

# TurnitinRoleModelofEradicating theLandMafia

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### Role Model of Eradicating the Land Mafia in Indonesia

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#### Abstract

The land problem is getting increasingly complicated because it involves land mafias who commit organized crime, making it difficult for their crimes to be legally traced. After all, they take refuge behind law enforcement and services. Besides land being a high and promising economic investment community, the land is also used as an essential means of human life and development. The problem is that even though the Anti-Land Mafia Task Force has been formed and implemented, land mafia practices still need to be revised. Of the many modes used by the Land Mafia, the cause of this land mafia being able to act is inaccurate land ownership data between RT, RW, Ward, Tax, and BPN. This was done with an evil conspiracy, giving rise to disputes and land disputes in the community. This weakness can occur because there needs to be more accurate data collection of land in Indonesia, giving rise to overlapping ownership, disputes, and land conflicts. Furthermore, how can this be adequately resolved? What needs to be done immediately is to decide on the land mafia ecosystem. Research methods using statutory approaches (statute approach), Approach to this type of qualitative study, verification/evaluative. The technique of collecting data in this study is through interviews, sheets, checklists and other methods that follow the research approach. Research result from integrated data is made of a commitment to decide on ecosystems and the epicenter of the land mafia, and a road map is made that must be built into the land registration system in one integrated data. If there is an error, it can be made cross check and minimize the issuance of counterfeit certificates. It has required the government's Strong Political Will to issue regulations recognizing indigenous peoples' existence. With professional values, ethics and good behavior and quality by realizing TAP MPR IX/2021 concerning Agrarian Reform.

**Keywords:** Role Model, Eradication, Land Mafia

#### INTRODUCTION

In 2021 and at the end of 2022, the Legal Mafia in the form of a land mafia grabs land and buildings that do not belong to it, which is processed using Deeds of Transfer of Titles to land with fake documents such as buying and selling, grants and others has become a hot topic of discussion. One example of a case is the case that happened to Nirina Zubir's mother and a similar case that also happened to the extended family of former Deputy Minister of Foreign Affairs Dino Pathi Djalal. The actions of the land mafia in the case of the Nirina Zubir and Dino Pathi Djalal families is a warning that the land mafia is still rampant. These land mafias are always looking for loopholes to control land and building assets by falsifying documents, falsifying land certificates and changing land boundaries. [2]

The rise of the land mafia shows that land is a high and promising community of economic investment, thus attracting a particular interest to own and control it in various ways resulting in law violations, disputes and conflicts in the land sector. Ownership and control that is carried out by improper means do not only occur in the land that does not only occur in suburban areas or villages but has become rampant, especially in big cities with very high land values. [3]

So that if the land is neglected or not utilized by the actual landowners, it becomes an opportunity for the land mafia to process the legality of land ownership. [4]

The land problem is getting increasingly complicated because it involves land mafias who commit organized crime, making it difficult for their crimes to be legally traced. After all, they take refuge behind law enforcement and services. Besides land being a high and promising economic investment community, the land is also used as an essential means of human life and development. The usefulness of land can be viewed from an economic aspect, namely as a production facility that can bring prosperity and assets (commercial etc.), and from a political aspect, land can determine a person's position in decisions for society. Lastly, from a legal standpoint, land can be used as a basis of power for jurisdiction. In this research, the problem is what is the role model for eradicating the land mafia in Indonesia?.

## MATERIAL AND METHODS

The research method in this study uses several approaches, namely the statutory approach, which is the statute approach needed to analyze how the state handles land mafia cases. Through a statutory approach, the legal protection of the community over their land rights will be understood.

Both case approaches which is used to obtain an overview of the impact of the enforcement dimension in the rule of law in legal practice and to use the results of the analysis for input and legal exploitation (Ibrahim, 2006).

Guided by the problem approach stated above, this study uses doctrinal research focused on examining the principles or norms in positive law or seeking legal doctrine formulations that analyze existing legal rules (Wignjosoebroto, 2013). namely legal norms contained in statutory regulations in the field of laws and presidential regulations.

Presidential Regulations, Presidential Decrees, State Ministerial Regulations/Head of the National Land Agency, Ministerial Decrees, and Court Decisions related to the maintenance of research instruments used to support secondary data are interviews related to land mafia cases to obtain valid information about land mafia cases. The research team interviewed various sources, such as academics, judges, law-making officials, and the public, namely victims of the Indonesian Land Mafia (KMTI).

A descriptive analysis of the data was carried out to complete the data in this study. The data obtained, collected in the manner described above, will be arranged systematically for further analysis of its contents quantitatively and finally written down what should be done (perspective).

## Study location

The location of the study is to represent the West Indonesia region (Jakarta, West Java, Central Java), and the Central Indonesia region (Kalimantan, Sulawesi, Bali) represents East Indonesia (Papua). Consideration of being a place of study because the locations are very strategic areas to carry out land mafia modes and cause much harm to people who have good faith in land control.

## Data Collection Techniques

Creswell suggests several basic types of data collection procedures in qualitative studies (Creswell & Creswell, 2018): documentation, audiovisual materials, and supported interviews. The data collection technique in this study was through interviews on the sheets checklist and other methods following the research approach.

## DATA ANALYSIS QUALITATIVE ASSESSMENT

Validate the accuracy of all data by:

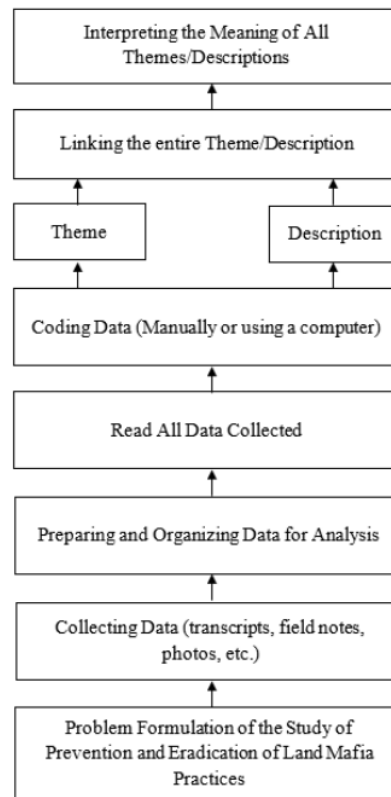


Figure 1. Qualitative Assessment Data Analysis

## RESULTS AND DISCUSSION

The source of the philosophy of land law is contained in article 33, paragraph (3) of the 1945 Constitution. The meaning of the article in this article is that:

1. The source of the land use philosophy is to provide the greatest prosperity for the people.
2. The factors of the land mafia seriously injured the noble spirit of the Indonesian nation.
3. Spirit of Eradicating the Land Mafia

The phenomenon makes it easy for the land mafia to use their modus operandi, cases carried out employing malicious conspiracy that occurs, causing disputes, conflicts and land cases that can harm people with fundamental land rights. The land mafia does this by taking advantage of existing loopholes in terms of legal, administrative and neglect by landowners. These land mafias can act in a buying and selling process that appears to be formally correct. For example, a fake power of attorney and fictitious deed of transfer of land rights are used as opportunities to carry out their illegal performance to gain profits and harm other parties.[9] Although in the context of national land law regarding control and ownership of land and protection given to holders of land rights. This means that the possession and use of land without any basis for its rights (illegal) are not justified, even threatened with criminal witnesses. However, it is still being carried out by land mafias with broad dimensions, such as cases throughout Indonesia that occurred from 2021 until the end of 2022. [10]

The mode of the case carried out by the land mafia is by falsifying land documents and 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, engineering lawsuits in court to obtain rights, and so on. [11] This action cannot be stopped even though the government has taken it seriously by forming an Anti-Land Mafia Task Force to eradicate land mafia practices in the regions and prosecute the perpetrators. This task force cooperates with BPN and POLRI as a form of seriousness in taking legal action against the perpetrators of land mafia practices. [12]

The problem is that even though the Anti-Land Mafia Task Force has been formed and implemented, land mafia practices are still rife. Of the many modes used by the Land Mafia, the cause of this land mafia being able to act is inaccurate land ownership data between RT, RW, Ward, Tax, and BPN. This was done with an evil conspiracy, giving rise to disputes and land disputes in the community. This weakness can occur because there are gaps in the inaccurate data collection of land in Indonesia, giving rise to overlapping ownership, disputes, and land conflicts. Furthermore, how can this be adequately resolved? What needs to be done immediately is to decide on the land mafia ecosystem.

Termination of the Land Mafia Ecosystem, Efforts Steps that must be taken care reforming and arranging as well as good data collection of land throughout Indonesia by the BPN. The key to breaking up the land mafia ecosystem so that it does not recur and the actions of the land mafia are necessary. Openness measures by revising land ownership data accurately and building an integrated land data collection system so mistakes can be prevented. An integrated system means that the management of ownership rights and the transfer of land rights may only be managed using one system at the RT, RW, Ward, Tax, and BPN levels. In addition, systematic efforts to resolve land mafia cases can be carried out by activating networks with the broader community so that there is openness and restoration to the community. This is necessary to prevent the issuance of counterfeit land title certificates. Thus the legality of the certificates can be appropriately monitored. In addition, the role of BPN must be further enhanced in handling cases of land ownership so that conflicts can be appropriately minimized, namely, giving more importance to the original chronology of land ownership. Because so far, what has happened is that BPN tends to wait for a decision from the court for problematic land ownership between landowners and the land mafia. This causes the original landowners to feel disappointed, so the landowners feel apathetic about resolving conflicts or land disputes. When this happens, the land mafia ecosystem grows. Thus there needs to be an immediate solution, namely that the government authorizes the BPN to conduct an initial screening of the content validity of the land, especially in terms of the transfer of land rights. One of the keys to stopping the land mafia is transferring land rights, especially in the transfer of names. There must be field verification regarding the measurement of land boundaries, land area, etc. Thus, officials starting from the RT, RW, Ward, Tax Office, and BPN must create an integrated data system that is committed to eradicating the land mafia ecosystem. [13]

One of the roadmaps that must be built for a land registration system can be an opportunity, namely an electronic digital land registration system. However, it must be seen starting from the land registration system, Taxes, Spatial Planning, certificate issuers and others. It must be one integrated data so that if there is an error, it can be corrected. Cross-check and minimize the issuance of counterfeit certificates. Apart from that, to optimize the Anti-Land Mafia Task Force, elements from the Land Mafia Task Force should also be involved from the community and academics who are serious about carrying out the mechanism for carrying out the tasks of the land mafia task force in eradicating the land mafia.

#### Advanced prevention tips

To prevent the land mafia from happening again in the future, what can be done by the community is [14]:

- a. Land must be used, not neglected, meaning that the land owner must function the land and control it physically.
- b. Administrative management of land ownership should be carried out independently, meaning that landowners may not take care of other people in administrative matters of land ownership



- c. BPN built an application system that is more massive on a national scale with the "touch my land or take care of my land" program to raise public awareness of literacy in land registration,
- d. ATR/BPN socialize to the community to immediately legalize their land ownership status because, with land legality in the form of a certificate of land rights, the community will be increasingly protected from land mafia.
- e. The state must enforce the law against land mafia cases. A precise strategy is needed to activate all institutions related to land issues or conflicts as effectively as possible through law enforcement.
- f. Honesty and the nature of fighting for the truth of all officials related to the management of land issues must be upheld. Because no matter how well a system is built to deal with land problems or conflicts, the land mafia problem will only stop if the morale of the officials involved is upheld (more concerned with personal interests). With professional values, ethics and good behavior and quality.[15]

Among the gaps that are used as opportunities are: Not yet integrated land administration managed by the National Land Agency and its staff down with land administration in the village/Ward which manages land administration which requires integration of land administration. This condition is exacerbated by policies implemented by certain regions that allow villages and customary leaders to issue land certificates (SKT) or customary land certificates (SKTA). The existence of several sources of land administration that have yet to be integrated is an opportunity for the Land Mafia to carry out its illegal performance network through various evidence from different administrative sources. The lack of single or plural proof of rights opens opportunities for the Land Mafia network to enter by taking advantage of various forms of evidence of existing rights. [16]

In addition, there is not yet a single proof of title due to: the land registration process has not been completed throughout Indonesia, so the use of evidence of land rights that existed before UUPA PP No. 24 of 1997 concerning Land Registration is still open, which still recognizes several documents as initial evidence, namely Certificates as solid evidence, as well as several documents as initial evidence, namely *Girik/Petuk*/Detailed Letters, as well as Statements of Subjects who physically control the Land continuously for 20 years or more for land ownership that is not accompanied by written evidence. These provisions have provided a choice opportunity for the Land Mafia to take advantage of it. In addition, there is no further regulation regarding ownership rights according to customary law, so the evidence is still recognized in the form of continuous physical land tenure in good faith based on customary law. It is also possible to use evidence of land rights originating from Western law, namely the Deed of *Eigendom/Erfpacht/Opstal* Rights. Even though it should have been used in 1980, PP No.24/1997 still allows it. Only with PP No. 18/2021 is the evidence referred to state to be no longer usable. [17]

The liberal HAT granting policy opens up opportunities for the Land Mafia: The granting of vast land rights up to tens of thousands or even hundreds of thousands of hectares and is only determined by the ability to meet the requirements [18]:

1. Administrative, including the statement of usage plan;
2. The technical requirements are mainly related to the level of risk to the social and natural environment;
3. The financial requirements are primarily to pay licensing fees and fees for acquiring land rights and compensation to former owners.
4. Not accompanied by instruments and supervisory capabilities in:
5. Preventive, namely measuring the potential capacity of the capital possessed to be able to use/cultivate all the Land requested and will be given in a considerable amount & at a specified time as well as guarantees that the capital funds exist, for example, being deposited in a bank appointed by the Government;

Repressive, namely monitoring the implementation of business activities within a predetermined time, including giving warnings and even stating the occurrence of land abandonment. As a result: The occurrence of speculative giving and ownership of Land inevitably leads to neglect or

non-productive cultivation of Land; the existence of uncultivated Land naturally attracts the interest of the Land Mafia to control and exploit it. [19]

The steps that must be taken in the future are: [20]:

1. Correction and arrangement and valid data collection of land throughout Indonesia by BPN.
2. The key to severing the ecosystem and the epicenter of the land mafia so that it does not recur from the actions of the land mafia is that it is necessary to take measures of transparency by revising land ownership data accurately and building an integrated system of land data collection so that mistakes can be prevented. Management of ownership rights and the transfer of land rights may only be managed using one system, both at the level (RT, RW, Ward, Tax Office, and BPN).
3. Systematic efforts to resolve land mafia cases can be carried out by activating networks with the broader community so that there is openness and restoration to the community. This is necessary to prevent the issuance of counterfeit land title certificates so that the legality of the certificates can be monitored appropriately.
4. The role of BPN must be further enhanced in handling land ownership cases so conflicts can be adequately minimized.
5. So far, what has happened tends to be waiting for a decision from the court for problematic land ownership between the land owner and the land mafia. This causes the original landowners to feel disappointed, so the landowners feel apathetic towards resolving the land conflict/dispute. When this happens, the land mafia Ecosystem grows.
6. There needs to be an immediate solution. BPN is given the authority to screen data on the material truth of the land (especially the transfer of land rights).

The key to stopping the land mafia is restoring land rights, especially in the transfer of names. There must be field verification regarding the measurement of land boundaries, land area, etc. To decide on the Ecosystem and the Epicenter of the Land Mafia: Land must be used, not neglected, meaning that the land owner must function the land and control it physically; Administrative arrangements for land ownership should be carried out independently, meaning that landowners may not delegate other people to administer land ownership; A more massive national scale application system was built by the BPN with the "*Sentuh Tanahku atau Jaga Tanahku*" or "Touch My Land or Take Care of My Land" program to raise public awareness of literacy in land registration.

ATR/BPN socialize to the community to immediately legalize their land ownership status because, with land legality in the form of land rights certificates, the community will be increasingly protected from the land mafia. The state must enforce the law against land mafia cases politically. Namely, a precise strategy is needed to activate all institutions related to land problems or conflicts as effectively as possible through law enforcement. The criminal law strategy was initiated by formulating a Special Law on the Eradication of Criminal Land Mafia (Ad Hoc Courts) Special crimes for state assets/BUMN for the use of state finances (land acquisition).

Indigenous peoples are vulnerable to being criminalized and even expelled from their customary forests in conflicts against corporations that have pocketed permits from the Government as the holders of "Controlling Rights". Example: Criminalization of farmers who have lived in forest areas (South Sulawesi Soppeng Regency) for generations because of the felling of teak trees they planted. (Never socialize the boundaries of the protected forest). [21] In addition, the leading causes of agrarian conflicts over customary forests:

1. Recognition and protection of the rights of community entities.
2. Arbitrary land grabbing and grabbing.
3. Boundary disputes.
4. Uncertainty and legal discrimination.
5. Many indigenous peoples do not know the law, so they quickly lose.
6. The absorption of aspirations, participation, and outreach to the community needs to be improved.
7. Overlapping permits, spatial planning as well as regulations, and others.

Workaround: It must be within the framework of implementing Agrarian reform and managing natural resources, namely systematic and timely operations to reorganize an unequal agrarian structure to make it more just through a land redistribution program and full recognition of people's rights accompanied by other supporting programs. Strong Political Will from the Government (PEMDA) is needed to issue regulations that immediately recognize Indigenous peoples' existence. Carry out community forestry programs (Village Forests, etc.)<sup>4</sup> accommodate the interests of the people who depend on forest utilization. Doing ratification of the Bill on the Protection of Indigenous Peoples.

Efforts to Resolve Agrarian Conflicts and Protection of Indigenous Forests, namely: Ratification of the Bill on the Recognition and Protection of Indigenous Peoples as soon as possible because recognition of the existence and protection of the traditional rights of Indigenous peoples (Customary Law) is a Constitutional Mandate. , Accountable, Principles of Free Consent, Precautionary Principles and the principle of Respect for the Rights of Indigenous Peoples, which reflect Justice, Balance, and Benefit.

## CONCLUSION

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