

COMPARATIVE ANALYSIS OF THE IMPLEMENTATION OF AGRARIAN LAW IN AREAS

Andi Fahratul Sriwani¹, Faradila Ramadani², Nur Paridah Mey Yulia³, Wirdatul Jannah⁴, Asnawi Mubarok⁵

^{1,2,3,4,5} East Kalimantan Muhammadiyah University

2211102432080@umkt.ac.id¹, 2211102432110@umkt.ac.id²,
2211102432123@umkt.ac.id³, 2211102432082@umkt.ac.id⁴, am76@umkt.ac.id⁵

Article Info	ABSTRACT
Article history: Received Feb 15, 2024 Revised Mar 20, 2024 Accepted Apr 10, 2024 Keywords: Agrarian law, implementation, landing, comparative studies	The study aims to analyze the comparison of the implementation of agricultural law in different countries. The discussion of land is important in the context of the development of a country because land is a valuable asset and a source of life for the people. Nonetheless, the implementation of agricultural law often faces challenges that are obstacles to achieving agricultural governance effectively and fairly. This study employs a comparative research method. We collect the data from a variety of relevant sources, including legislation, policies, and related literature. We carried out the analysis to compare the differences and similarities in the implementation of agricultural law on land in the countries involved in the case studies. We expect the results of this research to provide a deeper understanding of the implementation of agricultural law on land in various contexts and countries. This study will also discuss the importance of adapting agricultural laws to the needs and socio-economic realities of local communities. The research aims to guide policymakers in crafting and executing more equitable and effective agricultural policies for farm management. This is an open-access article under the CC-BY 4.0 license. 

Corresponding Author:

Asnawi Mubarok

East Kalimantan Muhammadiyah University

Email: am76@umkt.ac.id

INTRODUCTION

Implementation of agricultural law on land has been a complex and important issue in many countries, including Indonesia, Malaysia, and India. These three countries have different agricultural legal systems but face similar challenges in regulating and protecting the rights of people in land use [4].

In Indonesia, the implementation of agrarian law in land matters is regulated by Law Number 5 of 1960 concerning the Basic Principles of Agrarian Law (BPN) and Law Number 13 of 1960 concerning the Principles of Agrarian Reform (DRA). Although there are regulations governing land ownership rights, there are numerous issues related to land disputes, conflicts between indigenous communities and companies, and land distribution inequalities. In Malaysia, the implementation of agrarian law in land matters is regulated by the National Land Code 1965. This country has a registered land system, where the government is the primary owner of the land and citizens can have ownership rights or lease rights to the land. However, there is an issue about the long-term leasing rights given to indigenous communities in the hinterland that possess traditional knowledge and manage land. In India, the implementation of agrarian law in land tenure is regulated by many legislations, such as the Land Reform Act of 1956. The land system in India is highly intricate due to the presence of several laws and regulations at both the central and state levels. India faces issues such as conflicts between indigenous communities and corporations, as well as uncertainty in granting land ownership rights to farmers. Dengan melakukan studi perbandingan ini, kita dapat mengenali perbedaan dan persamaan dalam penerapan hukum agraria dalam sektor pertanahan di Indonesia, Malaysia, dan India. This study will also analyze how the agrarian law might be adjusted to the needs and socio-economic realities of the local community. The findings of this research are expected to provide guidance for policymakers in designing and implementing more effective and equitable agrarian policies [10].

Agrarian law is a crucial instrument in the regulation and utilization of land within a country. The implementation of agrarian law in land management is crucial for ensuring sustainability and equitable distribution of land.

This study aims to do a comparative analysis of the implementation of agrarian law in land tenure in several countries [7]. In this context, the researcher will examine the differences and similarities in the implementation of agrarian law in land tenure in the case study countries. The data utilized in this study is derived from many pertinent sources such as legislation, policies, and relevant literature. The main objective of this research is to gain a deeper understanding of the implementation of agrarian law in land tenure in various contexts and countries. In this context, the research also highlights the importance of aligning agrarian law with the needs and socio-economic realities of the local community. The findings of this research are expected to provide guidance for policymakers in designing and implementing more effective and equitable agrarian policies [1].

The focus of this study will be directed on three countries, namely Indonesia, Malaysia, and India. These three countries were chosen due to their differences in geographical, social, and economic contexts, which provide a good framework for comparing the implementation of agrarian land laws. Overall, this research has significant relevance in the context of effective and equitable land management.

An analysis of how agricultural law is implemented in various countries can provide valuable insights for developing policies that enhance the effectiveness and equity of land management.

METHODS

The research methodology employed in this study is a systematic literature review, which involves a comprehensive examination of articles, journals, research reports, and other relevant documents pertaining to the research topic. This method aims to gather relevant data and information, analyze the data, and identify findings that can be used to draw conclusions from the research. In this study, the researcher conducted a literature search through internet databases such as Google Scholar, ResearchGate, and JSTOR using relevant keywords related to the research topic. In addition, the researchers also utilized references from articles and books related to agrarian law, land, and its implementation in Indonesia, Malaysia, and India. Setelah mengumpulkan data dan informasi yang relevan, peneliti menganalisis literatur tersebut dengan membandingkan temuan yang ditemukan. The analysis is conducted by considering the aspects of agrarian policy, protection of landowners' rights, and land dispute resolution. The results of this analysis are then utilized to discuss and conclude the research findings.

Although the literature review method has advantages in gathering extensive information and in a faster timeframe, it also has certain drawbacks. One of the limitations is the restricted access to published literature, resulting in the inability to access all relevant literature. Furthermore, this method may be susceptible to bias in the selection of literature used, as researchers only choose literature deemed relevant and do not take into account literature that presents opposing viewpoints. However, by employing the method of literature review, this research can provide a more comprehensive understanding of the implementation of agrarian law in land tenure in Indonesia, Malaysia, and India.

RESULTS AND DISCUSSION

Based on a review of literature on the implementation of agrarian law in land tenure in Indonesia, Malaysia, and India, many key findings were discovered:

1. Agrarian policy:

In Indonesia, the implementation of agrarian law in land matters is based on Law No. 5 of 1960 concerning Basic Agrarian Regulations (PPA). However, in practice, there are various separate and often conflicting agrarian policies. Contohnya, terdapat inkonsistensi kebijakan antara negara bagian dan pemerintah pusat dalam memberikan hak atas tanah kepada masyarakat adat [11]. In Malaysia, land tenure laws are regulated by the National Land Code 1965. The Malaysian government prioritizes policies on land allocation to states and land utilization in the context of economic development. However, there is an issue with land distribution that adversely affects indigenous communities and the impoverished [10]. In India, land tenure laws are governed by many statutes and regulations, including the Land Acquisition Act of 2013 and the Hindu Succession Act of 1955 [6]. However, there is a complex conflict between the rights of indigenous landowners and the interests of the state in economic development.

2. Protection of Landowners' Rights:

In Indonesia, landowners frequently encounter challenges in safeguarding their rights due to overlapping land claims between the government, corporations, and the community [9]. There is also the utilization of violence and threats against landowners, particularly in cases of agrarian conflicts. In Malaysia, the protection of landowners' rights is quite robust, particularly for registered and certified land [7]. However, issues arise in cases where customary land has not been officially registered, leading to potential conflicts with other parties that have an interest in the land. In India, landowners frequently encounter difficulties in accessing and safeguarding their rights due to a complex land registration system, slow bureaucracy, and manipulation by vested interests [8]. In addition, indigenous communities and small-scale farmers are also vulnerable to exploitation by large corporations.

3. Resolution of Land Disputes:

In Indonesia, the resolution of land disputes is often slow and complex. There are Multiple governing bodies are tasked with managing land disputes, although the collaboration among these organizations remains inefficient. Implementing agrarian policy changes might be problematic due to the need to acquire approval from multiple stakeholders [5]. Malaysia has a dedicated organization, called the Land Court, that is responsible for settling land disputes. Nevertheless, this institution encounters obstacles in ensuring convenient and cost-effective public access to the judicial process [1]. In India, the resolution of land disputes is typically delayed due to the protracted judicial proceedings and intricate administrative system. Furthermore, the resolution of land disputes may be hindered by the presence of corruption [3].

Discussion

From the findings of this research, it can be concluded that the implementation of agrarian law in land tenure in Indonesia, Malaysia, and India exhibits significant differences and similarities. The differences are evident in terms of agrarian policies, protection of landowners' rights, and land dispute resolution. Meanwhile, there are also certain similarities among these three countries, such as overlapping land claims, agrarian conflicts, slow resolution of land disputes, and manipulation of interests by stakeholders.

The implications of these findings are the need to improve and strengthen consistent and integrated agrarian policies at the national level. In addition, it is important to enhance the protection of landowners' rights by improving the land registration system, expediting court processes, and reducing corrupt practices. Efforts should also be made to enhance coordination among institutions and stakeholders in resolving land disputes.

Some possible policy recommendations include simplifying agrarian regulations to avoid contradictions, increasing community participation in decision-making processes related to land, utilizing digital technology to expedite court proceedings, and enhancing the capacity of land dispute resolution institutions. Furthermore, it is important to promote transparency and accountability in the implementation of agrarian law in land matters.

The limitation of this study is that it only relies on available literature, thus excluding field research or primary data collection. Furthermore, the research is only focused on the comparative analysis of the implementation of agrarian law in land tenure in Indonesia, Malaysia, and India. For further research, a more comprehensive study can be conducted, involving the collection of primary data to test the findings discovered in this study.

CONCLUSION

The conclusion drawn from the results and discussion is that the implementation of agrarian law in land tenure in Indonesia, Malaysia, and India still faces many challenges and issues. These three countries need to enhance the consistency and integration of their agrarian policies in order to avoid conflicts of interest. The protection of landowners' rights has to be strengthened, including through the simplification of the land registration system and the enhancement of public access to the judicial process. In addition, the resolution of land disputes also has to be expedited and simplified by enhanced coordination across institutions and the utilization of digital technology.

The recommended policy measures to enhance the implementation of agrarian law in land tenure are simplifying agrarian regulations, increasing community participation, utilizing digital technology in the judicial process, and enhancing transparency and accountability. However, it should be noted that this study has limitations and it is recommended to do further research using field research and primary data collection to strengthen the findings.

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