

REFORM AGRARIAN IN THE FRAME OF DEMOCRACY

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Abstract

Agrarian land Resources and The new man will give the greatest possible benefit for life if the rules can be created that enable the mastery and use fair and equitable. Related to it an important determinant factor is the power which would mandate that power or not the mandate. Observing the course of history the nation shows that the period of pre-colonial, colonial, and a period of independence has not obtained a description of the changes that occur in the pattern of the relationship between man and the land (land) assets, the source of power which determines the pattern of utilization of such assets. Problems encountered in the pre-colonial era was not yet found clear information about the relationship between man and the land (the land) and the holders of power because at that time the community has yet to develop such advanced and notes on their lives is still a little bit. The basic agrarian issue is not immediately due to a natural increase of population. Demographic factors also influence the agrarian issue, but the map is not the determining factor. But a decisive, was agrarian politics embraced the ruling regime.

Keywords: Agrarian Reform, Government, Environmental

I. Introduction

Traced in depth about land ownership practices until recently, appear to have not been a lot of changes when compared to the practice of land ownership in the time of colonialism, where disputes and land ownership and land ownership imbalances still colonial heritage. Even Bung Karno (the first President) and his friends in 1960's has pioneered the efforts to put an end to the real form of feudalism, colonialism and imperialism that through land ownership structure rearrangement (land reform). Unfortunately, these efforts are not sustained because of the sudden administration of Bung Karno Stadium ended. If it is described on the leadership, then Bung Karno stadium is known as the populist leader and father of the agrarian politics embraced Marhaen populist, Mr. Soeharto personified as the father of development that could be a loyal follower of smoothing agrarian politics capitalistic.

Agrarian politics embraced the ruling regime administration. During his regime the agrarian politics embraced a capitalistic, authoritarian, and repressive, agrarian structural disputes will continue to occur. Our nation Indonesia must first agree to change our agrarian politics, from the agrarian politics pre-the strong economy (capitalist) into pre-the economy is weak.

If the observed soil mastery system right now, it appears there has been a shift in actors from the landlords in the past Indonesia with reality now. First, the big landlords in colonial companies engaged in various sectors of agrarian and also the intangible indigenous feudal landlords' private (individual). Whereas in the era of "development" in recent years, the landlord of that great became the conical infuse capital in various sectors. The basic agrarian issue is not immediately due to a natural increase of population.

Demographic factors also influence the agrarian issue, but the map is not the deciding factor. Determine, again is the agrarian politics embraced the ruling regime.

All Government and its people seriously prepare yourself, this program will be started. This Program may be run and managed, but may also be executed but not directional. Or maybe even if run will fail miserably. These doubts should not make us retreat again.

The year 2013 is bad for the world and particularly in Indonesia. People in Indonesia at this time and in future to be broken access to needs of clothing, food, Board, and health as a result of the lack of attention of State over the promotion, fulfilment and protection of the rights of farmers, and agrarian reform and renewal of the village, as mandated in the ICARRD Final Declaration (International Conference on Agrarian Reform and Rural Development, the International Conference on agrarian reform and Rural Development) in 2006.

If we look back at the time of the new order Cases land thousands in number. The Database at least 1.753 KPA noted cases of agrarian land disputes or conflict that is structural. That is caused by the use and/or misuse of State power to run the Government; not dispute their citizens that it is individual. In fact in the field could be ten times as much. This agrarian conflict continue to occur without the rightful Government in the efforts to solve them. People continue to fall as victims, while the apparatus that violence always escaped the noose law.

Agrarian land resources are property rights controlled until the end of the verse (dead). However, the conditions of land in a mess, Indonesia increased problems from time to time. Small people are increasingly losing access to land ownership. On the other hand, the control of assets by other Nations makes us slaves in our own country. The Government had announced it would pledge programs Reform Agrarian Nationwide starting this year, and according to the author it is good news for such a long time never preached, yet it is laden with public Hanky-Panky because until now there has been no signs of reform agrarian.

Whereas reform agrarian is the most appropriate answer. The core of the reform agrarian is land reform rearrangement, structure of land ownership became more social justice. Land reform, the poor through, especially the peasants whose lives depend on the cultivation of land, certain landholdings will get access. The term land reform phobias should be immediately terminated. In the past the scary spectra land reform issues due to the negative stigma of the regime is indeed anti-land reform, but currently land reform is a must. The country must exert all our ability to help the people of beneficiaries with various agrarian reform convenience and access. In summary, reform agrarian is land reform accompanied by ancillary programs. According to the terms of the national land Agency, reform agrarian is land reform plus access to the reform. Citing the opinion of Noer Fauzi as former Chairman of the Consortium for agrarian reform, it still had to reckon with the power of resistance of the agrarian antireform. Any nation which is now forward, always starts with the implementation of reform agrarian in early phase development of the nation. Reform agrarian is not ideological issues "left" or "right" or "Center".

We appreciate what has been and is being done by the national land Agency, through Regulation No. 10 in 2006 was commissioned to carry out the reform agrarian in formulating the initial concepts, strategies, and models of reform agrarian. However, reform agrarian is

a large agenda of cross-sector and cross-institutional interests that it took can also bridge the various interests and sectors. Ideally, reform agrarian that led the President through a special involving many parties who have the capacity and interest in line.

II. Modern legal thinking on agrarian reform

The Phenomenon agrarian enclosing phenomenon we now triggered by negligence against State law claims local law on agrarian and resources natural resources showed the regime thought the law vary. Further examination showed that the Western legal categories imposed by arbitrarily to the context of Indonesia, were derived from the tradition of modern legal thinking that flows strongly and influenced the thinking of European law.

Modern law in principle believe that strength ratio applies universally and becomes the main tool is the discovery of the truth is universal. These beliefs reject the view of the law of nature that the truth can also be reached through subjectivity, including adequate moral choices. The principles of rationality of modern law that refers to or sourced from Western knowledge methodologies adopted almost the entirety of the social context of Western society. Therefore, in his birthplace, modern law not so give rise to conflicts of values. The concept of codification, for example, appears to be completely compatible relationship between the interests of local community social norms with state law.

According to Soetandyo Wignjosebroto (2006: 21) that in its history in Europe, especially France, the codification of the laws on the substance and its essence does not vary much with local norms. When Napoleon instituted the third book of the law at the beginning of the 19th century in France, for example, the content of the actual third codification is none other than the recording back to social norms which have been de facto valid and embraced by local communities in the country. In that case, the French law gives a special place to social pluralism that existed in the country. State law does not become a stumbling block to local legal and orderly instead, local legal support and even the content of State law.

Thought to be a new, modern law of confidence appeared in a number of its application in other lands, including the occupied country. In Germany, there was serious resistance from a number of scientists that Germany's law is often known as the history (Historical Jurisprudence). Karl von Savigny (Purnadi Chaidir Purbacaraka and Ali, 1990: 21-22) stated that the rejection of the proposed thesis proponent a very well-known up to now, "das recht nicht gemacht wird, es ist und wird mit dem volke (the law was not created, but rather exist and grow with the people, the people or the community)". The main thought of Savigny and his followers, contain three basic things: first, the law was found, not made. The law in fact growth is a process of unconscious and organists, the regulations are not more important than habit (custom); Second, the law began to grow as the legal relations which are already understood in primitive societies toward a more complex law in modern civilization, causing people's legal awareness could no longer manifested directly but is represented by a law degree who formulated the principles of law technically. But the Law remains a public awareness tool that gives shape to the raw materials provided by the community. The formation of legislation is the last level and therefore the law degree relative is a means of forming a law is more important than legislation. Third, the laws don't have power here is universal. Each nation develop its own ruling habits as they do in the

field of language, mannerisms and its Constitution. In this case, Savigny believes volkgeist (souls of the) people's law itself in incarnating.

In the context of Indonesia, a model of the codification of the Netherlands into the legal system of the Netherlands East Indies, for three of the criminal, civil and commercial. The debate arose when the colonial Government intended to apply the codification of European law to all the residents in Indonesia. The Group supported the idea that Utrecht. While a group of Leiden represented van Vollenhoven became supporters of the existence of customary law and to this day is remembered as the father of customary law. In response to the efforts of the implementation regulations codified the colonial natives, van Vollenhoven expressed *geen juristenrecht voor de Indonesians* (Satjipto Rahardjo, 2004: 26-27). The law for the people of Indonesia are a matter of inner soul or Indonesia. Thus, the law which is most suitable for people of Indonesia is their own law, in this case the customary law that has been their behavior animates as Indonesia. The idea of dualism was received until now and morally customarily retained as the idea in favor of Indonesia.

Institutionally, the colonial Government was likely to allow plurality of governance structure based on local institutional models. Through the IGO (Inlandshe Ordonantie), Staatsblad 1906 No. 83, the Government of Netherlands recognize Villages in Java and Madura and IGOB (Inlandshe Ordonantie Buitengewsten) Staatsblad No. 490, which recognizes indigenous governance structures in ten regions outside of Java-Madura. Therefore, in the colonial era, the Netherlands Government does not attempt to create a new structure for the villagers but giving political recognition to the indigenous governance structures in rural areas (Zakaria, 2000).

In the context of agrarian, promotion of Western law incarnate in certificate in land unreachable by customary laws. Domein Verklaring or statement of State land that implement Manado Agrarische with Agrarische Wet in 1870 and the Bosch Ordonantie (Implementing Rules Of Forestry) in 1920, displacing the common law does not have a formal proof, and showed a real colonial character; the recognition of customary law was part of an effort to preserve the indigenous peoples did not have the opportunity and the chance to claim equal rights, as enshrined in the spirit of the law. Thus, on the lands of indigenous peoples, Western law liberally applied because the areas have been designated as the early state. Traditional structures were recognized but at once exploited for the benefit of the colonial, where the native structure is pointing to the ingenuity of advanced political because of the strength of colonial control of incoming melt away into the recesses of the traditional observance of the custom niche to their elders (Zakaria, 2000, McCarthy, 2001).

III. Land ownership structures imbalances

Land and water is a vital necessity for survival of human life, so the system control against both these sources to be very strategic. At the time of Feudalism, for example, the main agrarian resources is soil. In other words, the land is the source of major economies, where agriculture and surplus farm owned and taken by landlords and few will stay at the freeing of slaves or farmers. The King and the nobility was a large landowner who has rights over agricultural work and is served by slavery.

The structure of land ownership imbalances which are very wide, especially in agricultural societies, tend to make the practice of political economy and social relations that are oppressive and exploitative. Therefore the Nations of the world saw an attempt to immediately leave the civilization of feudalism which, in addition to full of injustice and oppression, no longer provide the basis for a nation to be more forward and prosper.

Realignment of the structure of agrarian was then known as Reform Agrarian. This is done by Europe, America, Japan, Korea, China, Russia (at the time of the Soviet Union), South Africa, and Cuba and is now being implemented with heavily in Venezuela and Bolivia. Reform agrarian in developed nations proved to be a prerequisite for the success of their industrialization. In other words, reform agrarian should be seen as a nation to get a more advanced norm. So it is with Indonesia. The founders of this nation had realized that the structure of colonial capitalism who colluded with the native structure is that feudalism contrary to the ideals of Indonesia's independence. Since the independence, the steps to setup the agrarian structure has been done.

Through Act No. 13 of 1946, the Government waives the rights of specials owned the village elite. Through the ACT of (emergency) number 13 in 1948, the Government also abolished the "conversion right" from the sugar cane companies which were in the two sultanates of Yogyakarta and Solo, and their land distributed to farmers. (Selo Soemardjan, 1982: 12).

When compared to other countries, then the question of how the Land Reform in Indonesia? In 1948 it was also starting to form a State Committee to develop thinking and preparing for the formulation of new legislation in the field of agrarian, to replace the colonial Agrarian ACT of 1870. The effort to formulate agrarian legislation eventually managed to do. There are at least 3 statute relating to the agrarian reform Act No. 5 of 1960 (BAL), Act No. 56/1960 of the Designation of agricultural land area and number 2 in 1960 about the agreement for the results (Farmland).

The emergence of land policy at that time was a reflection of the construction of rural policy. During this period of development in rural areas is more aimed at the democratization of land, leading to the transformation of rural communities as a whole. That means more land policies stressed to setup the structure of land ownership and land ownership. It is based on the assumption that the patterns of ownership and of traditional land ownership (the lame) is the cause of political unrest, social injustice, which ultimately could hinder economic development.

Therefore, economic development should be preceded by the social reform, as it will not happen in the absence of economic development accelerated the transformation of the social structure. Overhaul the structure of the society to be more democratic in the dominant idea, distributing land to aim so that they had access to tools/factors of production. Plus access to credit and technology, hopefully they can do that would affect production activities increase in well-being.

Thus, Land Reform, as the most important part in reform agrarian aims to eliminate poverty in the countryside. Reform Agrarian and land reform is not just concerned with poverty reduction, such as that found in the dominant discourse about reform agrarian. Agrarian structure of inequality not only leads to poverty but also affect political relationships and social. In many ways, political power in the country are strongly influenced by the

mastery of the land. The people who own and control land would be very influential not only economically but also politically. Most of our farmers who have no land will be in a position which depends economically and politically weak.

If this is the case, equitable access to and control of land (land reform) will also change the basis of the formation of relationships and social politics. The question now is, will change the political relations and social will bring its own democracy and justice? Actually there is no existing by itself in the formation of democracy and justice. Everything is a process that continues to be waged. But Reform agrarian and land reform put the foundations for democratic development and justice because: first, with arable land, farmers can break away from dependence towards the owners of the land. The loss of the dependency of farmers is one of the free individual process of formation that a subject is important in a democracy; Second, the limitation of the vast landholdings of the land reform program will prevent the possibility of domination/economic and political power is excessive in the countryside; Third, if the soil is an important source of power in the countryside, then the Division and limitation of land area will affect the equitable access to resources. In other words, balance-balance political power in rural areas will allow the formation of a more dynamic political situation due to the absence of domination; and fourth, land ownership as a tool of production is the beginning for efforts to improve welfare.

With increasing levels of well-being of farm families can be more involved in politics due to the increased ability to utilize a variety of resources such as: information and education. In conclusion, the reform of the agrarian with his land reform program has a close relationship with democracy.

From another point of view we can say that the reform agrarian is a requirement for the formation of the Community (especially in rural areas) are democratic. As an agricultural country, where most of its citizens residing in the countryside, it is rather difficult to imagine democracy will grow and thrive without the agrarian structure Setup/agrarian reform. The problem now, since 1966, there is no national leadership to seriously manifest reform agrarian as mandated in the BAL. Let alone make reform agrarian as a preliminary step to form a democratic Indonesia and community justice.

IV. Conclusion

Practices of mastery and ownership of agrarian resources, primarily soil must be adapted to the climate of democracy which practised in Indonesia, and it is not unreasonable, because it is already guaranteed in our Constitution the constitution of NKR in 1945, particularly in article 33 paragraph (3) stipulates that the Earth, water and natural resources contained therein are controlled by the State and intended for the most of the prosperity of the people. Even in ACT No. 5 of 1960 on article 6 in the set that the land should be berfunsi.

Reforma agraria is the most appropriate answer. The core of the reforma agraria is landreform rearrangement, structure of land ownership became more social justice. Landreform, the poor through, especially the peasants whose lives depend on the cultivation of land, certain landholdings will get access. The term landreform phobias should be immediately terminated. In the past the scary spectre landreform issues due to the negative stigma of the regime is indeed anti-landreform, but currently landreform is a must.

The country must exert all our ability to help the people of beneficiaries with various agrarian reforma convenience and access.

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