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The Land Legal System in Indonesia and Land Rights According to the Basic Agrarian Law (UUPA)

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Abstract

After the enactment of Law No. 5 of 1960 concerning Agrarian Principles, this article aims to explain the Indonesian agrarian law system. The law focuses on the unification of agrarian regulations in Indonesia in order to create a unified agrarian legal system. The Agrarian Principle must highlight that all people have access to their lands in order to secure their happiness and prosperity, as well as to ensure that the people are treated fairly. According to Article 6 of the law, every piece of land must serve a social purpose, namely, to generate goods for the people. This article also seeks to determine if the Agrarian Principles have provided individuals, the state, and members of customary law with legal clarity over certain land rights.

Keywords: Agrarian, Agrarian Law System, Law No. 5/1960 about Agrarian Principles

A Introduction

The development of the Basic Agrarian Law/UUPA (Law Number 5 of 1960) was a difficult and lengthy process since, prior to the enactment of the UUPA, the Indonesian people did not have complete ownership over land because there were still numerous colonial and colonial heritage lands. As a result, an Agrarian Law, which is a national law that applies equally to all regions of Indonesia, must be enacted as soon as possible. Article 33 paragraph (3) of the 1945 Constitution serves as the foundation for the Agrarian Law, which states: "Earth, water, and natural resources included therein are owned by the State and used for the greatest prosperity of the people." The system of land tenure and administration in Indonesia has changed dramatically since the Basic Agrarian Law/UUPA (Law Number 5 of 1960) was enacted. Where the usage of land is emphasized more for the sake of the Indonesian people's wealth and happiness. Land is no longer the exclusive possession of a few individuals, but rather the collective property of the Indonesian country. For all Indonesians, land must serve a social role, which means that land tenure should favor common interests over personal interests. As a result, with the proclamation of the LoGA, as well as the Implementing Regulations and other associated regulations, the Unification of Land Law in Indonesia was fully realized.

The basic considerations for enacting the UUPA are: first, that in the Republic of Indonesia, where the structure of people's lives, including the economy, is primarily an agrarian pattern, the earth, water, and space as gifts from God Almighty have very important functions in building a just and prosperous society, and second, that the

agrarian law that was in effect prior to the BAL was partly composed based on the colonial government's goals and principles and partly inflicted

Furthermore, the author attempts to evaluate and critique the National Land Law System, which happens to be the UUPA itself, in this work. What is the state of our national land law system? And, in the Republic of Indonesia's territory, do people have the right to govern land, and how are land rights regulated in the Basic Agrarian Law? The rights to land tenure contain a number of powers, obligations, and/or prohibitions for the holder of the right to do or not do something with the land being entitled, as will be explained in the discussion section. A differentiator of distinct land tenure rights will be something that is authorized or forbidden in land control. Whether the land is under the sovereignty of the state, individuals, or communities governed by customary law.

To address this issue, the author first attempts to describe and examine land law in Indonesia, beginning with a distinction between agrarian and land law, then moving on to an understanding of agrarian and land law, and finally discussing the sources, principles, and objectives of national land law. Second, the author speaks on the right to control land. This debate is crucial, according to the author, since it will define who has the authority to manage the land in the area of the Unitary State of the Republic of Indonesia, because the land dictates everyone's livelihood and happiness. So, in this section, the author tries to describe land tenure rights, which include: Indonesian people's rights, the state's right to manage land, and the acknowledgement of indigenous peoples' customary rights and individual rights to land. The author will then look at land rights such as Hak Milik (HM), Right to Build (HGB), Right to Use (RTU), and Hak Guna Usaha (HGU) (HP). The goal of this paper is to:

1. investigate and analyze more thoroughly how Indonesia's land law system has evolved since the proclamation of the Basic Agrarian Law No. 5/Year 1960, and whether it has brought welfare, justice, and happiness to Indonesians in particular. And whether land's social function has been fully accomplished.
2. To explain and examine the land tenure rights in Indonesia, as well as the rights to land as outlined in the Basic Agrarian Law Number 5/1960, so that the Indonesian people are aware of their rights. What legal rights do they have to the land they own?

Based on the preceding description, the author should look into how "Land Rights in the Land Law System in Indonesia according to the Basic Agrarian Law (UUPA)" works. Citizens will know which lands can be claimed and which lands cannot be entitled if they are familiar with Indonesia's land law system and land rights. Citizens will also be able to determine if the current land law system has delivered the Indonesian people prosperity and happiness. The author expects that this work will be valuable to the general public, agrarian law observers, and legal practitioners in general, as well as the academic community at Air Marshal Suryadarma University.

B Method

This research uses descriptive analysis research using qualitative methods. The Land Legal System in Indonesia and Land Rights According to The Basic Agrarian Law (UUPA), qualitative research is aimed at a very detailed and detailed study where the

results of the research are studied in depth and then interpreted clearly. There are two sources of data used in this study, where the data includes primary data and also secondary data, then the facts of the findings are described in a very easy form of discussion so that researchers can find a complex and structured understanding in a directed manner (Achmad, 2021).

The problems in this paper that the author raises are:

1. According to the Basic Agrarian Law, what is Indonesia's land law system (UUPA)?
2. What are the basic agrarian rights as defined by the Basic Agrarian Law?

C Result and Discussion

1. Land Law in Indonesia Agrarian and Land

Agrarian understanding can be viewed in both a narrow and broad meaning. Agrarian refers to land in a narrow sense, and it can also refer to exclusively agricultural land. Furthermore, under Law No. 5/ 1960 establishing Basic Regulations on Agrarian Principles, the term "agrarian" is used in a broad sense (better known as the Basic Agrarian Law or abbreviated as UUPA). Agrarian, according to the UUPA, includes the earth, sea, and space, as well as the natural resources found there. The LoGA specifies that the earth encompasses the earth's body, below it, and under water, in addition to the earth's surface (Article 1 paragraph 4). Inland waters and oceans in Indonesian territory are included in the definition of water (Article 1 paragraph 5), which also encompasses space, including space above the earth and water.

In the land sector, the definition of land has far-reaching ramifications. Philosophically, customary law sees land as an object having a soul that cannot be divorced from its human partnership, according to Herman Soesangobeng. Land and humans are a unity that influence each other in the fabric of the eternal arrangement of the large natural order (macro-cosmos) and the small universe, despite their differences in form and identity (micro-cosmos). Meanwhile, land is widely regarded to encompass the soil, water, air, natural resources, humans as the center, and spirits in the supernatural realm, all of which are interwoven in a complete and comprehensive way.

When this holistic vision of philosophy is turned into legal concepts and institutions, it appears to be dynamic and changing. The principle of horizontal separation (horizontale scheiding), which states that the owner of the land does not automatically become the owner of the things on the land, is ultimately known in the control and ownership of land. The principle of control over land ownership also recognizes the principle of attachment (accessie), which states that ownership of objects on land is also attached to land ownership in Anglosaxon countries that define land as the surface of the earth, the body of the earth, and the natural resources contained in the body of the earth. Article 4 paragraph (1) of the BAL, for example, defines land as merely the earth's surface. As a result, land rights include legal rights to the earth's surface, as well as rights to land objects and natural resources in the body.

2. Understanding Agrarian Law and Land Law

There are numerous definitions of agrarian law and land law expressed by legal authorities, including: Agrarian law, according to RM, Sudikno Mertokusumo (1988:1.2), is "the complete legal rule, both written and unwritten, that regulates

agrarian concerns." Civil law, constitutional law (staatsrecht), and state administrative law (administrative recht) all regulate relationships between individuals, including legal entities, with the land, water, and space across the country's full territory, as well as the authority that arises from such relationships. In his book "Introduction to Indonesian Law," E. Utrecht (1961:162) presents a similar interpretation of agricultural and land law, but only in the narrow meaning of State Administrative Law. Agrarian law and land law, according to Utrecht, are part of state administrative law, which investigates particular legal relationships that will allow authorities in charge of agrarian concerns to carry out their responsibilities.

According to the preceding definition, agrarian law refers to the total legal standards, both written and unwritten, that govern legal relationships between legal subjects in the agrarian sphere. Agrarian law is a collection of different topics of law that all have ownership rights to natural resources. The group is made up of:

- a. Land Law: This law governs land tenure rights in terms of the earth's surface.
- b. Water Law: This law governs who has control over water resources.
- c. Mining Law: As referred to in the Basic Mining Law, this law governs control rights over extracted materials.
- d. Fisheries Law: This law governs control rights over the wealth found in the water.
- e. The Law on Control of Space Energy and Materials, referred to in Article 48 of the UUPA, governs the rights to control energy and elements in space.

Meanwhile, Efendi Warin (1989: 195) defines Land Law as "all written and unwritten legal norms that regulate land tenure rights, which are legal institutions and concrete legal connections." According to Urip Santoso (2013:11), land law encompasses all written and unwritten legal provisions that regulate the same purpose, namely the right of control over land as legal institutions and as a legal relationship. concrete, public, and civil aspects that may be methodically collated and studied, resulting in the totality being a single unit that makes up a single system.

3. Sources of Land Law

The source of the law, in this context, refers to a location where we can observe the form of law's incarnation. In other words, everything that can or gives origin to or gives birth to law is the source of law. In a nutshell, the source of law is also known as the source of law. According to Van Apeldoorn, determining the source of the law depends on how we look at it. According to Apeldoorn, the separation of legal sources may be viewed from several perspectives; if the sources of law are examined historically, then what is highlighted is in terms of legal recognized sources, such as all written documents, inscriptions, and so on. In essence, there are two types of legal sources, namely:

a. Material Law Source

What is meant by Material Law Sources are: several factors that can determine the content of the law, for example economic factors, religion, moral values, history, customs and social community.

b. Source of Formal Law

What is meant by formal legal sources are: legal sources in terms of their formation, in these formal legal sources there are:

The formulation of various rules which are the basis of the binding power of regulations so that the community and law enforcers obey. The sources of formal law can be divided into five, namely:

- 1) Law (Statue)
- 2) Habits and Customs (Custom)
- 3) c. Treaty
- 4) Jurisprudence (Case Law, Judge Made Law)
- 5) Opinions of well-known legal experts (Doctrine)

While in relation to Sources of National Agrarian Law or National Land Law, Budi Harsono (1999:256) divides it into two types, namely: written sources of law and unwritten sources of law.

- 1) Written legal sources are:
 - a) The 1945 Constitution in particular Article 33 paragraph 3
 - b) Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA)
 - c) Implementing Regulations of the LoGA
 - d) Regulations that are not implementing regulations of the LoGA that were issued after September 24, 1960 due to a problem need to be regulated (for example: Law Number 51/Prp/1960 concerning the prohibition of land use without the rightful permit or proxy, LN 1960-158, TLN 2160)
 - e) The old regulations which are temporarily still valid based on the provisions of the transitional articles, which are a positive part of land law, are not part of the national land law.
- 2) Unwritten sources of law
 - a) Customary law norms that have been sanitized according to the provisions of articles 5, 56 and 58 of the UUPA.11
 - b) New customary law, including jurisprudence and administrative practices relating to land

4. Principles of Land Law

In the UUPA, there are legal principles that are reflected in its articles, especially regarding land. Djuhaendah Hasan mentions the legal principles of land objects which are distinguished from the legal principles of non-land objects. The principles of the land object include:

a. Unification Principle

This principle means that with regard to land objects, there is only one regulation for all of Indonesia, namely that which is regulated in the LoGA. Likewise, the types of land objects are only regulated in the LoGA.

b. Principles of customary law

This principle means that the land law in the UUPA is based on the principles of customary law, including;

- a) The principle of family
- b) The principle of public interest above personal interest
- c) The principle of cash and concrete

c. The principle of horizontal separation

The principle of horizontal separation is also a principle in customary law, where land is separated from everything attached to it.

d. The principle of land having a social function

Is a principle that reflects that land must be used as well as possible with due regard to the public interest.

e. Publicity principle

This principle provides an announcement of ownership to the wider community, namely the announcement of land rights by way of registration. Registration provides general legal recognition of the existence of rights to the object.

f. Specialist principle

Land rights must be clearly proven in terms of their form, boundaries and location

The basic principles in the UUPA are:

- 1) The principle of customary law, the rationale of the LoGA which comes from the philosophy of customary law.
- 2) The principle of horizontal separation, where the land is separated from everything attached to it.
- 3) The principle of nationality, the principle that grants rights to land of the highest rank only to Indonesian citizens, namely Hak Milik on land, which can only be owned by Indonesian citizens, this proves the philosophical basis in customary law in the provisions of customary rights, land rights and results. ulayat area is only for ulayat residents.
- 4) The principle of social function, land rights must have benefits for both the owner of the right and the interests of the community

We can see from the above description that the legal principles of land outlined in the UUPA are derived from the values of indigenous peoples in Indonesia, and that the land is more designated for the creation of nationalism, with a stipulation that foreign nationals are not allowed to have property rights (HM) over the land. Furthermore, as demonstrated by the provisions of Article 6 of the UUPA that land must have a social function, the principle in land law promotes shared interests as well as ideals of togetherness and kindred.

5. Purpose of Land Law

The goal of Agrarian Law is to "protect the entire Indonesian nation, promote public welfare, educate the nation's life, and participate in implementing world order based on freedom, lasting peace, and social justice," as stated in the 1945 Constitution of the Republic of Indonesia, which served as the legal foundation for the formation of the UUPA.

In order to attain the state's above-mentioned aims in the agrarian sector, it is vital to possess:

- a. Unity of agrarian law that applies to all Indonesian people.
- b. Simplify agrarian law, and eliminate dualism.
- c. Provide guarantees of legal certainty of what are the rights of all Indonesian people.

On the basis of the foregoing, the major objectives of the founding of the LoGA are formulated as follows in the Regulation of the Basic Basics of National Agrarian Affairs, namely Law Number 5 of 1960.:

6. Laying the foundations in the preparation of the National Agrarian Law which is a tool to bring prosperity, happiness and justice to the state and

people, especially the peasants in the context of creating a just and prosperous society

That the earth, sea, space, and natural resources included within the territory of the State of Indonesia form a single unitary homeland for the Indonesian people who are united as the Indonesian Nation. Earth, water, space, and the natural resources contained inside are gifts from God Almighty to the Indonesian Nation, and they comprise national riches. This natural wealth must be conserved and empowered for the people's greatest prosperity. The Indonesian people's relationship with the earth, water, space, and the natural resources contained therein is eternal, therefore no one can decide on it. And the state, as the Indonesian Nation and People's power structure, is given the authority to regulate the land, water, space, and natural resources contained therein for the people's greatest prosperity.

7. Laying the foundations for unity and simplicity in land law

The establishment of a foundation for legal unity and simplicity is meant to guide the development of agricultural law in order to achieve legal unification, i.e. the legislation of a legal system. Incorporation of customary law into national law. Customary law is the original legislation of the Indonesian nation and the vast majority of Indonesians, making it easy to comprehend and apply. Article 5 of the LoGA establishes customary law as the foundation for National Agrarian Law.

8. Laying the foundations to provide legal certainty regarding land rights for the whole people

To give legal certainty, land registration that is legally cadastral in character must be carried out, as well as the conversion of land rights deriving from old agrarian law to land rights in conformity with the rules of national agrarian legislation addressing land rights. According to Article 19 of the LoGA, this land registration is required. The conversion is governed by the second dictum of the UUPA, which deals with conversion provisions.

The existence of the UUPA, based on the above description, aspires to achieve the greatest prosperity and welfare of the Indonesian people, as well as happiness and justice in the nation's and state's lives. As a result, every citizen must protect and respect their land rights.

a. Land Tenure Rights

The right to control is a legal relationship in which the owner has actual control over an object that will be employed or utilized for its own purposes. In terms of the right to control, it indicates that the item under its control has a physical control (control) function. The ability to protect one's rights against others who try to disrupt it is one of the principles of the right to control.

Boedi Harsono claims that the terms "control" and "controlling" can be applied both physically and legally. Juridical control is based on a legal right that grants the right holder the ability to physically govern the territory under his or her control. However, there is also juridical control, which, while it gives the authority to control land that is being judged physically, in reality the physical control is carried out by another party. As a result, in defense law, there is also a juridical control, which does not give the authority to physically control the land.

There are numerous categories of land tenure rights in the National Land Law (Agrarian Law), which are arranged hierarchically as follows:

- a. The Rights of the Indonesian Nation
- b. The Right to Control from the State
- c. Ulayat Rights of Indigenous Peoples.
- d. Individual or individual rights to land consisting of land rights, waqf and land security rights.

b. Indonesian Nation's Rights

That land is the right of the Indonesian nation is stated in Article 1 paragraph 1 to 3 of the BAL which reads as follows:

- 1) The entire territory of Indonesia is the unitary homeland of all the Indonesian people, who are united as the Indonesian Nation.
- 2) The entire earth, water and space, including the natural resources contained therein within the territory of the Republic of Indonesia as a gift from God Almighty, are the earth, water and space of the Indonesian nation and constitute national wealth.
- 3) The legal relationship between the Indonesian people and the earth, water and space as included in paragraph 2 of this article is an eternal relationship.

Nation Rights are legal institutions and concrete legal interactions with Indonesia's soil, sea, and space, including the natural resources contained therein, as alluded to in Article 1 paragraphs 2 and 3 above. UUPA does not offer a name to the program. In the National Land Law, this is the highest land tenure right. Other land tenure rights are derived from it, either directly or indirectly. The Nation's Rights have two elements: ownership and authority to regulate and lead the control and usage of the shared land. In a legal sense, the nation's claim to common land is not a right of ownership. Individual property rights on land exist within the context of the Nation's Rights. The State has been given the ability to regulate, control, and lead the usage of the joint land. That area within the Republic of Indonesia's territory automatically becomes the subject of the nation's rights of all Indonesian people throughout the years who are unified as the Indonesian nation, namely previous generations, current generations, and future generations (Achmad, 2021). The common land is a gift from God Almighty to the Indonesian people, who have banded together to form the Indonesian Nation. The nation's rights, both as a legal institution and as a specific legal relationship, are inextricably linked. When a solid legal relationship with land is a gift from God Almighty to the people of Indonesia, the nation's rights as a legal entity are created. The rights of the nation are an eternal legal relationship, which means that "as long as the Indonesian people who are united as the Indonesian Nation still exist, and as long as the earth, water, and space of Indonesia still exist, there is no power that will be able to decide or nullify legal relationship."

c. The Right to Control From the State

Regarding the Controlling Rights of the State, it is contained in the provisions of Article 2 of the LoGA which states as follows:

1. On the basis of the provisions of Article 33 paragraph (3) of the Constitution²³ and the matters referred to in Article 1 of the LoGA. The earth, water and space, including the natural resources contained therein, are at the highest level controlled by the State as an organization of power for the entire people.
2. The right to control from the state in paragraph (1) this article authorizes:

- a) regulate and administer the designation, use, supply and use of the earth, water and space.
 - b) determine and regulate legal relations between people and earth, water and space
 - c) determine and arrange legal relations between people and legal actions regarding earth, water and space.
3. The authority derived from the state's right of control, as described in paragraph (2) of this article, is used to promote the greatest prosperity of the people, in terms of nationality, welfare, and independence in society, as well as the legal state of the Republic of Indonesia, which is independent, sovereign, fair, and prosperous.
 4. The state's right of control above can be exercised to autonomous regions and the Customary Law community, only if it is necessary and does not conflict with national interests, according to the provisions of a Government Regulation.

If the three powers outlined in Article 2 paragraph 2 of the LoGA are followed, the state can be construed as the ruler over all natural resources on the earth's surface and in the earth (including land) within the Republic of Indonesia's territory. The right to control from the state is one form of land control rooted in the Republic of Indonesia's constitution, specifically Article 33 paragraph (3) of the 1945 Constitution, which states: "Earth and water, as well as the natural resources contained therein, are used as much as possible for the people's prosperity." These rules are subsequently expanded upon in the Basic Agrarian Law's Article 2 paragraph (1). The state's right to control, as enshrined in Article 33 paragraph (3) of the 1945 Constitution, means that the state acts as the highest land tenure right holder, as stated in Article 2 paragraph (1) of the Basic Agrarian Law, which states that the state, as an organization of power for all people, has supreme power over the earth, water, space, and the wealth contained therein.

The right to control does not imply that the people/community are under the state's authority. The connection between the state and society/people is based on the idea of "the state dominates." Because the state receives power from the community/people to govern the allocation, supply, and use of land, as well as the legal relationship involving land, the community/people cannot be subordinated to the state under the state. As a result, the state only serves as a neutral referee who establishes the game's rules, which are followed by all participants, and the state is likewise bound by its own set of regulations when engaging in land-use activities.

Indigenous Peoples' Ulayat Rights In Indonesian positive law, the word "ultimate rights" is used, for example, in the Elucidation of Article 3 of the LoGA and the Minister of Agrarian Affairs Regulation/Head of BPN No.5/199926 concerning Guidelines for the Settlement of Indigenous Law Community Rights Issues (Boedi Harsono, 2006: 53-59). Supomo refers to these rights as lordship rights. The names ulayat rights, lordship rights, and other such terms are translations of the Dutch term *beschikkingrecht*, invented by Van Vollenhoven. 27 What laws govern ulayat rights? The following are the legal foundations for controlling customary rights: The existence of customary law community units and their traditional rights has been expressly recognized by the State in the current reform era, as stated in Article 18B paragraph (2) of the 1945 Constitution: "The State recognizes and respects customary law community units and

their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.

Although modern times continue to develop as they do today, the state recognizes the existence of customary law, and the rights associated with it, particularly customary law land rights (Hak Ulayat), will be preserved as long as they are within the framework of the Unitary State of the Republic of Indonesia, for the sake of creating justice, prosperity, and happiness in living within the customary law environment.

UUPA Article 5

"Agrarian law that applies to the earth, water, and space is customary law as long as it does not conflict with national and state interests, which are based on national unity, Indonesian socialism, and the law's regulations, as well as other laws and regulations, all while paying attention to the elements that rely on agrarian law."

UUPA Article 3

"With regard to Articles 1 and 2, the application of customary rights and comparable rights of customary law communities, so long as they exist in reality, must be in conformity with national and state interests, based on national unity, and not in conflict with higher laws and regulations."

UUPA Article 6

"There is a social use to all land rights." Article 6 of the LoGA has an essential statement about land rights, which quickly expresses the collective or social nature of land rights in accordance with the National Land Law's notion. As stated in the Elucidation of Article 6 of the LoGA, not only property rights, but all land rights have a social function. The following are the social purposes of land rights as the foundation for the General Elucidation: 29 This means that a person's property rights cannot be justified, and that the land will be utilized (or not used) simply for personal advantage. - a person's personal opinion, especially if it is harmful to society. The use of land must be tailored to the circumstances and nature of its rights in order to benefit the welfare and happiness of landowners, as well as the community and the state. The Basic Agrarian Law is also concerned with

Individual interests, community interests, and individual interests must all be balanced so that the main purpose, namely prosperity, is attained in the end. All individuals deserve justice and pleasure. (See LoGA Articles 2 and 3).

1st paragraph of Article 1 Permeneg Agraria/BPN No.5/199930/Permeneg Agraria/BPN No.5/199930/Permeneg Agraria/BPN No.5

"Ulayat rights and the like from indigenous peoples (hereinafter referred to as ulayat rights) are the authority that customary law communities have over certain areas that are the living environment of their citizens to take advantage of natural resources, including land, in that area, for the survival and life of the people, arising from hereditary and uninterrupted external and internal relations between the customary law communities."

Letter S of Article 1 of Law No. 21/200131

"This article explains the Papua Province's special autonomy, which stipulates that ulayat rights are Guild rights owned by certain customary law communities over a specific area that is the citizens' living environment, and include the right to use land, forest, and water, as well as their contents, in accordance with regulations." legislation"

Permeneg Agraria/Head of BPN No.5/199932 Article 1 point 3

"A Customary Law Community is a group of persons who are united as joint citizens of a legal alliance by their customary law order because of similarity of location or descent."

Letter q of Article 1 of Law No. 21/200133

"Customary law is an unwritten rule or standard that governs, binds, and is upheld in customary law societies and has punishments."

As previously stated, Hak Ulayat refers to legal institutions as well as the specific legal relationship that exists between customary law communities and their lands and territories, also known as ulayat land. The name of the land is what is known in the language of customary law. The institution is known as "beschikkingsrecht" in the Dutch Customary Law library, after Van Vallenhoven's name. Ulayat Rights are a set of powers and responsibilities that a customary law community has in relation to land within its jurisdiction. Hak Ulayat consists of two elements: an element of ownership, which falls under the jurisdiction of civil law, and an element of authority to govern, control, and lead the use of common land, which falls under the jurisdiction of public law. The Customary Head alone or with the adat elders of the adat law community concerned is delegated the aspects of the work of power that are contained in the realm of public law.

Indigenous peoples who hold Ulayat Rights. Because the residents are in the same area, such as Nagari in Minangkabau, there is a territorial one. A genealogy exists, in which citizens are linked by blood relationships, such as tribes and clans. In the meantime, the object of customary rights is land within the applicable territorial customary law community's territory. It is not always possible to determine the exact limits of a territorial customary law community's ulayat land. As a concrete legal link, Hak Ulayat was created by ancestors or a supernatural force while leaving or bestowing land with ties to people belonging to a specific tribe. Because the customary law community in question is not the only one with customary rights, ulayat rights have existed in the past as a legal entity. Ulayat Rights can be created for a specific customary law community as a result of its separation from the parent customary law community, resulting in the formation of a new independent customary law community with a portion of its parent area designated as customary land.

The existence of ulayat rights is acknowledged for a specific customary law community as long as it exists in fact. The existence of ulayat rights in a particular customary law community can be seen, among other things, in the daily activities of the adat chief and adat elders, who bear the task of authority to regulate, control, and lead the use of ulayat land, which is land shared by members of the adat law community. worried. Its implementation is limited, in the sense that it must be in accordance with national and state objectives, which are based on national unity, and must not contradict with higher laws and regulations. This is indicated in the LoGA's General Elucidation. It is true that in order to acquire a piece of ulayat land for development purposes, an approach is made to the adat rulers and members of the adat law community concerned in accordance with local norms, which effectively requires acceptance of the existence of ulayat rights. In reality, with the development of the personal rights of inhabitants or members of the adat law community concerned over the areas of the ulayat land under their control, the authority of ulayat rights tends to dwindle.

9. Individual or Individual Rights consist of:

a. Land Rights (Article 4)

Property Rights, Cultivation Rights, Building Use Rights on State Lands, and Use Rights on State Lands are all examples of primary land rights.

Land rights that are secondary: Secondary land rights, such as Building Use Rights (HGB) on Management Rights or Ownership Rights, Use Rights on Management Property or Use Rights on Land Ownership Rights, Rights Rent For Building, and Liens, are all derived from land controlled by third parties (land lien). Riding Rights, and Agricultural Land Lease Rights are all examples of production sharing business rights (agreement).

b. Waqf

Land that is owned. Then, in 1977, the Minister of Home Affairs issued Regulation No. 6 concerning Land Registration Procedures for Waqf of Owned Land, which put this Government Regulation into effect. Waqf is defined as a person's or a legal entity's legal action of separating a portion of his wealth in the form of property and institutionalizing it for personal or public purposes in accordance with Islamic teachings. Islam is a religion that is based (Article 1 paragraph 1 PP No. 28 of 1977).

c. Mortgage right

Mortgage Rights are land rights that are guaranteed under national land law. Ownership Rights (Article 25), Business Use Rights (Article 33), and Building Use Rights (Article 34) are the types of mortgage rights that can be charged under the UUPA (Article 39). Then, according to Article 51 of the LoGA, Mortgage Rights are further controlled by legislation. The following laws govern mortgage rights: Law No. 4 of 1996 Concerning Mortgage Rights on Land and Land-related Objects. Mortgage Right refers to a guarantee right imposed on land rights as defined in Law No. 5 of 1960 on Basic Agrarian Regulations, including or not include other things that are an integral part of the land, for the repayment of certain debts to other creditors (Article 1 paragraph 1 of Law number 4 of 1996)

d. Ownership of the Flat Unit

The transfer of land rights to a group of persons, either individually or collectively with other people and legal entities, is implicitly controlled in Article 4 paragraph 1 of the LoGA. Ownership Rights, Building Use Rights, and/or Use Rights on State Land are examples of land rights that can be owned or controlled collectively by all flat owners. Law Number 20 of 2011 Concerning Apartments contains the provisions that apply to flats.

D Conclusion

In In the final section of this work, the author attempts to respond to the two problem formulations mentioned before. That the land system in Indonesia refers to Law Number 5 of 1960, the Basic Agrarian Law. This statute clarifies that Indonesian land law is unified. This indicates that UUPA No. 5/1960 must be consulted for any land-related issues, status, or legal foundation in Indonesia. In reality, the LoGA is an Indonesian land nationalization scheme. So that Indonesian citizens actually own and enjoy the land, and foreign nationals have no rights to land in Indonesia other than the Right to Use.

The UUPA was enacted in the interests of the Indonesian people to achieve justice, happiness, and prosperity in the land sector. It also strives to offer legal certainty on what land rights the state, people, and customary law communities in Indonesia can govern. Finally, the national land law system serves to further the Republic of Indonesia's aims, which are outlined in the 1945 Constitution, namely, to bring prosperity and welfare to all Indonesians.

The Indonesian people themselves, first and foremost, have control over land rights; it is mentioned here that the land as a whole belongs to the Indonesian people. There are many people and groups who claim that the land in Indonesia belongs to them as a whole, and that the state has the power to control the land in Indonesia. This control is not intended to constitute a property right; rather, the state controls the land in the sense that it has been given the authority to manage the land in Indonesia for the benefit of the Indonesian people. Third, customary law rights are recognized, particularly in the land sector, which is known for the existence of ulayat rights. The UUPA recognizes customary land rights in its own right. The concept of ulayat rights corresponds to Article 6 of the UUPA, which states that land must serve a societal purpose. This suggests that the purpose of property is to serve not only personal interests, but also the greater good of the community or the common good. Individual land rights such as Hak Milik (HM), Hak Guna Usaha (HGU), Right to Build (HGB), Right to Use (HP), Waqf, and Guarantee Rights to land are also recognized by the UUPA. In the control and use of land, the Indonesian land law system is clearly based on the noble ideals of the Indonesian country itself, such as unity, fairness, prosperity, and kinship, while yet sticking to the principle that land must have a social function.

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