

# Turnitin Handling of Land Mafia Practice Cases

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## HANDLING OF LAND MAFIA PRACTICE CASES WHAT HAPPENED ALL THIS TIME

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**Abstract:** A land mafia is individuals, groups and/or legal entities that take actions intended to commit crimes that can cause and cause delays in the implementation of the handling of land cases; so that the criteria for the land mafia are land and space disputes, conflicts and cases which are the objects of activity in the context of preventing and eradicating the land mafia. In these land cases, there are indications of involvement of the land mafia, especially large-dimensional land cases, through the land mafia mode of evil agreements, giving rise to disputes, conflicts and land matters. Therefore, what model should be optimized in handling cases of land mafia practices that have occurred so far in the future Specific Research Purposes this is explaining and critically analyzing the way the state has handled cases of land mafia practices so far; Research methods by using statute approach, The approach with this type of qualitative study, verification/evaluative with research locations is in representing the West Indonesia region (Jakarta, West Java, Central Java), Central Indonesia region (Kalimantan, Sulawesi, Bali, Papua). These locations are very strategic areas for carrying out the modes of land mafia practice, which harm the people who have good faith in land tenure, data collection techniques through documentation, audiovisual materials, and supported by interviews. The data collection technique in this study was through interviews, sheets, a checklist, and other methods following the research approach. From The handling of cases of land mafia practices that have occurred so far has never reflected the principles of prudence and respect for land rights holders. In practice, the handling of land mafia cases is often carried out arbitrarily to the detriment of the actual holders of land rights, so in practice, it is not carried out properly, it is unfair, and there is no balance between the sacrifices demanded of the people, which should be carried out through a fair process. There is no balance between individual interests. The common interest is the same as this balance providing justice to the community by not reflecting fairness or balance and not protecting people's fundamental rights to the land they own. In preventing and eradicating Land Mafia practices, namely forming a land mafia eradication commission, at least creating an anti-land mafia commission, even if necessary, forming a separate judicial institution in terms of resolving land disputes and land conflicts and strengthening its existence involving academics who understand the problems and principles of tenure. Land use (national land) with impartiality, transparency, accountability and the principle of respect for those who have good faith in the land with the spirit of creating justice in the land sector for people who seek justice.

**Keywords:** Handling, Cases, Land Mafia Practices

### INTRODUCTION

The land is viewed from the economic aspect as a means of production that can bring prosperity and assets (industry, agriculture, commerce). Meanwhile, the political aspect of land can determine a person's position in decisions for society. Finally, from a legal standpoint, it is the basis of strength for jurisdiction. However, from various essential aspects, this land often becomes a conflict in the community which is marked by land conflicts that arise regarding land ownership, land ownership status, land acquisition compensation and land use status. Economic aspects as a means of production can bring prosperity and assets (industry, agriculture, commercial [1]. The forms of this legal mafia practice include brokers/brokers in buying and selling cases, bribery, illegal levies and the land mafia [2]. 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 in land mafia cases is due to inaccurate land data and control over *girik*, which has been banned. The mode of cases carried



out by the land mafia by way of evil agreements that occur, causing disputes, conflicts and land cases [3].

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 in land mafia cases is due to inaccurate land data and control over *girik*, which has been banned. The mode of cases carried out by the land mafia by way of evil agreements that occur, causing disputes, conflicts and land matters, among others [4]:

- a. The village head makes copies of *girik*, makes certificates of non-dispute, makes certificates of physical possession or makes certificates of more than one land to several parties for the same plot of land;
- b. Falsification of documents related to lands, such as eigendom cards, *kikitir/girik*, and land certificates;
- c. Provoking the public to corrupt or exploit land illegally on HGU plantation lands, both those that will expire and those that are still valid;
- d. Changing or shifting and removing land boundary markers;

The judiciary by using the courts to legalize land ownership by:

- a. Carrying out a lawsuit in court using a false legal basis so that the fake data becomes legal with a court decision that has permanent legal force;
- b. Conducting engineering lawsuits in court to obtain land rights, even though both the plaintiff and the defendant are part of the mafia group and landowners who are not involved as parties;
- c. Buying land that is currently in court and giving bribes to law enforcers so that the verdict is in favor of the group;
- d. Carrying out endless lawsuits and giving rise to many court decisions with a permanent legal force whose contents are contradictory to one another so that these decisions cannot be carried out or executed, and the land becomes unusable.

This evil conspiracy was also carried out in authentic deeds/certificates by the land mafia involving public officials, namely Notaries/PPAT/Sub-District Heads/ Village Chief /Head of Villages, which resulted in disputes, conflicts and land disputes that had a wide dimension.[5] In several cases in DKI Jakarta, the fictitious Notary mode, the victim's loss was IDR 85 billion was revealed in February 2020, Banten's modus operandi for falsifying land documents caused a loss of IDR 4 billion was revealed on January 5, 2021, Central Java was the mode of falsifying land documents, the victim's loss of 8,250 m2 of rice fields changed hands [6].

Based on the land mafia cases mentioned above, how are cases of land mafia practices handled so far? Specific Objectives The specific objectives of this study are to explain and critically analyze the way the state has handled cases of land mafia practices so far. Research Urgency various problems and issues of land conflict in Indonesia are due to the large number of parties who often commit land abuse and abuse of authority in granting permits or making it difficult to grant permits for personal gain [7].freedom of contract tends to develop towards unlimited freedom of contract (*unrestricted*) [1]

## 1. METHODS

The research method in this study uses several approaches. The first is 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 are used to obtain an overview of the impact of the enforcement dimension in the rule of law in legal practice and to use the analysis results for input and legal exploitation.[8]

Guided by the problem approach stated above, this study uses doctrinal research focused on studying positive law principles or norms or seeking formulations of legal doctrine that analyze existing legal rules.[9] 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 the Indonesian Land Mafia Victims (KMTI).

Which is sources of information (key informant) in this study are:

1. Forum for victims of Indonesian land mafia practices
2. BPN officials
3. Ombudsman
4. Judge; advocate; Attorney; Police; KPK
5. Village Chief, Consortium for Agrarian Reform

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 these locations are very strategic areas to carry out land mafia modes and cause much harm to people who have good faith in land control.

### 1.1 Data Collection Techniques

[10] Suggests that there are several basic types of data collection procedures in qualitative studies, namely: documentation, audiovisual materials, and supported interviews. The data collection technique in this study was through interviews on sheets, checklists, and other methods per the research approach. Data Triangulation in This study was carried out by re-checking the correctness of the data or cross-checking certain information with other informants from data sources derived from documentation and supported by interviews.

### 1.2 Research Data Collection and Analysis Procedure

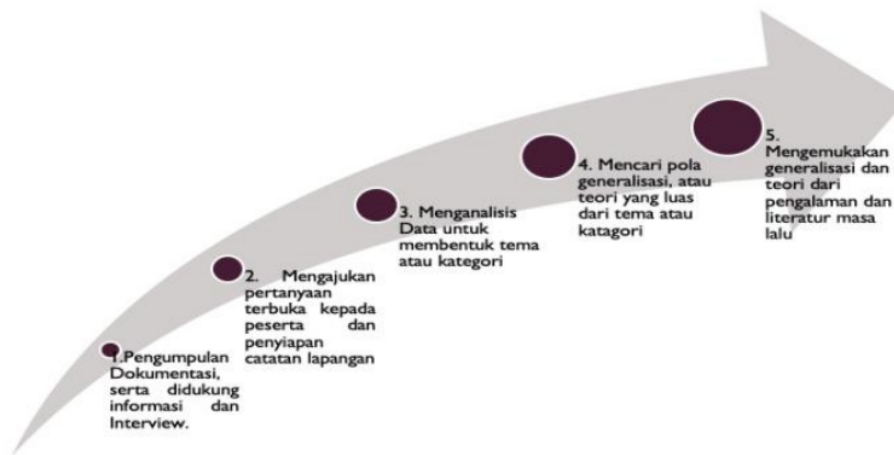


Figure 1. Data Collection and Analysis

Data Triangulation In this study, it was carried out by re-checking the correctness of the data or cross-checking certain information with other informants from data sources derived from documentation and supported by interviews. a complete description of the concept of the principle of freedom of contract in standard agreements.

## 2. RESULTS AND DISCUSSION <sup>12</sup>

Regarding constitutional provisions, the basic philosophy outlined 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." [11] This article is meaningful in handling cases of land mafia practices showing; First, the spirit of eradicating the land mafia, Second, The source of the philosophy or soul of using 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 seriously injure the noble spirit of



the Indonesian nation. The following meaning is that the State controls the land in the territory of the Republic of Indonesia, and the State can determine these areas 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 stipulation (order). [12] A legal proof for the people that the person concerned is the owner of the land and is therefore entitled to protection (Guna Negara, 2008). However, in order to realize what was desired by Article 33 paragraph (3) of the 1945 Constitution, it turned out that the land mafia was being held, hostage.

The rise of the land mafia shows that land is a high and promising economic investment commodity, thus attracting a specific interest to own and control it in various ways resulting in law violations, disputes, and conflicts in the land sector. The land issue is getting more complicated and complicated because it involves land mafias who commit the organized crime, which makes it difficult for their crimes to be legally traced. After all, they take refuge behind law enforcement and services. In the context of national land law, land tenure and use without a basis of rights (illegal) is not justified, even threatened with criminal sanctions. [13]

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

Based on the discussion above, the mafia handlers of cases of land mafia practices that have occurred so far from 2009 - 2022 are as follows: [14]

Table 1.

No.	Case	Year	Information
1.	Land grabbing by developers	2010	Failure to provide justice and violation of human rights
2.	Land Mafia victim Nirina Zubir	2021	Does not provide justice and violates human rights and there is no precautionary principle
3.	Tanar Druwe Temple, Lemukih Village, Bali	1972 - 2009	Does not provide justice and violates human rights and there is no precautionary principle
4.	Victims of the Land Mafia in Makassar, South Sulawesi	1961 - 2021	Does not provide justice and violates human rights and there is no precautionary principle
5.	Who is the mastermind behind the land mafia (land mafia victims)	2022	Does not provide justice and violates human rights and there is no precautionary principle
6.	Akal Bulus Land Mafia	2022	Does not provide justice and violates human rights and there is no precautionary principle
7.	Confiscation of Indigenous Land in Papua	2021	Does not provide justice and violates human rights and there is no precautionary principle
8.	The land mafia has turned mangrove forests into oil palm plantations in North Sumatra.	2021	Does not provide justice and violates human rights and there is no precautionary principle



Based on the above data in the author's research throughout 2021, the Legal Mafia in the form of a land mafia that grabs land and buildings that do not belong to it is processed using Deeds of Transfer of Rights over land with fake documents such as Sales and Purchases, Grants, and others have 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 Patti Djalal. [15] The actions of the land mafia in the case of the Nirina Zubir and Dino Pathi Djalal families are 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.

The rise of the land mafia shows that land is a high and promising community of economic investment, thus attracting a specific interest to own and control it in various ways resulting in law violations, disputes, and conflicts in the land sector. [16] 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. [17] 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.

The land problem is getting more complicated and complicated because it involves land mafias who commit organized crime, making it difficult for their crimes to be legally traced. [18] because 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 effective means of human life and development. The usefulness of land can be viewed from an economic aspect, namely as a means of production that can bring prosperity and assets (commercial, etc.). From a political aspect, land can determine a person's position in societal decisions. [19] Lastly, from a legal standpoint, land can be used as a basis of power for jurisdiction.

The phenomenon makes it easy for the land mafia to use their modus operandi, cases carried out through evil agreements that occur, 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. Although in the context of national land law regarding tenure and ownership of land and protection is given to land rights holders. This means that the possession and use of land without any basis for rights (illegal) is not justified, even threatened with criminal sanctions. However, it is still being carried out by land mafias with broad dimensions, such as cases throughout Indonesia that occurred throughout 2021 (January to October) and 2022 (January to December). [20]

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. This action still cannot be stopped even though the government has seriously handled it by forming the Anti Land Mafia Task Force to eradicate land mafia practices in the regions and prosecute the perpetrators. Land mafia practitioners. Apart from that, it is possible to form a commission to eradicate the land mafia, at least create an anti-land mafia commission, and, if necessary, establish a separate judiciary to resolve land disputes and conflicts. [21]

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. [22] 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. [23] This was done with an evil conspiracy, giving rise to disputes and land disputes in the community. This weakness can occur due to gaps in the inaccurate data collection of land in Indonesia, giving rise to overlapping ownership, disputes, land conflicts, etc. [24] How can this be



adequately resolved, What needs to be done immediately is to decide on the land mafia ecosystem.[25]

Causes of Land Mafia:

1. The asynchronous rules between institutions related to land
2. There is a conspiracy in the sector related to land affairs
3. Collaboration of perpetrators with unscrupulous law enforcement officials
4. Communities are unaware of or do not have enough money to take care of and register proof of ownership.

Based on the table above, it can be concluded that the study locations represent the West Indonesia region (Jakarta, West Java, Central Java), and the Central Indonesia region (Kalimantan, Sulawesi, Bali) represents East Indonesia (Papua). These locations are strategic areas for carrying out land mafia modes and cause much harm to people with good intentions in controlling land. - Positive? Disharmonization of laws and regulations: Synchronization of laws and regulations (especially in the plantation, mining, and forestry sectors) with regulations in the land sector? Lack of institutional strength: Institutional strengthening? The weak commitment of law enforcement officials: Level of understanding of land regulations? Insufficient number and capacity of human resources in charge of land: For example, the number of surveyors and land area is incomparable. The legal culture of the people who do not understand and respect the rights and obligations as holders of land rights: Customary Law versus National Land Law. Based on the discussion above using a case approach and a statutory approach, nationally, this shows that the land mafia issue is very much in conflict with the principles of land tenure provided for by the national land law. The problem is whether these principles are understood by the legal experts in court, the police, and the prosecutor's office so that they do not harm the actual holders of land rights. The land mafia uses many modes. The cause of this land mafia can react because of inaccurate data on land ownership between those recorded at the RT, RW, Ward, Tax Office, and BPN. This was done with an evil conspiracy, giving rise to disputes and land disputes in the community.

This weakness can occur due to gaps in the inaccurate data collection of land in Indonesia, causing overlapping land ownership, disputes, land conflicts, etc.

Legal Mafia Takes Place Through Utilization of Legal, Administrative Gaps:

- For the performance network of the Land Mafia, all loopholes in legal provisions and land administration, as well as the negligent attitude of holders of open land rights, are used as an opportunity to carry out their illegal performance to gain benefits and harm other parties.
- Efforts to eradicate the Land Mafia must close or repair the loopholes that become a factor in the opportunity for the Land Mafia network to enter. As long as this loophole remains open, the Land Mafia network will exploit it.

Among the gaps that are used as opportunities is Land administration, which has yet to be integrated, managed by the National Land Agency and its staff downwards with the 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 the use of 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.

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 proof 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 tools strong 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.

The liberal HAT granting policy opens up opportunities for the Land Mafia: The granting of land rights over a large area of up to tens of thousands or even hundreds of thousands of hectares and is only determined by the ability to meet the requirements: Administrative including a statement of usage plan; The technical requirements are mainly related to the level of risk to the social and natural environment; The financial requirements are primarily to pay licensing fees and fees for acquiring land rights and compensation to former owners.

Not accompanied by supervisory instruments and capabilities: Preventive, namely measuring the potential capacity of capital owned to be able to use/cultivate all the requested Land and will be given in vast quantities & at a specified time as well as guarantees that the capital funds exist, for example, stored in 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. The consequences: The occurrence of speculative land grants and ownership, which 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.

Efforts to prevent conflicts - disputes originating from this factor are: Rearranging the HAT granting policy. If the liberal character cannot be changed, the award is carried out in stages according to the ability of capital; the potential for abandoned/unproductive Land must be stopped. The Land Mafia also uses high competition between PPATs to obtain land title transfer documents. The

assignment of PPATs is no longer based on the formation of a shortage of PPATs in one area, so in an open area, the placement of new PPATs with the consequence of competition between them.

The high competition encourages PPATs to pay more attention to their obligations to guarantee the material correctness of biological data and land juridical data included in the Deeds they make, with the consequences of being exploited by the Land Mafia network.

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 certificates or proof of ownership are handed over to and controlled by other parties because they are open to abuse, including the Land Mafia network. Counseling will be essential, but the risk of certificates not being easily handed over to parties is significant.

The commitment of law enforcers and executors to maintain professionalism and independence sometimes weakens, so they are easily exploited and influenced by the Land Mafia network. Therefore, the supervision of executors and law enforcers must be carried out continuously.

The steps that must be taken are:

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).
4. 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.





5. The role of BPN must be further enhanced in handling land ownership cases so that conflicts can be minimized appropriately. So far, what has happened is 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 toward resolving the land conflict/dispute. When this happens, the land mafia Ecosystem grows.

6. So far, what has happened is waiting for a court decision 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 toward resolving the land conflict/dispute. When this happens, the land mafia Ecosystem grows.

7. There <sup>6</sup>eds 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 measuring land boundaries, land area, and so on.

#### 2.1 System Integrated Data Commitment to Disconnect Ecosystems and Land Mafia Epicenters

Based on the Roadmap<sup>5</sup> above, it can be concluded as follows: [27]

1. In optimizing the Anti-Land Mafia Task Force, elements from the Land Mafia Task Force should be involved from elements of academi<sup>6</sup> and the public who are serious about carrying out the mechanism for carrying out the duties of the Anti-Land Mafia Task Force in eradicating the Land Mafia.

2. Creating and sharpening legal synchronization between land law and criminal law information technology relating to the problem of proving ownership of land rights.

3. The police can ask for help, for example (the Center for Analytical Research and Financial Transactions (PPATK), to trace the flow of proceeds from crime using money laundering offenses so that the proceeds of crime can be returned to the aggrieved party.

Physical The land certificate resulting from the crime is returned to the actual owner who is the victim of this criminal verdict, so the victims of the land mafia do not need to work together to obtain compensation for losses (in the Amar Decision, the judge who examines the transfer of criminal cases can order that the proceeds of crime are fraud and falsification returned to the appropriate party.

Decide on the Ecosystem, and the Epicenter of the Land Mafia are: [28]

1. Land must be utilized, 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 "Touch My Land or Take Care of My Land" program to raise public awareness of literacy in land registration.

2. ATR/BPN disseminates information to the community to legalize their land ownership status immediately. With land legality in the form of land rights certificates, the community will be increasingly protected from the land mafia. The political will, 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). Land acquisition).

Throughout 2021 the task force handled 69 cases. A total of 6 cases were resolved using a restorative justice approach in the investigative and investigative stages, which is carried out periodically with analysis and evaluation as well as internal coordination meetings with the ATR/BPN ministry.

Oriented in the view of Aristotle as a role model John, Rawls states corrective justice that focuses on correcting something wrong or justice that is corrective or corrective (corrective or remedial justice), correcting any imbalances in communication by restoring equality in any respects that existed prior to the error.[29] Using John's perspective Rawls Regarding justice, it can be conclu<sup>14</sup> 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. In practice, the handling of land mafia cases is often carried out arbitrarily to the detriment of actual land rights holders, so in practice, it is not carried out properly, it is unfair, and there is no balance between the sacrifices demanded from the people, which should be carried out through a fair process, there is no balance between

individual interests, shared interests are the same as there is a balance, this provides justice to the community by not reflecting fairness, balance, and not protecting people's fundamental rights to the land they own [30] [31].

### CONCLUSION

Based on the discussion above, it can be concluded that the answers that the handling of cases of land mafia practices that have occurred so far has never reflected the principles of prudence and respect for land rights holders. In practice, the handling of land mafia cases is often carried out arbitrarily to the detriment of the actual holders of land rights, so in practice, it is not carried out properly, it is unfair, and there is no balance between the sacrifices demanded of the people, which should be carried out through a fair process. There is no balance between individual interests. The common interest is the same as this balance provides justice to the community by not reflecting fairness and balance and not protecting people's fundamental rights to the land they own.

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