




Land Mafia Case Handling Through the Optimalization of Land Mafia Task Force Role

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Abstract

Introduction: Various aspects regarding the importance of land often become conflicts in the society, such as land ownership status conflict, land tenure status conflict and compensation for land acquisition and usage. The forms of the legal mafia practice are brokers in buying and selling cases, bribes, illegal levies and land mafia due to inaccurate land data.

Purposes of the Research: Explaining and analyzing how the state has handled cases of land mafia practices so far and the optimization of the role of the Land Mafia Task Force in preventing and eradicating the practice of the Land Mafia..

Methods of the Research: The approach of the research is qualitative, verificative, evaluative, through statutory approach, and case approach. With documentation data collection techniques, audiovisual materials, and supported by interviews.

Results of the Research: The handling of cases of land mafia practices through optimizing the role of the Land Mafia Task Force so far has never reflected the principle of prudence and respect for land rights holders. In handling land mafia cases, actions are often done arbitrarily to the detriment of the actual land rights holders that they do not reflect justice, balance, and does not protect the ownerships' rights. The legal formula optimizes the role of the Land Mafia Task Force in preventing and eradicating land mafia practices, which is the formation of a Special Cross-Ministerial Team and Academics by making SOPs and technical instructions in carrying out activities to prevent and eradicate land mafia.

1. INTRODUCTION

Land is a highly important facility in a development and for humankind's lives. Therefore, the high economic value of a rightful land status results in law violations and conflicts in the land sector. This happens because land problems that often occur include land disputes, land grabbing, occupying land without a permit, naming other people's property, destroying plants, destroying other people's fences and other actions related to land issues.

Land issues are increasingly complicated¹ because they involve mafias who commit organized crimes so that their crimes are difficult to be legally traced, because they hide behind law enforcement and services. This means that land is a very important tool in human life and development². Viewed from the economic aspect as a means of production that can bring prosperity and assets (industrial, agricultural, commercial). Meanwhile, the political aspect of land can determine a person's position in decisions for the community. Finally, from a legal perspective, it is the basis of power for jurisdiction³.

However, from various aspects the importance of land this often becomes a conflict in the community which is marked by land conflicts that arise regarding the status of land ownership, land tenure status, compensation for land acquisition and land use status. The forms of this legal mafia practice include brokers/brokers in cases of buying and selling cases, bribery, illegal levies and land mafia⁴.

In terms of the form of cases of land mafia practices, namely document falsification, falsification of land certificates and changes to land boundaries. The cause of the rise of land mafia cases is due to inaccurate land data. With evil consensus as the *modus operandi* of the case done by the land mafia by means of that occurs, causing disputes, conflicts and land cases, including⁵: a). The Village Head making a copy of the *girik*, a proof of adat land payment, making a certificate of dispute-free land, making a certificate of physical control or making more than one land certificate to several parties for the same plot of land; b). Forgery of land-related documents such as *eigendom* certificates, *kikitir/girik*, and land certificates; c). Provoking the community to corrupt or exploit land illegally on plantation lands with Right to Cultivate, both expiring and still valid; d). Changing or shifting and removing land boundary markers; e). Applying for a replacement certificate because it is lost even though the certificate is not lost and is still held by the owner, resulting in the circulation of two certificates on the same plot of land; f). Using the services of thugs to control the land; g). Fabricated lawsuits in court for rights.

Through a judiciary way by utilizing the court to legalize the ownership of land by:⁶ a). Carrying out a lawsuit in court using false rights, so that the false data becomes legal with a court decision that has permanent legal force; b). Carrying out a manipulated lawsuit in court to obtain land rights, even though both the plaintiff and the defendant are part of the mafia group and the actual land owner is not involved as a party; c). Purchasing lands that are being litigated in court and giving bribes to law enforcement so that the decision is in favor of the group; d). Carrying out endless lawsuits, and lead to many court decisions

¹ Damianus Krismantoro, "Kebijakan Pencegahan dan Pemberantasan Mafia Tanah: Reforma Agraria di Indonesia," *Jurnal Kewarganegaraan*. 6 no. 3 (2022): <https://journal.upy.ac.id/index.php/pkn/article/download/4105/2591>

² "Dr. Aartje Tehupeiory, S.H., M.H.: Mafia Tanah Banyak Terlibat Dalam Sengketa Tanah," Ina Koran, uploaded on 29 September 2018, <https://youtu.be/4OLwEqWIO6o/MafiaTanah-Banyak-Terlibat-Dalam-Sengketa-Tanah>

³ "Dr. Aartje Tehupeiory, S.H., M.H.: Tanah Penting Baik Dari Aspek Ekonomi, Politik Maupun Sosial," Ina Koran, uploaded on 29 September 2018, <https://youtu.be/IWZEGUQ3E0o/TanahPenting>

⁴ Sofyan A. Djalil, "Pemberantasan Mafia Tanah," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 4

⁵ Arie S. Hutagalung, "Penegakan Hukum Terhadap Praktik Mafia Tanah," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 10

⁶ Gayus Lumbuun, "Penegakan Hukum Sengketa Pertanahan dalam Perspektif Penanganan Perkara di Pengadilan dan Kejaksaan," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 11

that have permanent legal force whose contents contradict each other, so that these decisions cannot be carried out or executed and the land becomes unusable.

In addition, this evil agreement is also carried out in an authentic deed / certificate by the land mafia by involving public officials, namely Notary, Land Deed Official, Subdistrict Head or Village Head which results in disputes, conflicts and land cases with broad dimensions. Several cases in DKI Jakarta with fictitious Notary as a *modus operandi*, where the victim's loss was Rp. 85 Billion, was revealed in February 2020. In Banten, the *modus operandi* was falsification of land documents, the victim's loss was Rp. 4 billion revealed January 5, 2021 and in Central Java, by falsification of land documents, which caused the loss of 8,250 m² of rice field⁷. Based on the land mafia cases, this article will elaborate on how to handle land mafia practice cases through optimizing the role of the Land Mafia Task Force.

In order to focus to the differences in previous research articles, the following will present several research articles that examine cases of land mafia practices, first, Yunawati Karlina, with the research title of "Eradication of the Land Mafia using Criminal Law instruments in Indonesia". Eradication land mafia by using criminal law instruments at this time is the right method because it can quickly solve land mafia crimes⁸. The second is an article from Dian Cahyaningrum, titled "Eradication of the Land Mafia". Several efforts to eradicate it are to take strict actions against the mafia, improving the integrity and professionalism of the government, improving inter-agency coordination, land certification and increasing community participation or activeness in protecting their land⁹.

The third article is by Sugiyo, titled "Social Problems in the Short Story of the Land Mafia". Social problems, including gender injustice in the form of marginalization that lawbreakers not only receive legal sanctions that have been stipulated, but also social sanctions from society, especially from the parties experiencing loss¹⁰. The fourth article is written by Damianus Krismantoro, "Policy for Prevention and Eradication of Land Mafia: Agrarian Reform in Indonesia". This article explains on how to be able to implement policies regarding prevention and eradication of land mafia in Indonesia¹¹. The fifth and the last article is from Prima Novianti Salma, titled "Settlement of Land Disputes Regarding Double Certificates as a Result of Land Mafia Crimes. The existence of village officials, especially village chiefs who know full well the status of land in their environment who are then

⁷ Pusat Pengembangan dan Standarisasi Kebijakan Agraria, Tata Ruang dan Pertanahan, Kementerian ATR/BPN, "Laporan Kinerja Pusbang SKATP Tahun 2021", accessed 24 October 2022, <https://ppskatp.atrbpn.go.id/upload/kinerja/KINERJA00241.pdf>

⁸ Yunawati Karlina, Irwan Sapta Putra, "Pemberantasan Mafia Tanah dengan Menggunakan Instrumen Hukum Pidana di Indonesia," *Jurnal Res Justitia* 2, no. 1 (Januari 2022): 1, <https://www.resjustitia.lppmbinabangsa.id/index.php/home/article/view/28/27>

⁹ Vani Wirawan, et al, "Rekonstruksi Politik Hukum Sistem Pendaftaran Tanah Sebagai Upaya Pencegahan Mafia Tanah," *Jurnal Negara Hukum*: 13, no.2 (2022): 1, <https://jurnal.dpr.go.id/index.php/hukum/article/view/3134>

¹⁰ Sugiyo, "Masalah-Masalah Sosial dalam Cerpen "Mafia Tanah" Karya Eko Darmoko," *Jurnal Sasindo Unpam* 10, no. 1 (2022): 1, <http://openjournal.unpam.ac.id/index.php/Sasindo/article/view/20831>

¹¹ Damianus Krismantoro, "Kebijakan Pencegahan dan Pemberantasan Mafia Tanah: Reforma Agraria di Indonesia," *Jurnal Kewarganegaraan* 6, no. 3 (October 2022): 1, <https://journal.upy.ac.id/index.php/pkn/article/view/4105>

tempted by the persuasion of the land mafia to issue fake *girik* or *perfonding* accompanied by other supporting documents such as from RT/RW down to the sub-district level¹².

2. METHOD

The research method in this study uses several approaches, namely the first approach to legislation, (statute approach). The two case approaches are used to obtain an overview of the impact of the enforcement dimension in the rule of law in legal practice and use the results of the analysis for input and legal exploitation¹³. To get accurate data, this research uses primary data and secondary data. To support the research instrument, interviews were conducted in this study to the Forum for Victims of the Indonesian Land Mafia Practice, the National Land Agency, Advocates, Police, and Agrarian Reform Consortium. With study locations representing the West Indonesia region (Jakarta, West Java, Central Java), the Central Indonesia region (Kalimantan, Sulawesi, Bali) and Eastern Indonesia (Papua). The consideration becomes a place of study because these locations are very strategic areas to carry out land mafia modes and cause a lot of harm to people who have good intentions in controlling land. With data collection techniques, namely documentation, audiovisual materials, and supported by interviews¹⁴. The data collection technique in this study is through interviews in checklist sheets and using other methods that are in accordance with the research approach. The data analysis carried out is a descriptive analysis.

3. RESULTS AND DISCUSSION

3.1 Handling Cases of Land Mafia Practices So Far

By referring to the constitutional provisions, the basis of the philosophical sources is regulated in Article 33 paragraph (3) of the 1945 Constitution states "Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people". This article means that in handling cases of land mafia practices, it shows; first, the spirit of eradicating the land mafia, second, the source of the philosophy or soul of the use of the earth or land is to give as much as possible for the prosperity of the people, and third, the practices of the land mafia really hurt the noble spirit of the Indonesian nation¹⁵. The next meaning is that land located in the territory of the Republic of Indonesia is controlled by the State and the State can determine these fields to be owned and owned by its citizens with certain rights. The granting of rights by the State to its citizens is stipulated in a government determination (*beschikking*). A legal proof for the people that the person concerned is the owner of the land and therefore has the right to protection¹⁶. However, in order to realize what is desired by Article 33 paragraph (3) of the 1945 Constitution, it turns out that the idea is being held back by the existence of land mafias¹⁷.

¹² Prima Novianti Salma, Habib Adjie, "Penyelesaian Sengketa Tanah Mengenai Sertipikat Ganda Akibat Tindak Pidana Mafia Tanah," *Jurnal Pendidikan dan Konseling* 5, no. 1, <http://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/11824>

¹³ Jhony Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Jakarta: Bayumedia, 2007), p.307.

¹⁴ John W. Creswell, *Penelitian Kualitatif & Desain Riset* (Yogyakarta: Pustaka Pelajar, 2015), p.5

¹⁵ Aartje Tehupeiory, *Role Model Pemberantasan Mafia Tanah*. (Jakarta: Forum Indonesia Adil, 2022), p. 2

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¹⁶ Gunanegara, "Pengadaan Tanah oleh Negara untuk Kepentingan Umum" Disertasi., Universitas Airlangga, 2012, p. 1.

¹⁷ Putri Fransiska Purnama, "Upaya Pemberantasan Mafia Tanah di Kota Palangkaraya," *Jurnal Untidar Home 5*.No.2 (2021): 1, <https://jurnal.untidar.ac.id/index.php/literasihukum/article/view/4762>

The rise of the land mafias shows that land has become a high and promising economic investment commodity, thus attracting certain interests to own and control it in various ways, resulting in law violations, disputes, and conflicts in the land sector. Land problems are increasingly complicated because they involve land mafias who commit organized crimes which make their crimes difficult to be legally traced, because they hide behind law enforcement and services. In the context of national land law, the control and use of land without any basis for its rights (illegal) is not justified, and even threatened with criminal sanctions¹⁸.

However, it is still carried out by land mafias who are widely dominated (such as cases throughout Indonesia throughout 2021 – 2022 August). Based on data collection with a case approach, it can be obtained an overview of the impact of law enforcement dimensions in legal practice, including: a). Land Confiscation by Developers: The data obtained is based on the results of interviews and documentation with informants in the process of land grabbing belonging to Nur & SK. Located in the Cengkareng area of West Jakarta, has a land area of 10,259 m² with proof of ownership of *girik* and with landfills and fences around the container warehouse. It was by PT. SDA on the basis of seizing the Certificate of Building Use Rights. This case is being processed by law by being reported to the Criminal Investigation Unit for Land Acquisition and the Karo Wassidik case and a letter from the Mayor of West Jakarta to the Governor regarding violations; b) Case of Land Mafia Victim Nirina Zubir: A former household assistant was assisted by three Land Deed Officials in the process of transferring names to properties located in the West Jakarta area. Of all the total assets, she said, two land certificates belonging to his mother had been sold to a third party¹⁹. Meanwhile, the four building assets have been mortgaged by their former assistant to the bank. The money is allegedly used by the household assistant to manage the frozen food business that has been running for the past few years. Nirina also admitted that she regretted that there were parties from a notary who helped embezzle assets with the former household assistant²⁰. Nirina admitted that she had reported a number of parties involved in the asset embezzlement process to the Polda Metro Jaya. ²¹ To support this data, a special interview was conducted regarding the victim of the land mafia, namely Nirina Zubir as a victim, Vice Minister of Agrarian Affairs and Spatial Planning Ministry, Surya Candra and researcher (Aarce Tehupeiori). This particular interview was conducted by RRI PRO 3 FM on November 19, 2022; c) Case of Druwe Land of Pura Lemukih Village, Mengening Temple, Ceniara Geseng Temple, Leniukih Village, Sawvan District, Buleleng Regency: With the absence of land surveying by the Officials of the National Land Agency of Buleleng Regency and the police unwilling to arrest a group of people with sharp weapons, carrying batons and blocking public roads with wooden blocks were used to prevent the National Land Agency officials from carrying out the task of taking inventory and measuring the exact location and boundaries of the Druwe Pura land plot. This has reported in the mass media

¹⁸ Bambang Prayitno, "Pertanggungjawaban Mafia Tanah Dalam Tindak Pidana Korupsi," *Jurnal Hukum dan Ekonomi* 9 No.2 (2021) https://web.archive.org/web/20220425200811id_/https://jurnal.uns.ac.id/hpe/article/d

¹⁹ Dinda Bhawika Wimala Pastika, et al, "Tinjauan Yuridis Terhadap Sertipikat Hak Atas Tanah yang Dibalik Nama Tanpa Persetujuan Pemegang Hak (Studi Kasus: Mafia Tanah Art Nirina Zubir)," *Jurnal Gorontalo Law Review* 5, no. 1 (2022): 1, <https://jurnal.unigo.ac.id/index.php/golrev/article/view/2105>

²⁰ Chatrin Intan Sari, "Tinjauan Yuridis Peran Notaris/Ppat Pada Kasus Pemindahan Aset Nirina Zubir," *Jurnal Justitia*. 9 No.6 (2022): 1

²¹ "Kronologi Lengkap Kasus Mafia Tanah Nirina Zubir," *CNN Indonesia*, 18 November 2021, <https://www.cnnindonesia.com/nasional/20211118080653-20-722758/kronologi-lengkap-kasus-mafia-tanah-nirina-zubir>

both electronic and print continuously for days. To support the data, the author conducted interviews with legal representatives from these villages where there was a land mafia in the province of Bali. In the End of Year Reflection on Deciding the Ecosystem and Empisentrum of the Land Mafia at the MPR RI²² on December 14, 2021; d) Land Mafia Victim in Makassar, South Sulawesi: Land mafia victim Mukhtar Tompo spoke up about the alleged theft of his 55 hectares of land located in Makassar City, South Sulawesi. After 30 years of fighting and winning in seven courts, the Makassar National Land Agency has never issued a Right of Exploitation certificate for his land. The story begins with a land auction that was officially purchased by his family in 1961. Towards the end of the The Right of Exploitation period, his family applied for an extension. One year earlier his family had requested for an extension and at that time they were waiting for information from the National Land Agency. But they received no information, whether the extension was accepted or not and in the process suddenly his land was divided without any notification to him. For almost 30 years, the dispute has not been resolved even though it has involved the ministry, the Ombudsman, and the TNI-Polri. There's a dissent from Court Decision, and the internal mechanisms at BPN is questioned. "There's been a lot going on here, frankly, we have a culture of fighting for our rights. The victim has sold land and cars to fight for rights". To support the data above, the researcher conducted interviews with the victim Mukhtar Tompo as one of the victims of the land mafia. In the End of Year Reflection on Deciding the Ecosystem and Empisentrum of the Land Mafia at the MPR RI²³ on December 14, 2021; e) Confiscation of *Adat* Land in Kampong Nafire, Jayapura City: The issue of customary land in Papua in Nafire village, Jayapura City which is currently in litigation and is going viral on social media for the loss of customary rights due to land grabbing by the land mafia, has been published certificates without taking customary land and issuing certificates without going through a data validation process that is in accordance with procedural (administrative defects). To support the data, the researcher conducted interviews with legal counsel from representatives of the village of Nafire, Jayapura city, broadcasted audiovisually on TVRI on 15 and 19 November 2021²⁴ and the chief of the Awi tribe, Wamua Nafri, who wrote a letter to the President regarding customary rights²⁵; f) Conversion of mangroves to oil palm plantations in North Sumatra: The Wildlife Sanctuary has been converted to function as a mangrove forest, but has been converted into an oil palm plantation with an area of 210 ha with 28,000 palm trees planted. The Pidsus team found that there were individuals acting on behalf of the cooperative to encroach on the land there by turning it into oil palm plantations. This is the mode of those who want to encroach on the land.

3.2 Data Analysis

Based on the description of the cases above, using a case approach and a statutory approach, nationally this shows that the issue of land mafia is very much against the

²² Sumitro, "Pakar: Mafia Tanah Tak Akan Berhenti Jika Moral Pejabat Tidak Dijunjung Tinggi," *Times Indonesia*, 14 Desember 2021, <https://www.timesindonesia.co.id/read/news/387153/pakar-mafia-tanah-tak-akan-berhenti-jika-moral-pejabat-tidak-dijunjung-tinggi>

²³ "Mukhtar Tompo "BPN Mafia Tanah" Tangkap Mereka ...," MT Channel, uploaded 17 December 2021, <https://youtu.be/jod-FUCG848>

²⁴ Indra, "DR. Aartje Tehupeiry Angkat Bicara Soal Terbitnya 50 Sertifikat di Tanah Adat Suku Awi Wamuar," *RiauKontras*. 19 November 2021, <https://m.riaukontras.com/read-21854-2021-11-19-dr-aartje-tehupeiry-angkat-bicara-soal-terbitnya-50-sertifikat-di-tanah-adat-suku-awi-wamuar.html>

²⁵ "Kepala Suku Awi Wamuar Nafri Tulis Surat pada Presiden Soal Hak Adat," *Realita.co*, 14 November 2021, <https://www.realita.co/baca-5842-kepala-suku-awi-wamuar-nafri-tulis-surat-pada-presiden-soal-hak-adat#.YZCMdAJghfg.whatsapp>

principles of land tenure given by the national land law. The problem is whether these principles are understood by legal experts in the courts, the police, the prosecutor's office so that they do not harm the actual land rights holders. Many modes are done by the land mafia, the cause of this land mafia being able to act is because of the inaccurate data on land ownership between those recorded in RT, RW, Kelurahan, Tax Office, BPN. This is done with an evil conspiracy, arising the disputes and land cases in the society.

This weakness can occur due to gaps in data collection of lands in Indonesia which are not yet accurate, causing overlapping land ownership, disputes, land conflicts and so on. Legal Mafia takes place through the utilization of legal and administration vulnerabilities such as²⁶ for the performance network of the Land Mafia, all loopholes in the legal provisions and land administration as well as the neglect of open land rights holders are used as opportunities to carry out their illegal performance to gain benefits and harm other parties. Efforts to eradicate the Land Mafia must close or repair gaps that are a factor in the entry of the Land Mafia network. As long as the gap is still open, then the Land Mafia network will also take advantage of it.

Among the gaps that are used as opportunities are the lack of integration of land administration managed by the National Land Agency and its staff down with land administration in the village which manages land administration which requires the integration of land administration. This condition is further exacerbated by policies imposed by certain regions that allow villages and customary leaders to issue Land Certificates (SKT)²⁷ or Adat Land Certificates (SKTA). The existence of several sources of land administration that have not been integrated is an opportunity for the Land Mafia to carry out its illegal performance network through the use of various evidences from different administrative sources. The absence of a single or plural form of proof of rights opens up opportunities for the entry of the Land Mafia network by taking advantage of the existence of various forms of evidence of existing rights.

The lack of single proof of rights is due to the land registration process throughout Indonesia has not yet been completed so that the use of proof of land rights that existed prior to Government Regulation No. 24 of 1997 concerning Land Registration still recognizes several documents as initial evidence, namely Certificates as tools strong evidence, as well as several documents as initial evidence, namely *Girik/Petuk/Surat Rincikan*, as well as a Statement of Subjects who control the Land physically continuously for 20 years or more for land ownership that is not accompanied by written evidence. This provision has provided an opportunity for the Land Mafia to take advantage of it. In addition, there is no further regulation on the occurrence of Property Rights according to Adat Law so that evidence is still recognized in the form of continuous physical land tenure in good faith based on customary law. The use of proof of land rights originating from Western Law, namely the *Eigendom/Erfpacht/Opstal* Deed of Rights is also still possible. Even though it should have not been used since 1980, Government Regulation No. 24 of 1997 still allows it. Only with Government Regulation No. 18 of 2021 the said evidence is declared no longer allowed to be used.

²⁶ Nurhasan Ismail, *Upaya Memberantas Mafia Tanah*, (Jakarta: Strategi Pemberantasan Mafia Tanah untuk Kepastian Hukum dan Keadilan, 2021), p.10

²⁷ Putri Fransiska Purnama Pratiwi, "Upaya Pemberantasan Mafia Tanah di Kota Palangka Raya," *Jurnal Literasi Hukum* 5, no. 2 (2021), 1, <https://jurnal.untidar.ac.id/index.php/literasihukum/article/view/4762>

The liberal rights of land granting policy opens up opportunities for the Land Mafia: The granting of very wide land rights up to tens of thousands or even hundreds of thousands of hectares and is only determined by the ability to meet the following requirements: Administrative requirements including a statement of use plan; The technical requirements, mainly related to the level of risk to the social and natural environment; The financial requirements, mainly to pay licensing fees and fees for acquiring land rights as well as compensation to former owners.

Not accompanied by instruments and supervisory capabilities in a preventive manner, namely measuring the potential capacity of the capital owned to be able to use/operate all the land requested and to be granted in a very wide amount and a specified time as well as a guarantee that the capital funds really exist, for example, stored in a Bank appointed by the Government; Repressively by namely monitoring the implementation of business activities within a predetermined time including giving warnings and even statements of land abandonment. As a result, the occurrence of speculative land giving and ownership which will inevitably lead to abandonment or not being productively cultivated²⁸; the existence of land that is not used certainly attracts the interest of the Land Mafia to control and exploit it.

Efforts to prevent conflicts stemming from these factors are: Rearranging the policy of granting rights of land. If the liberal character cannot be changed, then the distribution is carried out in stages according to the ability of the capital; The potential of abandoned/unproductive land must be stopped. The high level of competition between Land Deed Officials is also used by the Land Mafia to obtain documents for the transfer of land rights. The assignment of Land Deed Official is no longer based on the formation of a shortage of Land Deed Official in one area so that in an open area the placement of a new Land Deed Official with the consequence of competition between them occurs. High competition encourages PPAT to ignore its obligation to guarantee the material truth of physical data and land juridical data which is included in the Deed it makes. with the consequence of being exploited by the Land Mafia network²⁹.

Attitudes as rights holders who do not fully understand the importance of certificates or proof of land ownership and the risks that can occur if the certificate or proof of ownership is handed over and controlled by other parties because they are open to misuse, including the Land Mafia network. Counseling will be important and at the same time the risk of certificates so that they are not easily handed over to parties is very important.

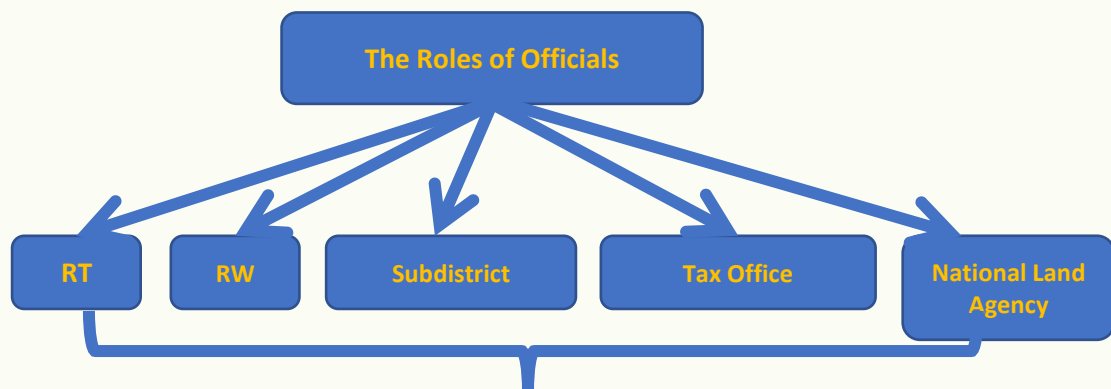
The commitment of implementing and law enforcement officers to maintain professionalism and independence is sometimes weakened so that they are easily exploited and influenced by the Land Mafia network. Therefore, supervision of implementers and law enforcers must still be carried out continuously. The steps that must be taken are³⁰ correction and structuring as well as valid data collection of lands throughout Indonesia by the National Land Agency. The next solution, which is the key to breaking the ecosystem and epicenter of the land mafia not to repeat the actions of the land mafias, is the need for openness measures by revising the land ownership data accurately and building an integrated system of land data collection to prevent errors from occurring. The next solution is the management of ownership rights and the transfer of land rights can only be managed using one system either at the level (RT RW (neighborhood unit), Subdistrict, Tax Office,

²⁸ *Ibid.* 14

²⁹ *Ibid.* 15

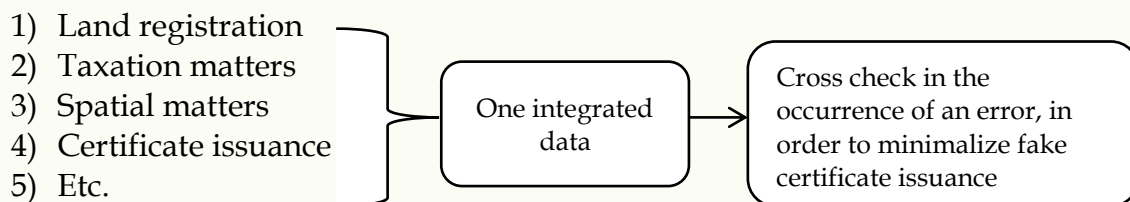
³⁰ Aarce Tehupeiory, *Role Model Pemberantasan Mafia Tanah*, (Jakarta : Forum Keadilan, 2022), p.18-21

National Land Agency). There also needs to be systematic efforts to resolve land mafia cases can be done by activating networks with the wider community so that there is openness and recovery to the community. This is necessary to prevent the issuance of fake land rights certificates so that the legality of the certificates can be monitored properly. Another solution is that the role of BPN should be further enhanced in handling land ownership cases so that conflicts can be properly minimized. So far, what has happened tends to wait for a decision from the court for problematic land ownership between land owners and the land mafia. This causes the original land owners to feel disappointed so that they feel apathetic about the resolution of the land conflict/dispute. When this happens, the land mafia ecosystem is growing. There needs to be an immediate solution, resulting in the National Land Agency is given the authority to be able to screen data on the material truth of the land (especially the transfer of land rights). The last solution is the government needs to also develop a regulation which solves land disputes, especially in the prevention of land mafias³¹. The key to stopping the land mafia in terms of restoring land rights, especially in the case of behind names, must be verification in the field regarding the measurement of land boundaries, land area and so on.



Picture 1: Committed Integrated Data System to Eradicate the Ecosystem and Epicentrum of Land Mafia

The road map necessary built for registering land are electronic-based land registration system, which covers the following steps:



Based on the Road Map above, it can be concluded that optimizing the Anti Land Mafia Task Force, it is better if elements of the Land Mafia Task Force can be involved from elements of academics, the community who are serious about implementing the mechanism for implementing the Anti Land Mafia Task Force in eradicating the Land Mafia. Another

³¹ Vani Wirawan, et al, "Rekonstruksi Politik Hukum Sistem Pendaftaran Tanah Sebagai Upaya Pencegahan Mafia Tanah," *Jurnal Negara Hukum*: 13, no 2 (2022): 1, <https://jurnal.dpr.go.id/index.php/hukum/article/view/3134>

conclusion is by creating and bettering the legal synchronization between land law and criminal law information technology related to the problem of proving ownership of land rights. Furthermore, the police can request assistance, for example (Center for Analytical Research and Financial Transactions (PPATK) to trace the flow of proceeds of crime by using a non-criminal offense of money laundering, then the proceeds of the crime can be returned to the party experiencing loss.

Physical land certificates resulting from crimes are returned to the real owner who is the victim of this criminal decision, the victim of the land mafia does not need to be together to get a recovery of losses (in the Order of the Judge's Decision who examines the transfer of a criminal case can order that the money from the crime of fraud and forgery be returned to the rightful party. In order to decide the Ecosystem and Epicenter of the Land Mafia, there are several actions which can be done. For example, land must be used and not neglected, meaning that the land owner must function the land and control it physically; The administration of land ownership should be carried out alone, meaning that the land owner may not send other people to the land. an administrative affairs of land ownership; BPN has built an application system that is more massive on a national scale with the program "Touch My Land or Keep My Land" to raise public awareness of land registration literacy. The second solution is for the National Land Agency socializes to the community to immediately legalize their land ownership status, because with the legality of land in the form of land title certificates, the community will be more protected from land mafias. The state must enforce the law against land mafia cases politically that is, a precise strategy is needed by activating all institutions related to land problems or conflicts as effectively as possible through law enforcement. The criminal law strategy was initiated by the formulation of a special law on the eradication of non-criminal land mafia (ad hoc courts) land acquisition).

Throughout 2021 the Land Mafia Task Force handled 69 cases, as many as 6 cases were resolved with a restorative justice approach both at the investigation and investigation stages. Which is carried out periodically with analysis with evaluation and internal coordination meetings including with the Ministry of Agrarian Affairs and Spatial Planning³².

Oriented to the views of Aristotle as a role model for John Rawls, who said that corrective justice focuses on correcting something wrong or corrective or remedial justice, correcting any imbalance in communication by restoring equality in any case that existed before the error³³. By using John Rawls' perspective on justice, it can be concluded that the handling of cases of land mafia practices that have occurred so far has never reflected the principle of prudence and respect for land rights holders. This is in practice handling cases of land mafia, often actions taken arbitrarily harm the actual land rights holders so that in its application it is not carried out properly, it is unfair and there is no balance between the sacrifices demanded from the people should be carried out through a fair process. there is no balance between individual interests, common interests together with this balance provide justice to the community by not reflecting justice, balance, and not protecting the actual rights of the people to the land they own.

³² Dian Cahyaningrum, "Pemberantasan Mafia Tanah," *Jurnal Info Singkat* 13, no. (December 2021): 1,

³³ Jon Rawls, *A Theory of Justice* (Massachusetts: The Belnap Press of Harvard University Press, Cambridge, 2016), p. 1

4. CONCLUSION

Based on the above discussion, it can be concluded that the handling of cases of land mafia practices through optimizing the role of the land mafia task force that has occurred so far has never reflected the principle of prudence and respect for land rights holders. This is because in the practice of handling land mafia cases, actions are often carried out arbitrarily to the detriment of the actual land rights holders so that in their application it is not carried out properly and unfairly and there is no balance. The application does not reflect justice, balance, and does not protect the actual rights of the people to the land they own. The legal formula optimizes the role of the land mafia task force in preventing and eradicating land mafia practices, namely the formation of a Special Cross-Ministerial Team (Ministry of Environment and Forestry, Ministry of Public Works and Housing, Ministry of Agrarian Affairs and Spatial Planning, Attorney General, Police including Corruption Eradication Commission) and Academics which is not involved in a land dispute or land conflict, to ensure their integrity. By making SOPs and technical instructions in carrying out activities to prevent and eradicate land mafia.

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Land Mafia Case Handling Through the Optimalization of Land Mafia Task Force Role

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ABSTRACT

Introduction: Various aspects regarding the importance of land often become conflicts in the society, such as land ownership status conflict, land tenure status conflict and compensation for land acquisition and usage. The forms of the legal mafia practice are brokers in buying and selling cases, bribes, illegal levies and land mafia due to inaccurate land data.

Purposes of the Research: Explaining and analyzing how the state has handled cases of land mafia practices so far and the optimization of the role of the Land Mafia Task Force in preventing and eradicating the practice of the Land Mafia.

Methods of the Research: The approach of the research is qualitative, verificative, evaluative, through statutory approach, and case approach. With documentation data collection techniques, audiovisual materials, and supported by interviews.

Results of the Research: The handling of cases of land mafia practices through optimizing the role of the Land Mafia Task Force so far has never reflected the principle of prudence and respect for land rights holders. In handling land mafia cases, actions are often done arbitrarily to the detriment of the actual land rights holders that they do not reflect justice, balance, and does not protect the ownerships' rights. The legal formula optimizes the role of the Land Mafia Task Force in preventing and eradicating land mafia practices, which is the formation of a Special Cross-Ministerial Team and Academics by making SOPs and technical instructions in carrying out activities to prevent and eradicate land mafia.

Keyword : *Case Handling, Land Mafia Practice, Land Mafia Task Force Optimalization*

1. INTRODUCTION

Land is a highly important facility in a development and for humankind's lives. Therefore, the high economic value of a rightful land status results in law violations and conflicts in the land sector. This happens because land problems that often occur include land disputes, land grabbing, occupying land without a permit, naming other people's property, destroying plants, destroying other people's fences and other actions related to land issues.

Land issues are increasingly complicated¹ because they involve mafias who commit organized crimes so that their crimes are difficult to be legally traced, because they hide behind law enforcement and services. This means that land is a very important tool in human life and development². Viewed from the economic aspect as a means of production that can bring prosperity and assets (industrial, agricultural, commercial). Meanwhile, the political aspect of land can determine a person's position in decisions for the community. Finally, from a legal perspective, it is the basis of power for jurisdiction³.

However, from various aspects the importance of land this often becomes a conflict in the community which is marked by land conflicts that arise regarding the status of land ownership, land tenure status, compensation for land acquisition and land use status. The forms of this legal mafia practice include brokers/brokers in cases of buying and selling cases, bribery, illegal levies and land mafia⁴.

In terms of the form of cases of land mafia practices, namely document falsification, falsification of land certificates and changes to land boundaries. The cause of the rise of land mafia cases is due to inaccurate land data. With evil consensus as the modus operandi of the case done by the land mafia by means of that occurs, causing disputes, conflicts and land cases, including⁵:

- a. The Village Head making a copy of the *girik*, a proof of adat land payment, making a certificate of dispute-free land, making a certificate of physical control or making more than one land certificate to several parties for the same plot of land;
- b. Forgery of land-related documents such as *eigendom* certificates, *kikitir/girik*, and land certificates;
- c. Provoking the community to corrupt or exploit land illegally on plantation lands with Right to Cultivate, both expiring and still valid;
- d. Changing or shifting and removing land boundary markers;

¹ Damianus Krisnantoro, "Kebijakan Pencegahan dan Pemberantasan Mafia Tanah: Reforma Agraria di Indonesia," *Jurnal Kewarganegaraan*. 6 no. 3 (2022):

<https://journal.upy.ac.id/index.php/pkn/article/download/4105/2591>

² "Dr. Aartje Tehupeior, S.H., M.H.: Mafia Tanah Banyak Terlibat Dalam Sengketa Tanah," Ina Koran, uploaded on 29 September 2018, <https://youtu.be/4OLwEqWIO6o/MafiaTanah-Banyak-Terlibat-Dalam-Sengketa-Tanah>

³ "Dr. Aartje Tehupeior, S.H., M.H.: Tanah Penting Baik Dari Aspek Ekonomi, Politik Maupun Sosial," Ina Koran, uploaded on 29 September 2018, <https://youtu.be/IWZEGUQ3E0o/TanahPenting>

⁴ Sofyan A. Djalil, "Pemberantasan Mafia Tanah," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 4

⁵ Arie S. Hutagalung, "Penegakan Hukum Terhadap Praktik Mafia Tanah," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 10

- e. Applying for a replacement certificate because it is lost even though the certificate is not lost and is still held by the owner, resulting in the circulation of two certificates on the same plot of land;
- f. Using the services of thugs to control the land;
- g. Fabricated lawsuits in court for rights.

Through a judiciary way by utilizing the court to legalize the ownership of land by:⁶

- a. Carrying out a lawsuit in court using false rights, so that the false data becomes legal with a court decision that has permanent legal force;
- b. Carrying out a manipulated lawsuit in court to obtain land rights, even though both the plaintiff and the defendant are part of the mafia group and the actual land owner is not involved as a party;
- c. Purchasing lands that are being litigated in court and giving bribes to law enforcement so that the decision is in favor of the group;
- d. Carrying out endless lawsuits, and lead to many court decisions that have permanent legal force whose contents contradict each other, so that these decisions cannot be carried out or executed and the land becomes unusable.

In addition, this evil agreement is also carried out in an authentic deed / certificate by the land mafia by involving public officials, namely Notary, Land Deed Official, Subdistrict Head or Village Head which results in disputes, conflicts and land cases with broad dimensions. Several cases in DKI Jakarta with fictitious Notary as a *modus operandi*, where the victim's loss was Rp. 85 Billion, was revealed in February 2020. In Banten, the *modus operandi* was falsification of land documents, the victim's loss was Rp. 4 billion revealed January 5, 2021 and in Central Java, by falsification of land documents, which caused the loss of 8,250 m² of rice field⁷. Based on the land mafia cases, this article will elaborate on how to handle land mafia practice cases through optimizing the role of the Land Mafia Task Force.

In order to focus to the differences in previous research articles, the following will present several research articles that examine cases of land mafia practices, first, Yunawati Karlina, with the research title of "Eradication of the Land Mafia using Criminal Law instruments in Indonesia". Eradication land mafia by using criminal law instruments at this time is the right method because it can quickly solve land mafia crimes⁸. The second is an article from Dian Cahyaningrum, titled "Eradication of the Land Mafia". Several efforts to eradicate it are to take strict actions against the mafia, improving the integrity and professionalism of

⁶ Gayus Lumbuun, "Penegakan Hukum Sengketa Pertanahan dalam Perspektif Penanganan Perkara di Pengadilan dan Kejaksaan," *Seminar ILUNI S3 FH Universitas Indonesia 2018* (2018): 11

⁷ Pusat Pengembangan dan Standarisasi Kebijakan Agraria, Tata Ruang dan Pertanahan, Kementerian ATR/BPN, "Laporan Kinerja Pusbang SKATP Tahun 2021", accessed 24 October 2022, <https://ppskatp.atrbpn.go.id/upload/kinerja/KINERJA00241.pdf>

⁸ Yunawati Karlina, Irwan Sapta Putra, "Pemberantasan Mafia Tanah dengan Menggunakan Istrumen Hukum Pidana di Indonesia," *Jurnal Res Justitia* 2, no. 1 (Januari 2022): 1, <https://www.resjustitia.lppmbinabangsa.id/index.php/home/article/view/28/27>

the government, improving inter-agency coordination, land certification and increasing community participation or activeness in protecting their land⁹.

The third article is by Sugiyo, titled "Social Problems in the Short Story of the Land Mafia". Social problems, including gender injustice in the form of marginalization that lawbreakers not only receive legal sanctions that have been stipulated, but also social sanctions from society, especially from the parties experiencing loss¹⁰. The fourth article is written by Damianus Krismantoro, "Policy for Prevention and Eradication of Land Mafia: Agrarian Reform in Indonesia". This article explains on how to be able to implement policies regarding prevention and eradication of land mafia in Indonesia¹¹. The fifth and the last article is from Prima Novianti Salma, titled "Settlement of Land Disputes Regarding Double Certificates as a Result of Land Mafia Crimes. The existence of village officials, especially village chiefs who know full well the status of land in their environment who are then tempted by the persuasion of the land mafia to issue fake *girik* or *perfonding* accompanied by other supporting documents such as from RT/RW down to the sub-district level¹².

2. METHOD

The research method in this study uses several approaches, namely the first approach to legislation, (statute approach). The two case approaches are used to obtain an overview of the impact of the enforcement dimension in the rule of law in legal practice and use the results of the analysis for input and legal exploitation¹³. To get accurate data, this research uses primary data and secondary data. To support the research instrument, interviews were conducted in this study to the Forum for Victims of the Indonesian Land Mafia Practice, the National Land Agency, Advocates, Police, and Agrarian Reform Consortium. With study locations representing the West Indonesia region (Jakarta, West Java, Central Java), the Central Indonesia region (Kalimantan, Sulawesi, Bali) and Eastern Indonesia (Papua). The consideration becomes a place of study because these locations are very strategic areas to carry out land mafia modes and cause a lot of harm to people who have good intentions in controlling land. With data collection techniques, namely documentation, audiovisual materials, and supported by interviews¹⁴. The data collection technique in this study is through interviews in checklist sheets and using

⁹ Vani Wirawan, et al, "Rekonstruksi Politik Hukum Sistem Pendaftaran Tanah Sebagai Upaya Pencegahan Mafia Tanah," *Jurnal Negara Hukum*: 13, no.2 (2022): 1, <https://jurnal.dpr.go.id/index.php/hukum/article/view/3134>

¹⁰ Sugiyo, "Masalah-Masalah Sosial dalam Cerpen "Mafia Tanah" Karya Eko Darmoko," *Jurnal Sasindo Unpam* 10, no. 1 (2022): 1, <http://openjournal.unpam.ac.id/index.php/Sasindo/article/view/20831>

¹¹ Damianus Krismantoro, "Kebijakan Pencegahan dan Pemberantasan Mafia Tanah: Reforma Agraria di Indonesia," *Jurnal Kewarganegaraan* 6, no. 3 (October 2022): 1, <https://journal.upy.ac.id/index.php/pkn/article/view/4105>

¹² Prima Novianti Salma, Habib Adjie, "Penyelesaian Sengketa Tanah Mengenai Sertipikat Ganda Akibat Tindak Pidana Mafia Tanah," *Jurnal Pendidikan dan Konseling* 5, no. 1, <http://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/11824>

¹³ Jhony Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Jakarta: Bayumedia, 2007), p.307.

¹⁴ John W. Creswell, *Penelitian Kualitatif & Desain Riset* (Yogyakarta: Pustaka Pelajar, 2015), p.5

other methods that are in accordance with the research approach. The data analysis carried out is a descriptive analysis.

3. RESULTS AND DISCUSSION

3.1 Penanganan kasus praktek mafia tanah selama ini

By referring to the constitutional provisions, the basis of the philosophical sources is regulated in Article 33 paragraph (3) of the 1945 Constitution states "Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people". This article means that in handling cases of land mafia practices, it shows; first, the spirit of eradicating the land mafia, second, the source of the philosophy or soul of the use of the earth or land is to give as much as possible for the prosperity of the people, and third, the practices of the land mafia really hurt the noble spirit of the Indonesian nation¹⁵. The next meaning is that land located in the territory of the Republic of Indonesia is controlled by the State and the State can determine these fields to be owned and owned by its citizens with certain rights. The granting of rights by the State to its citizens is stipulated in a government determination (*beschikking*). A legal proof for the people that the person concerned is the owner of the land and therefore has the right to protection¹⁶. However, in order to realize what is desired by Article 33 paragraph (3) of the 1945 Constitution, it turns out that the idea is being held back by the existence of land mafias¹⁷.

The rise of the land mafias shows that land has become a high and promising economic investment commodity, thus attracting certain interests to own and control it in various ways, resulting in law violations, disputes, and conflicts in the land sector. Land problems are increasingly complicated because they involve land mafias who commit organized crimes which make their crimes difficult to be legally traced, because they hide behind law enforcement and services. In the context of national land law, the control and use of land without any basis for its rights (illegal) is not justified, and even threatened with criminal sanctions¹⁸.

However, it is still carried out by land mafias who are widely dominated (such as cases throughout Indonesia throughout 2021 - 2022 August). Based on data collection with a case approach, it can be obtained an overview of the impact of law enforcement dimensions in legal practice, including:

3.1.1 Land Confiscation by Developers

The data obtained is based on the results of interviews and documentation with informants in the process of land grabbing belonging to Nur & SK. Located in the Cengkareng area of West Jakarta, has a land area of 10,259 m² with proof of ownership of *girik* and with landfills and fences around the container warehouse. It

¹⁵ Aartje Tehupeior, *Role Model Pemberantasan Mafia Tanah*. (Jakarta: Forum Indonesia Adil, 2022), p. 2 -3

¹⁶ Gunanegara, "Pengadaan Tanah oleh Negara untuk Kepentingan Umum" Disertasi., Universitas Airlangga, 2012, p.

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¹⁷ Putri Fransiska Purnama, "Upaya Pemberantasan Mafia Tanah di Kota Palangkaraya," *Jurnal Untidar Home* 5 No.2 (2021): 1, <https://jurnal.untidar.ac.id/index.php/literasihukum/article/view/4762>

¹⁸ Bambang Prayitno, "Pertanggungjawaban Mafia Tanah Dalam Tindak Pidana Korupsi," *Jurnal Hukum dan Ekonomi* 9 No.2 (2021) https://web.archive.org/web/20220425200811id_/https://jurnal.uns.ac.id/hpe/article/d

was by PT. SDA on the basis of seizing the Certificate of Building Use Rights. This case is being processed by law by being reported to the Criminal Investigation Unit for Land Acquisition and the Karo Wassidik case and a letter from the Mayor of West Jakarta to the Governor regarding violations.

3.1.2 Case of Land Mafia Victim Nirina Zubir

A former household assistant was assisted by three Land Deed Officials in the process of transferring names to properties located in the West Jakarta area. Of all the total assets, she said, two land certificates belonging to his mother had been sold to a third party¹⁹. Meanwhile, the four building assets have been mortgaged by their former assistant to the bank. The money is allegedly used by the household assistant to manage the frozen food business that has been running for the past few years. Nirina also admitted that she regretted that there were parties from a notary who helped embezzle assets with the former household assistant²⁰. Nirina admitted that she had reported a number of parties involved in the asset embezzlement process to the Polda Metro Jaya.²¹

To support this data, a special interview was conducted regarding the victim of the land mafia, namely Nirina Zubir as a victim, Vice Minister of Agrarian Affairs and Spatial Planning Ministry, Surya Candra and researcher (Aarce Tehupeior). This particular interview was conducted by RRI PRO 3 FM on November 19, 2022.

3.1.3 Case of Druwe Land of Pura Lemukih Village, Mengening Temple, Ceniara Geseng Temple, Leniukih Village, Sawvan District, Buleleng Regency

With the absence of land surveying by the Officials of the National Land Agency of Buleleng Regency and the police unwilling to arrest a group of people with sharp weapons, carrying batons and blocking public roads with wooden blocks were used to prevent the National Land Agency officials from carrying out the task of taking inventory and measuring the exact location and boundaries of the Druwe Pura land plot. This has reported in the mass media both electronic and print continuously for days. To support the data, the author conducted interviews with legal representatives from these villages where there was a land mafia in the province of Bali. In the End of Year Reflection on Deciding the Ecosystem and Empisentrum of the Land Mafia at the MPR RI²² on December 14, 2021.

3.1.4 Land Mafia Victim in Makassar, South Sulawesi

Land mafia victim Mukhtar Tompo spoke up about the alleged theft of his 55 hectares of land located in Makassar City, South Sulawesi. After 30 years of fighting

¹⁹ Dinda Bhawika Wimala Pastika, et al, "Tinjauan Yuridis Terhadap Sertipikat Hak Atas Tanah yang Dibalik Nama Tanpa Persetujuan Pemegang Hak (Studi Kasus: Mafia Tanah Art Nirina Zubir)," *Jurnal Gorontalo Law Review* 5, no. 1 (2022): 1, <https://jurnal.unigo.ac.id/index.php/golrev/article/view/2105>

²⁰ Chatrin Intan Sari, "Tinjaun Yuridis Peran Notaris/Ppat Pada Kasus Pemindahan Aset Nirina Zubir," *Jurnal Justitia*. 9 No.6 (2022): 1

²¹ "Kronologi Lengkap Kasus Mafia Tanah Nirina Zubir," *CNN Indonesia*, 18 November 2021, <https://www.cnnindonesia.com/nasional/20211118080653-20-722758/kronologi-lengkap-kasus-mafia-tanah-nirina-zubir>

²² Sumitro, "Pakar: Mafia Tanah Tak Akan Berhenti Jika Moral Pejabat Tidak Dijunjung Tinggi," *Times Indonesia*, 14 Desember 2021, <https://www.timesindonesia.co.id/read/news/387153/pakar-mafia-tanah-tak-akan-berhenti-jika-moral-pejabat-tidak-dijunjung-tinggi>

and winning in seven courts, the Makassar National Land Agency has never issued a Right of Exploitation certificate for his land. The story begins with a land auction that was officially purchased by his family in 1961. Towards the end of the The Right of Exploitation period, his family applied for an extension. One year earlier his family had requested for an extension and at that time they were waiting for information from the National Land Agency. But they received no information, whether the extension was accepted or not and in the process suddenly his land was divided without any notification to him. For almost 30 years, the dispute has not been resolved even though it has involved the ministry, the Ombudsman, and the TNI-Polri. There's a dissent from Court Decision, and the internal mechanisms at BPN is questioned. "There's been a lot going on here, frankly, we have a culture of fighting for our rights. The victim has sold land and cars to fight for rights". To support the data above, the researcher conducted interviews with the victim Mukhtar Tompo as one of the victims of the land mafia. In the End of Year Reflection on Deciding the Ecosystem and Empisentrum of the Land Mafia at the MPR RI²³ on December 14, 2021.

3.1.5 Confiscation of *Adat* Land in Kampong Nafire, Jayapura City

The issue of customary land in Papua in Nafire village, Jayapura City which is currently in litigation and is going viral on social media for the loss of customary rights due to land grabbing by the land mafia, has been published certificates without taking customary land and issuing certificates without going through a data validation process that is in accordance with procedural (administrative defects). To support the data, the researcher conducted interviews with legal counsel from representatives of the village of Nafire, Jayapura city, broadcasted audiovisually on TVRI on 15 and 19 November 2021²⁴ and the chief of the Awi tribe, Wamuar Nafri, who wrote a letter to the President regarding customary rights²⁵.

3.1.6 Conversion of mangroves to oil palm plantations in North Sumatra.

The Wildlife Sanctuary has been converted to function as a mangrove forest, but has been converted into an oil palm plantation with an area of 210 ha with 28,000 palm trees planted. The Pidsus team found that there were individuals acting on behalf of the cooperative to encroach on the land there by turning it into oil palm plantations. This is the mode of those who want to encroach on the land.

3.2 Data Analysis

Based on the description of the cases above, using a case approach and a statutory approach, nationally this shows that the issue of land mafia is very much against the principles of land tenure given by the national land law. The problem is whether these principles are understood by legal experts in the courts, the police, the prosecutor's office so that they do not harm the actual land rights holders. Many

²³ "Mukhtar Tompo "BPN Mafia Tanah" Tangkap Mereka ...," MT Channel, uploaded 17 December 2021, <https://youtu.be/jod-FUCG848>

²⁴ Indra, "DR. Aartje Tehupeiry Angkat Bicara Soal Terbitnya 50 Sertifikat di Tanah Adat Suku Awi Wamuar," RiauKontras. 19 November 2021, <https://m.riaukontras.com/read-21854-2021-11-19-dr-aartje-tehupeiry-angkat-bicara-soal-terbitnya-50-sertifikat-di-tanah-adat-suku-awi-wamuar.html>

²⁵ "Kepala Suku Awi Wamuar Nafri Tulis Surat pada Presiden Soal Hak Adat," Realita.co, 14 November 2021, <https://www.realita.co/baca-5842-kepala-suku-awi-wamuar-nafri-tulis-surat-pada-presiden-soal-hak-adat#.YZCMdAJghfg.whatsapp>

modes are done by the land mafia, the cause of this land mafia being able to act is because of the inaccurate data on land ownership between those recorded in RT, RW, Kelurahan, Tax Office, BPN. This is done with an evil conspiracy, arising the disputes and land cases in the society.

This weakness can occur due to gaps in data collection of lands in Indonesia which are not yet accurate, causing overlapping land ownership, disputes, land conflicts and so on.

Legal Mafia takes place through the utilization of legal and administration vulnerabilities such as²⁶ for the performance network of the Land Mafia, all loopholes in the legal provisions and land administration as well as the neglect of open land rights holders are used as opportunities to carry out their illegal performance to gain benefits and harm other parties. Efforts to eradicate the Land Mafia must close or repair gaps that are a factor in the entry of the Land Mafia network. As long as the gap is still open, then the Land Mafia network will also take advantage of it.

Among the gaps that are used as opportunities are the lack of integration of land administration managed by the National Land Agency and its staff down with land administration in the village which manages land administration which requires the integration of land administration. This condition is further exacerbated by policies imposed by certain regions that allow villages and customary leaders to issue Land Certificates (SKT)²⁷ or Adat Land Certificates (SKTA). The existence of several sources of land administration that have not been integrated is an opportunity for the Land Mafia to carry out its illegal performance network through the use of various evidences from different administrative sources. The absence of a single or plural form of proof of rights opens up opportunities for the entry of the Land Mafia network by taking advantage of the existence of various forms of evidence of existing rights.

The lack of single proof of rights is due to the land registration process throughout Indonesia has not yet been completed so that the use of proof of land rights that existed prior to Government Regulation No. 24 of 1997 concerning Land Registration still recognizes several documents as initial evidence, namely Certificates as tools strong evidence, as well as several documents as initial evidence, namely *Girik/Petuk/Surat Rincikan*, as well as a Statement of Subjects who control the Land physically continuously for 20 years or more for land ownership that is not accompanied by written evidence. This provision has provided an opportunity for the Land Mafia to take advantage of it. In addition, there is no further regulation on the occurrence of Property Rights according to Adat Law so that evidence is still recognized in the form of continuous physical land tenure in good faith based on customary law. The use of proof of land rights originating from Western Law, namely the *Eigendom/Erfpacht/Opstal* Deed of Rights is also still possible. Even though

²⁶ Nurhasan Ismail, *Upaya Memberantas Mafia Tanah*, (Jakarta: Strategi Pemberantasan Mafia Tanah untuk Kepastian Hukum dan Keadilan, 2021), p.10

²⁷ Putri Fransiska Purnama Pratiwi, "Upaya Pemberantasan Mafia Tanah di Kota Palangka Raya," *Jurnal Literasi Hukum* 5, no. 2 (2021), 1, <https://jurnal.untidar.ac.id/index.php/literasihukum/article/view/4762>

it should have not been used since 1980, Government Regulation No. 24 of 1997 still allows it. Only with Government Regulation No. 18 of 2021 the said evidence is declared no longer allowed to be used.

The liberal rights of land granting policy opens up opportunities for the Land Mafia: The granting of very wide land rights up to tens of thousands or even hundreds of thousands of hectares and is only determined by the ability to meet the following requirements: Administrative requirements including a statement of use plan; The technical requirements, mainly related to the level of risk to the social and natural environment; The financial requirements, mainly to pay licensing fees and fees for acquiring land rights as well as compensation to former owners.

Not accompanied by instruments and supervisory capabilities in a preventive manner, namely measuring the potential capacity of the capital owned to be able to use/operate all the land requested and to be granted in a very wide amount and a specified time as well as a guarantee that the capital funds really exist, for example, stored in a Bank appointed by the Government; Repressively by namely monitoring the implementation of business activities within a predetermined time including giving warnings and even statements of land abandonment. As a result, the occurrence of speculative land giving and ownership which will inevitably lead to abandonment or not being productively cultivated²⁸; the existence of land that is not used certainly attracts the interest of the Land Mafia to control and exploit it.

Efforts to prevent conflicts stemming from these factors are: Rearranging the policy of granting rights of land. If the liberal character cannot be changed, then the distribution is carried out in stages according to the ability of the capital; The potential of abandoned/unproductive land must be stopped. The high level of competition between Land Deed Officials is also used by the Land Mafia to obtain documents for the transfer of land rights. The assignment of Land Deed Official is no longer based on the formation of a shortage of Land Deed Official in one area so that in an open area the placement of a new Land Deed Official with the consequence of competition between them occurs. High competition encourages PPAT to ignore its obligation to guarantee the material truth of physical data and land juridical data which is included in the Deed it makes. with the consequence of being exploited by the Land Mafia network²⁹.

Attitudes as rights holders who do not fully understand the importance of certificates or proof of land ownership and the risks that can occur if the certificate or proof of ownership is handed over and controlled by other parties because they are open to misuse, including the Land Mafia network. Counseling will be important and at the same time the risk of certificates so that they are not easily handed over to parties is very important.

The commitment of implementing and law enforcement officers to maintain professionalism and independence is sometimes weakened so that they are easily exploited and influenced by the Land Mafia network. Therefore, supervision of implementers and law enforcers must still be carried out continuously. The steps that must be taken are³⁰ correction and structuring as well as valid data collection of

²⁸ Ibid. 14

²⁹ Ibid. 15

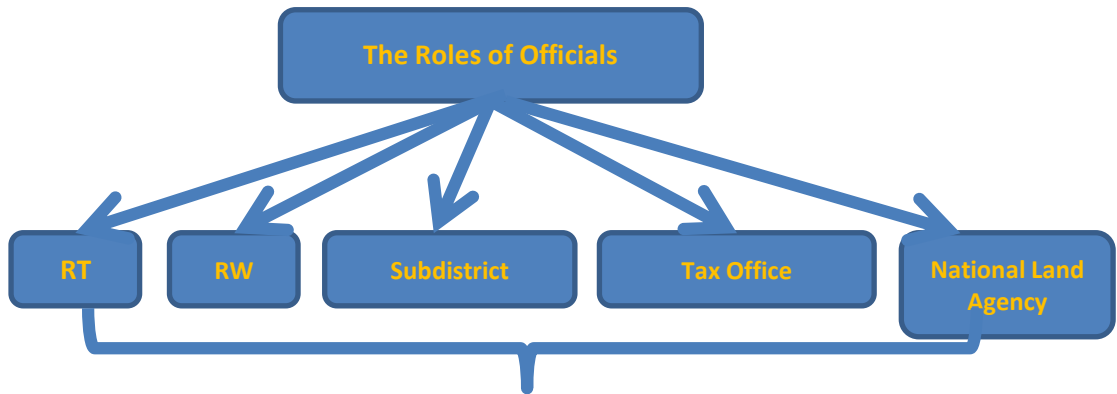
³⁰ Aarce Tehupeioro, *Role Model Pemberantasan Mafia Tanah*, (Jakarta : Forum Keadilan, 2022), p.18-21

lands throughout Indonesia by the National Land Agency. The next solution, which is the key to breaking the ecosystem and epicenter of the land mafia not to repeat the actions of the land mafias, is the need for openness measures by revising the land ownership data accurately and building an integrated system of land data collection to prevent errors from occurring. The next solution is the management of ownership rights and the transfer of land rights can only be managed using one system either at the level (RT RW (neighborhood unit), Subdistrict, Tax Office, National Land Agency). There also needs to be systematic efforts to resolve land mafia cases can be done by activating networks with the wider community so that there is openness and recovery to the community. This is necessary to prevent the issuance of fake land rights certificates so that the legality of the certificates can be monitored properly. Another solution is that the role of BPN should be further enhanced in handling land ownership cases so that conflicts can be properly minimized. So far, what has happened tends to wait for a decision from the court for problematic land ownership between land owners and the land mafia. This causes the original land owners to feel disappointed so that they feel apathetic about the resolution of the land conflict/dispute. When this happens, the land mafia ecosystem is growing. There needs to be an immediate solution, resulting in the National Land Agency is given the authority to be able to screen data on the material truth of the land (especially the transfer of land rights). The last solution is the government needs to also develop a regulation which solves land disputes, especially in the prevention of land mafias³¹.

The key to stopping the land mafia in terms of restoring land rights, especially in the case of behind names, must be verification in the field regarding the measurement of land boundaries, land area and so on.

³¹ Vani Wirawan, et al, "Rekonstruksi Politik Hukum Sistem Pendaftaran Tanah Sebagai Upaya Pencegahan Mafia Tanah," *Jurnal Negara Hukum*: 13, no.2 (2022): 1, <https://jurnal.dpr.go.id/index.php/hukum/article/view/3134>

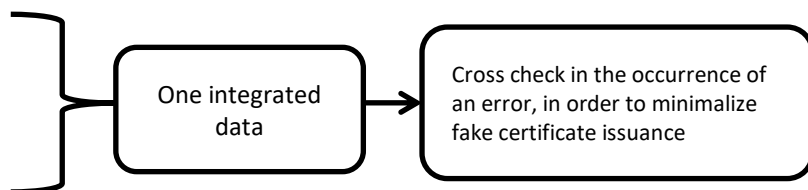
Figure 11



Committed Integrated Data System to Eradicate the Ecosystem and Epicentrum of Land Mafia

The road map necessary built for registering land are electronic-based land registration system, which covers the following steps:

- Land registration
- Taxation matters
- Spatial matters
- Certificate issuance
- Etc.



Based on the Road Map above, it can be concluded that optimizing the Anti Land Mafia Task Force, it is better if elements of the Land Mafia Task Force can be involved from elements of academics, the community who are serious about implementing the mechanism for implementing the Anti Land Mafia Task Force in eradicating the Land Mafia. Another conclusion is by creating and bettering the legal synchronization between land law and criminal law information technology related to the problem of proving ownership of land rights. Furthermore, the police can request assistance, for example (Center for Analytical Research and Financial Transactions (PPATK) to trace the flow of proceeds of crime by using a non-criminal offense of money laundering, then the proceeds of the crime can be returned to the party experiencing loss.

Physical land certificates resulting from crimes are returned to the real owner who is the victim of this criminal decision, the victim of the land mafia does not need to be together to get a recovery of losses (in the Order of the Judge's Decision who examines the transfer of a criminal case can order that the money from the crime of fraud and forgery be returned to the rightful party. In order to decide the Ecosystem and Epicenter of the Land Mafia, there are several actions which can be done. For example, land must be used and not neglected, meaning that the land owner must function the land and control it physically; The administration of land ownership should be carried out alone, meaning that the land owner may not send other people to the land. am administrative affairs of land ownership; BPN has built an application system that is more massive on a national scale with the program "Touch

My Land or Keep My Land” to raise public awareness of land registration literacy. The second solution is for the National Land Agency socializes to the community to immediately legalize their land ownership status, because with the legality of land in the form of land title certificates, the community will be more protected from land mafias. The state must enforce the law against land mafia cases politically that is, a precise strategy is needed by activating all institutions related to land problems or conflicts as effectively as possible through law enforcement. The criminal law strategy was initiated by the formulation of a special law on the eradication of non-criminal land mafia (ad hoc courts) land acquisition).

Throughout 2021 the Land Mafia Task Force handled 69 cases, as many as 6 cases were resolved with a restorative justice approach both at the investigation and investigation stages. Which is carried out periodically with analysis with evaluation and internal coordination meetings including with the Ministry of Agrarian Affairs and Spatial Planning³².

Oriented to the views of Aristotle as a role model for John Rawls, who said that corrective justice focuses on correcting something wrong or corrective or remedial justice, correcting any imbalance in communication by restoring equality in any case that existed before the error³³. By using John Rawls' perspective on justice, it can be concluded that the handling of cases of land mafia practices that have occurred so far has never reflected the principle of prudence and respect for land rights holders. This is in practice handling cases of land mafia, often actions taken arbitrarily harm the actual land rights holders so that in its application it is not carried out properly, it is unfair and there is no balance between the sacrifices demanded from the people should be carried out through a fair process. there is no balance between individual interests, common interests together with this balance provide justice to the community by not reflecting justice, balance, and not protecting the actual rights of the people to the land they own.

4. CONCLUSION

Based on the above discussion, it can be concluded that the handling of cases of land mafia practices through optimizing the role of the land mafia task force that has occurred so far has never reflected the principle of prudence and respect for land rights holders. This is because in the practice of handling land mafia cases, actions are often carried out arbitrarily to the detriment of the actual land rights holders so that in their application it is not carried out properly and unfairly and there is no balance. The application does not reflect justice, balance, and does not protect the actual rights of the people to the land they own. The legal formula optimizes the role of the land mafia task force in preventing and eradicating land mafia practices, namely the formation of a Special Cross-Ministerial Team (Ministry of Environment and Forestry, Ministry of Public Works and Housing, Ministry of Agrarian Affairs and Spatial Planning, Attorney General, Police including Corruption Eradication Commission) and Academics which is not involved in a land dispute or land

³² Dian Cahyaningrum, "Pemberantasan Mafia Tanah," *Jurnal Info Singkat* 13, no. (December 2021): 1,

³³ Jon Rawls, *A Theory of Justice* (Massachusetts: The Belnap Press of Harvard University Press, Cambridge, 2016),

conflict, to ensure their integrity. By making SOPs and technical instructions in carrying out activities to prevent and eradicate land mafia.

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[SASI] Editor Decision

Kotak Masuk



Jurnal SASI 8 Feb

kepada saya ▾



Penulis Yth: **Aarce Tehupeior**

Berdasarkan Naskah yang di kirim ke Jurnal SASI dengan Judul "**Land Mafia Case Handling Through The Optimization Of Land Mafia Task Force Role**"

Dengan ini memutuskan bahwa: Diperlukan Revisi (Terlampir)

Hasil revisi dikirim kembali sebelum **Tanggal 12 Februari 2023**

Salam,
Mughtar A H Labetubun
Editor

[SASI] Accepted and Payment Manuscript Kotak Masuk ☆

 Jurnal SASI 17 Feb kepada saya ▾

Yth: **Aarce Tehupeiory**

Salam Hormat!!

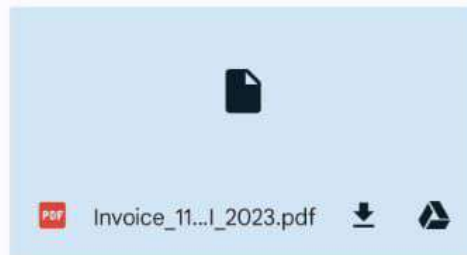
Dengan ini diberitahukan bahwa naskah **“Land Mafia Case Handling Through the Optimalization of Land Mafia Task Force Role”** diterima untuk diterbitkan Jurnal SASI Volume 29 Edisi 2 Juni 2023 (LoA Terlampir).

Selanjutnya melakukan pembayaran biaya publikasi sebesar 2.000.000 Rupiah (Dua Juta Rupiah) Kirim ke Nomor Rekening Bank berikut (Invoice Terlampir):

Bank Mandiri 9000007099386 atau BCA 0441175450 atas nama Muchtar A H Labetubun

Catatan: Pembayaran sebelum Tanggal 24 Februari 2023, dan Harap kirim bukti pembayaran setelah selesai pembayaran, untuk melacak transaksi dengan mudah, konfirmasi bukti pembayaran Whatsapp +6285243175321 atau Email: jurnalsasi@gmail.com.

Salam;
Muchtar A H Labetubun
Managing Editor



 Dr. Aartje Tehupeiory,... 20 Feb kepada Jurnal ▾

Salam ,Baik Bpk akan saya tindak lanjutkan.