG, which crushed the hopes of Wadas residents in their struggle to defend their land from expropriation under the guise of a PSN. These two rulings demonstrate how the judiciary has become an integral part of the legal machinery that reinforces land

62 Amnesty International, *Laporan Amnesty International 2022/23: Situasi Hak Asasi Manusia Secara Global* (London: Amnesty International, 2023), 27.

63 Daniel Peterson, et.al, "The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia," Journal of Contemporary Asia (2024): 1–22, https://doi.org/10.1080/00472336.2024.2440855.

64 Konsorsium Pembaruan Agraria, *Dekade Krisis Agraria,* 10.

dispossession, rather than a corrective instrument that safeguards the rights of affected communities.

In Decision No. 6/G/LH/2023/PTUN.JPR, the court rejected the lawsuit filed by Hendrikus Woro, a representative of the Awyu Indigenous community, against the environmental permit that allowed a palm oil company to take control of 36,094.4 hectares of land in Papua. This rejection not only stripped Indigenous communities of their ancestral land rights but also reflected the judiciary's tendency to favor corporate interests over considerations of ecological justice and Indigenous rights. Meanwhile, Decision No. 68/G/PU/2021/PTUN. SMG ruled that the land acquisition for the PSN infrastructure project in Wadas was legally valid, despite the fact that residents faced various forms of intimidation and pressure throughout the process. This ruling not only disregarded the voices of Wadas residents who opposed the andesite mining project in their region but also reaffirmed how infrastructure projects are often used as justifications for sacrificing the rights of local communities. In this context, the courts prioritized development and investment interests over the social, economic, and ecological consequences faced by Wadas residents.

These two cases affirm the skepticism of Berenschot et al., who argue that communities facing land grabbing are often advised by NGO activists not to take their cases to court due to the slim chances of obtaining justice through legal channels.[65] As highlighted by the studies of Meckelburg and Wardana, Indonesia's neoliberal political economy has co-opted the legal system, making the law, in any dimension, more inclined to serve the economic interests of capital owners—including when these owners seize land belonging to local communities.[66] In both court rulings, the panel of judges relied on a logic of legal normativity that prescribes norms based on their alignment with existing legal provisions, treating the law as a deterministic mechanism. This raises a crucial question: why do courts take such an approach? The short answer is that the judiciary functions as a liberal legal institution—one that operates within an ostensibly neutral framework but, in reality, merely applies legal norms as written, without taking into account the underlying social, economic, and political dynamics.

Within this framework, the judiciary reduces judges to mere reciters of legal norms—what some call "legal monks," figures who operate like clerics of the law, mechanically applying legal texts without transcending their written form.[67] In other words, judges work within a rigid legal positivism, treating the law as an autonomous set of rules detached from the social realities it governs. Under capitalism, liberal legal institutions like the judiciary play an essential role. Modern capitalism depends on legal institutions that provide certainty in economic transactions, particularly in securing control over and exploiting resources. In this context, legal certainty does not equate to substantive justice but rather to regulatory stability, ensuring a favorable environment for investment and capital accumulation. Consequently, when the law intersects with non-legal variables—such as social justice, Indigenous rights, or environmental protection—it is often seen as a distortion that threatens investment security.

Following this logic, the liberal judiciary becomes a key actor in upholding capitalist interests by keeping the law confined within technical and procedural boundaries.[68] By sterilizing legal processes from considerations beyond the statutory text, courts become an effective tool in ensuring that the legal system remains aligned with the demands of capital. As a result, in many cases of land dispossession and agrarian conflict, courts frequently side with capital interests rather than accommodate the demands of communities seeking substantive justice. This underscores thatthe liberal legal system is not a value-neutral domain to all interests, but one in which the imperatives of capital accumulation are safeguarded, often to the detriment of those situated in structurally vulnerable positions This further reinforces the notion that law, particularly within the judiciary, is not merely a

65 Ward Berenschot et.al, "Anti-Corporate Activism and Collusion: The Contentious Politics of Palm Oil Expansion in Indonesia," Geoforum 131, no. 1 (2022): 39-49.

66 Rebecca Meckelburg and Agung Wardana, "The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia," Land Use Policy 137, no. 1 (2024): 1-9.

67 Such law enforcement cannot be separated from capitalism's need for law that is certain and calculable. Simply put, if a legal norm stipulates "A," then law enforcement must also affirm "A." However, law never operates in a vacuum. It interacts with various variables—power, ideology, race, and others—that can cause the legal norm "A" to not necessarily manifest as "A" in its enforcement. Read further in: Gerald N Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change* (Chicago, University of Chicago Press, 2008).

68 Liberal legal institutions operate with a simple closed syllogism: if A, then B. This logic is essential for capitalism to grow and expand. In its discourse, when law is distorted by non-legal variables, the logic shifts to *if A, then maybe B or maybe C*. This uncertainty disrupts capital calculation, meaning that when capital must violate the law, it needs to assess whether the violation will generate greater profits than the potential losses incurred from breaking the law. See the connection between the positivist logic of liberal courts and the growth of capitalism in: Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (Los Angeles: University of California Press, 1978), 657-658.

regulatory instrument but also a mechanism of domination that ensures the continuity of capitalism through the exclusive guarantee of legal certainty for capital.

4. Conclusion

The emancipatory project envisioned by Indonesian agrarian law was initially designed as an instrument to rectify land ownership inequalities, protect the rights of indigenous communities and farmers, and ensure a just distribution of agrarian resources. However, in practice, this project has faced formidable challenges due to the hegemony of power operating through land grabbing. This phenomenon not only entails the systematic dispossession of land by vested interests—whether by the state or corporations—but also reveals how law plays a crucial role in legitimizing such processes. Rather than serving as a tool for protection, agrarian law has instead functioned as a mechanism for justifying capital expansion. Laws and regulations that should have been oriented toward social justice are often manipulated to accommodate large-scale investment interests. The law is no longer a neutral normative framework but has become an instrument of power operating within the logic of capital accumulation. In this context, land grabbing is not merely an illegal act carried out by corporations; it is an institutionalized process facilitated by legal provisions that validate land dispossession under the guise of development and economic growth.

The dominance of capital interests in Indonesian agrarian law has intensified since the 1997 Asian financial crisis, which paved the way for the intervention of international financial institutions promoting deregulation, market liberalization, and privatization of public assets. In the agrarian sector, this neoliberal agenda has transformed land into a commodity to be freely traded, making it more valuable as an investment asset than as a space for people's livelihoods. Within this framework, the state plays a central role as a facilitator, legitimizing land dispossession through various policies—from issuing concession permits and evictions in the name of national strategic projects to the criminalization of communities defending their rights. The repression of agrarian movements has become a direct consequence of the legal system's increasing alignment with capital interests. State apparatuses, whether in the form of bureaucratic institutions or security forces, are frequently deployed to suppress community resistance and ensure the smooth expansion of capital. Ultimately, this entire process has led the emancipatory project of agrarian law to the brink of extinction. The original vision of agrarian law as an instrument of social justice has not only been marginalized but systematically dismantled. This project did not die a natural death—it was murdered by capital, with the state as its executioner and the law as its weapon.

References

Amnesty International. *Laporan Amnesty International 2022/23: Situasi Hak Asasi Manusia Secara Global.* London: Amnesty International, 2023.

Anggono, B.D., & Wahanisa, R. "The Implementation Of Agrarian Reform In Semarang Regency." *Journal of Strategic and Global Studies* 1*,* no. 2 (2018): 28-42.

Anggoro, S.A. "Rule of Law, Neoliberalisme, dan Proyek Reformasi Hukum World Bank: Perspektif Critical Legal Studies." *Jurnal Hukum dan Pembangunan* 50, no. 1 (2020): 267-283.

Bachriadi, D., & Aspinall, E. "Land Mafia in Indonesia."*Critical Asian Studies* 55, no. 3 (2023): 331-353.

Bachriadi, D., & Suryana, E. "Land Grabbing and Speculation for Energy Business: A Case Study of ExxonMobil in East Java, Indonesia." *Canadian Journal of Development Studies / Revue Canadienne d'études Du Développement* 37, no. 4 (2016): 578–94.

Bachriadi, D., & Wiradi, G. *Enam Dekade Ketimpangan: Masalah Penguasaan Tanah di Indonesia.* Bandung: Agrarian Resource Centre (ARC), Bina Desa, Konsorsium Pembaruan Agraria (KPA), 2011.

Batubara, B., Wagner, I., Salam, S., & Warsilah, H. *Maleh Dadi Segoro: Krisis Sosial-Ekologis Kawasan Pesisir Semarang Demak.* Bantul: Lintas Nalar, 2020.

Berenschot, W., Dhiaulhaq, A., Afrizal., Hospes, O., Adriana, R., Poetry, E. "Anti-Corporate Activism and Collusion: The Contentious Politics of Palm Oil Expansion in Indonesia." *Geoforum* 131, no. 1 (2022): 39-49.

Borras, S.M., Kay, C., Gómez, S., & Wilkinson, J. "Land Grabbing and Global Capitalist Accumulation: Key Features in Latin America," *Canadian Journal of Development Studies* 33, no. 4 (2012): 402–16.

Chuang, J., & Smith, N.R. "Regimes of Dispossession in China: Intra-State Competition and Land Dispossession Outcomes." *The Journal of Peasant Studies*, (2025): 1–22.

Hakim, R.M. *Kapitalisme Militer: Akumulasi Sumber Daya Ekonomi Militer melalui Perampasan Lahan (Studi Kasus Perampasan Lahan oleh TNI/AD di Urutsewu).* Bandung: ARC, 2025.

Hall, D., Hirsch, P., & Li, T.M. *Kuasa Eksklusi: Dilema Pertanahan di Asia Tenggara*. Yogyakarta: Insist Press, 2020.

Hall, D. "Russia's Invasion of Ukraine and Critical Agrarian Studies." *The Journal of Peasant Studies* 50, no. 1 (2022): 26–46.

————. "Primitive Accumulation, Accumulation by Dispossession and the Global Land Grab." *Third World Quarterly* 34, no. 9 (2013): 1582–1604.

Harvey, D. *The New Imperialism.* United Kingdom: Oxford University Press, 2003.

Jurkevics, A. "Land Grabbing and the Perplexities of Territorial Sovereignty." *Political Theory* 50, no. 1 (2021): 32-58.

Komisi Nasional Hak Asasi Manusia. "Keterangan Pers No. 006/HM.00/II/2022 tentang Ringkasan Eksekutif Pemantauan dan Penyelidikan Penggunaan Kekuatan Secara Berlebihan (Excessive Use of Force) dalam Proses Pengukuran Lahan di Desa Wadas 8 Februari 2022." https://www.komnasham.go.id/files/20220224-keterangan-pers-nomor-006-hm-00-$YJR6AOIO.pdf, Accessed January 23, 2025.

Konsorsium Pembaruan Agraria. *Adakah Reforma Agraria di Bawah Komando Prabowo?.* Jakarta: KPA, 2024.

Konsorsium Pembaruan Agraria. *Dekade Krisis Agraria: Warisan Nawacita dan Masa Depan Reforma Agraria Pasca Perubahan Politik.* Jakarta: KPA, 2023.

Konsorsium Pembaruan Agraria. *Bara Konflik Agraria: PTPN Tak Tersentuh, Kriminalisasi Rakyat Meningkat.* Jakarta: KPA, 2023.

Konsorsium Pembaruan Agraria. *Penggusuran Skala Nasional (PSN).* Jakarta: KPA, 2021.

Lembaga Bantuan Hukum Yogyakarta. *Investasi Subur, Rakyat Digusur: Catatan Akhir Tahun LBH Yogyakarta 2019.* Yogyakarta: LBH Yogyakarta, 2019.

Li, T.M. "After the Land Grab: Infrastructural Violence and the "Mafia System" in Indonesia's Oil Palm Plantation Zones." *Geoforum* 96, no. 1 (2018): 328-337.

Marx, K. *Capital: Critique of Political Economy–Vol. 1.* London: Penguin, 1976.

McDonnell, S. "Urban Land Grabbing by Political Elites: Exploring the Political Economy of Land and the Challenges of Regulation." In Mcdonnell, S., Allen, M.G., & Filer, C. (Ed.s). *Kastom, Property and Ideology: Land Transformations in Melanesia.* Canberra: Australian National University, 2017.

Meckelburg, R., & Wardana, A. "The Political Economy of Land Acquisition for Development in the Public Interest: The Case of Indonesia." *Land Use Policy* 137, no. 1 (2024): 1-9.

Peluso, N.L., Afiff, S., & Rachman, N.F. "Claiming the Grounds for Reform: Agrarian and Environmental Movements in Indonesia." *Journal of Agrarian Change* 8, no. 2-3 (2008): 377-407.

Peterson, D., Bedner, A., & Berenschot, W. "The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia." *Journal of Contemporary Asia,* (2024): 1–22.

Poulantzas, N. *State, Power, Socialism.* London: Verso, 1978.

Rachman, N.F., & Masalam, H. "The Trajectory of Indigeneity Politics Against Land Dispossession in Indonesia." *Sriwijaya Law Review* 1, no. 1 (2017): 122-142.

Rachman, N.F. *Land Reform Dari Masa Ke Masa*. Yogyakarta: STPN Press, 2012.

Rosenberg, G.N. *The Hollow Hope: Can Courts Bring About Social Change*. Chicago, University of Chicago Press, 2008.

Solidaritas Nasional untuk Rempang. *Keadilan Timpang di Pulau Rempang: Temuan Awal Investigasi atas Peristiwa Kekerasan dan Pelanggaran HAM 7 September 2023 di Pulau Rempang.* Jakarta: Solidaritas Nasional untuk Rempang, 2023.

Syahwal. "Kelindan Identitas dan Lingkungan: Perjuangan Masyarakat Awyu Menggapai Keadilan." *Jurnal Pro Natura* 1, no. 1 (2024): 58-75.

————. "Kekerasan dan Kuasa Simbolik dalam Hukum: Sebuah Kritik Ideologi atas Legitimasi Cipta Kerja." *Undang: Jurnal Hukum* 7, no. 1 (2024): 1-41.

————. "Gerakan Sosial dalam Politik Hukum Pembentukan Undang-Undang di Bidang Hukum Perburuhan." *Jurnal Legislasi Indonesia* 21, no. 3 (2024): 423-435.

Utrecht, E. “Land Reform in Indonesia.” *Bulletin of Indonesian Economic Studies* 5, no. 3 (1969): 71–88.

Wahanisa, R. *Reforma Agraria Untuk Kesejahteraan Rakyat.* Semarang: Fastindo, 2019.

Wardana, A., & Darmawardana, D.A. “Pembangunan Sebagai Proses Eksklusi: Kajian Hukum dan Ekonomi-Politik atas Proyek Strategis Nasional.” *Jurnal Hukum dan Pembangunan* 54, no. 2 (2024): 259-287.

Wardana, A. “Geografi Hukum Proyek Strategis Nasional: Studi Kasus Bendungan Bener di Purworejo, Jawa Tengah.” *Undang: Jurnal Hukum* 5, no. 1 (2022): 1-41.

Weber, M. *Economy and Society: An Outline of Interpretive Sociology*. Los Angeles: University of California Press, 1978.

White, B., Graham, C., & Savitri, L. “Agrarian Movements and Rural Populism in Indonesia.” *Journal of Agrarian Change* 23, no. 1 (2023): 68-84.

Wiradi, G. *Reforma Agraria: Perjalanan yang Belum Berakhir.* Yogyakarta: Insist Press, 2000.

Wolford, W.W., White, B., Scoones, I., Hall, R., Edelman, M., & Borras, S. M. “Global Land Deals: What Has Been Done, What Has Changed, and What’s Next?.” *The Journal of Peasant Studies* 51, no. 1 (2024): 1–38. https://doi.org/10.1080/03066150.2024.2325685.