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Legal Politics of Land Dispute Settlement Post The Implementation of The Work Copyright Law in Realizing Security and Justice of Land Rights in Indonesia

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Abstrak: *The enactment of Law No. 11/2020 on Job Creation has drastically changed the legal policy on land rights, for example, building use rights and use rights provide rights not only to land on the surface of the earth but are now extended to above-ground and underground spaces. Another leg al issue is the term of the right which is set at once up to 50 years for building use rights and 60 years for business use rights and still has the right to extend up to 30 years for building use rights or 35 years for business use rights. This research is a normative juridical research. This research aims to analyze the impact of changes in land rights legal policy caused by the Job Creation Law, as well as examine solutions that can be applied to solve the problem of agrarian law anomalies in Indonesia. As an implication, Indonesia currently has two laws that both regulate land rights, namely the Basic Agrarian Law and the Job Creation Law. This makes Indonesia's agrarian law an anomaly. The best solution to resolve this anomaly in land rights law is to not continue legal remaking Law Number 11 of 2020 or to reinterpret the norms.*

Keywords : *Legal Politic, Agrarian Law, Land Dispute Settlement*

PENDAHULUAN

Indonesia is a large nation both in terms of geographical area and population. Population growth is very rapid, while the land used as land is not commensurate with population growth. Land everywhere raises its own problems. Disputes arise between individuals and groups, even between authorities and citizens, either by means of claims, confiscation and other methods to obtain a plot of land. The existence of land is closely related to human survival. It is from the land that humans carry out all activities related to survival, from the land humans obtain resources as a source of livelihood. For the Indonesian people, who are known as an agricultural society, land can almost be equated with a basic need, namely as a place to build a house, a place to carry out farming and investment activities.

"Since 1960 the Indonesian people have had the Basic Agrarian Law as a reference for regulating agrarian/land issues, but this law has not been implemented optimally by the authorities."[1]Recently, the phenomenon of land disputes has become extraordinary throughout Indonesia. "The dispute process occurs because there is no common ground between the disputing parties and the potential. Land disputes occur when an area is included in a concession area using permits based on claims of rights or power."[2]

Disputes of interest are very strong in terms of land ownership, considering the very close position of land in human life, so that through the 1945 Constitution of the Republic of Indonesia, Article 33 paragraph (3) "Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." This provision is clear that the use of natural resources, one of which is land, is to increase the prosperity of the Indonesian people. This

[1]Yusuf Suramto, *Menggapai Tanah Sepetak*, LPH YAPHI, Surakarta, 2018, pp., 1-2.

[2]Ahmad Nashin Luthfi, *Tanah Pesisir Urutsewu: Tanah Milik, Tanah Desa, ataukah Tanah Negara?* (Sengketa Tanah Pesisir di Kebumen, Jawa Tengah), (Bogor: Sajogyo Institute, 2014), p., 1.

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constitutional mandate is further regulated in the Basic Agrarian Law (UUPA) Number 5 of 1960 which contains the main points of Indonesian land law, however further regulation is still needed as a guide for implementing the UUPA.

In relation to the value and function of land, the UUPA explicitly stipulates that Article 6 of the UUPA states that "all land rights contain a social function which then becomes the basis for the obligation to relinquish a person's land rights at any time if the land is converted and/or arrangements are made in connection with it." with the implementation of these social functions".[3]This is the beginning of the idea of land procurement for development aimed at many people or the public interest, which in this case has been regulated in Law of the Republic of Indonesia Number 2 of 2012 concerning Land Acquisition for Development for the public interest and further after promulgation the complete regulations .

Law Number 6 of 2023 concerning Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation becomes Law (Job Creation Law)[4]and the Government of the Republic of Indonesia Regulation Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest has been implemented.[5]Development aimed at the public interest prioritizes land whose procurement is actualized by prioritizing the principles contained in the 1945 Constitution of the Republic of Indonesia and regulations relating to national land, including the principles of humanity, benefit, justice, agreement, certainty, openness, participation, welfare, sustainable, and very synchronized with the values of the nation and state.

Development for the public interest condemns and does not allow deviating from the Pancasila corridor, apart from that, it is necessary to strictly enforce the rules relating to all other regulations governing land acquisition for development in the public interest or in the interests of all Indonesian citizens. The tendency of the Job Creation Law is to prioritize economic development, so that investors or capital owners are recognized as having a vital role in implementing the law through this Law. Emphasizing an economic approach will foster a tendency to ignore or ignore the needs and aspirations of other social groups, even though the state is tasked with meeting economic growth targets that adhere to the values of justice, benefit and certainty.

State policy almost always influences legal development and the creation of new, sometimes unusual, laws. Such as the use of the omnibus legislation method, an example of the irregularity of state policy which affects the legal structure, legal substance and legal culture in Indonesia, which incidentally has a civil law tradition. According to Jimly Asshiddiqie:

> "Omnibus law is a law that covers a lot of material or all other legal material that is related to each other, either directly or indirectly. This kind of practice is certainly not common in the 'civil law' tradition, but in the future it is considered good and continues to be practiced today under the term "omnibus law" or Omnibus Law."[6]

*Omnibus law*or omnibus bill is the result of designing an omnibus legislation model with the ideal aim of completely improving problematic regulations.[7] However in practice in Indonesia carrying out

[3]Putri Lestari, *Pengadaan Tanah untuk Pembangunan Demi Kepentingan Umum di Indonesia Berdasarkan Pancasila*, SIGn Law Journal 1, No. 2, 2020,p.,71-86.

[4]This Perpu is a form of follow-up chosen by the Government and the DPR in response to the Constitutional Court Decision Number 91/PUU-XVIII/2020 stating that the Job Creation Law is conditionally unconstitutional, it has been declared Law No. 6 of 2023 concerning Job Creation.

[5]And based on the closing provisions of the Perpu, that "all implementing regulations established based on UU-CK, remain valid as long as they do not conflict".

[6]Ahmad Ulil Aedi, Sakti Lazuardi, and Ditta Chandra Putri, *Arsitektur penerapan omnibus law melalui transplantasi hukum nasional pembentukan undang-Undang*, Jurnal Ilmiah Kebijakan Hukum 4, 2020, p.,14.

[7]Look, Helmi, Fitria, Retno Kusniati, *Penggunaan Omnibus Law Dalam Reformasi*

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amputations and/or transplants according to previous regulations. The concept of legal transplants that is practiced in Indonesia is a concept of legal formation that combines common law model legal formation methods with civil law methods or incorporates common law legal concepts into civil law laws.

The process of forming good legislation is a determinant of the creation of good legislation. Therefore, it is very important for drafters of legal regulations to understand the theory and methodology of forming legal regulations in order to be able to create legal regulations that can actually solve problems or achieve the goals they want to achieve.[8]

> The formation of these laws and regulations cannot be separated from Pancasila and the 1945 Constitution of the Republic of Indonesia as the highest source of law. Legislation as public policy has constitutional indicators as justification, namely the Preamble to the 1945 Constitution of the Republic of Indonesia which contains Pancasila as the nation's way of life as well as the goals of the state and state functions and norms in the body of the 1945 Constitution of the Republic of Indonesia. This constitutional indicator is the emphasis of politics material law which should be reflected in the content of statutory regulations.[9]

The enactment of the Job Creation Law is believed to be a strategy that is expected to create simple, clean and transparent public services, so that it can encourage economic growth and investment and create many new jobs to overcome unemployment. The large number of licensing administration documents and complicated licensing procedures, not to mention the reality of illegal levies, are factors inhibiting the attractiveness of investment in Indonesia. However, several notes regarding the various issues behind the Job Creation Law have attracted the attention of many groups. Including the potential for recentralization which is strong and could threaten the spirit of regional autonomy.

The reconceptualization of the object of rights and the term of land rights is a small example of the legal material of the Job Creation Law. The reality of agrarische conflictenrecht also occurs in the HPL arrangements given to customary law communities, which socio-anthropologically have their own culture and laws, it becomes a dispute when customary land is given HPL and then the HPL is burdened with HGU, this policy is tantamount to clashing with national law based on written evidence (written based evidence) with customary law based on oral and unwritten evidence (unwritten based evidence). Policies that have the potential to threaten the interests of the environment and indigenous communities, not only for the existence of the communities themselves, but also the territories they own and the sources of livelihood within them.[10]

If in practice, with the enactment of the Job Creation Law, HGU is granted on top of HPL and plantation businesses carry out area modernization, then the existence of indigenous communities has the potential to be eliminated (land use annexation). If this is the case then the Job Creation Law seems to be the legal umbrella for legitimizing the investment aggression of capital owners based on Article 33 of the 1945 Constitution and TAP MPR RI Number IX of 2001 concerning Agrarian Reform and Natural Resources (SDA) Management, which could contain the truth.

State policy (staatspolitiek)'s direction, principles and objectives can be identified from the propositions and/or norms contained in the law, while government policy (bestuurpolitiek)

Regulasi, Bidang Lingkungan Hidup Di Indonesia, Masalah-Masalah Hukum, Volume 50 No.1, January 2021, p., 25.

[8]Ann Seidman et. al., *Legislative Drafting for Democratic Social Change*, London, Kluwer Law International, 2001,p.,32.

[9]Shanti Dwi Kartika, , *Politik Hukum Undang-Undang Cipta Kerja, Pusat Penelitian Badan Keahlian DPR RI*, Bidang Hukum Info Singkat,, Vol. XII. No. 20, 2020,p.,4.

[10]Ria Maya Sari, *Potensi Perampasan Wilayah Masyarakat Hukum Adat dalam Undang-undang Nomor 11 Tahun 2020 tentang Cipta Kerja*, Mulawarman Law Review 2, 2020, 6 (1).

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can be identified from the propositions and/or norms contained in government regulations. In other words, to recognize state policy on land rights regulation, you have to study the law, and if you want to recognize government policy on land rights, you have to study government regulations and their implementing regulations. So, when a law has been followed by government regulations , presidential regulations and ministerial regulations then state policy and government policy merge into legal policy (beleidsregel) and/or legal politics (rechtspolitiek). The reality of the legal policy of the Job Creation Law, the regulation of land rights between those regulated by the UUPA and its implementing regulations and the regulation of land rights in the Job Creation Law and its implementing regulations, creates an anomaly (juridische anomaly) in Indonesian land law.

There are still high levels of land disputes currently occurring which have resulted in unequal control of managed areas which are dominated by industrial groups amidst uncertainty over ownership of land rights by the people who occupy them both before and after concession permits are granted by the government. The policy of converting land and forests into industrial areas is one of the factors causing various natural phenomena in the form of ecological disasters that often occur. Apart from that, there is no road map for resolving land disputes nationally in the short, medium and long term. The absence of a road map for resolving land disputes means that the main influence on accelerating the resolution of land disputes is sporadic, partial and does not touch the main issues behind the emergence of these problems.

In order to realize legal certainty, extensive audits, function audits and utilization audits must be carried out because up to now the pattern of granting HGU permits related to area area is still done manually, while currently with advances in technology we are using satellites to get accurate results. Meanwhile, currently there are 4 ministries that are closely related to land disputes, so it is quite difficult to synchronize ministerial regulations, thus hampering the resolution of land disputes. It is necessary to create an institution whose special task is to resolve land disputes.

In its amendments to the Job Creation Law, there are very crucial issues regarding the regulation and mechanisms for land acquisition, including the government adding the interests of mining investors, tourism and special economic zones to the category of infrastructure development for the public interest, with the aim of making the land acquisition process easier, even though Land procurement cannot be seen as merely the process of providing land for the development of infrastructure projects, but must consider the economic, social and environmental impacts on the affected communities as well as the problems that have occurred in Indonesia after the enactment of the Job Creation Law.

METHOD

This research is a normative juridical research that examines Law Number 11 of 2020 concerning Job Creation and Law Number 5 of 1960 concerning Basic Agrarian Regulations. Bahder Johan Nasutionsaid that "Normative legal research examines legal principles, legal systematics, levels of legal synchronization, comparative law and legal history". (Nasution, 2008)Meanwhile, according to Peter Mahmud Marzuki "Normative juridical research is a process to find legal rules, legal principles, and legal doctrines to answer the legal issues faced" (Peter Mahmud, 2005).

RESULT AND DISCUSSION

State policy almost always influences legal development and the creation of new, sometimes unusual, laws. The use of the omnibus legislation method is an example of the irregularity of state policy which influences the legal structure, legal substance and legal culture in Indonesia, which incidentally has a civil law tradition. This is in line with Jimly Asshiddiqie's opinion:

> “Omnibus law is a law that covers a lot of material or all other legal material that is related to each other, either directly or indirectly. This kind of practice is certainly not common in the 'civil law' tradition, but it has since been considered good and continues to be practiced today

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under the term "omnibus law" or Omnibus Law."[11]

*Omnibus law*or omnibus bill is the result of designing an omnibus legislation model which practices amputation and/or transplantation of regulations in previous regulations. The concept of legal transplants that is practiced in Indonesia is a concept of legal formation that combines common law model legal formation methods with civil law methods or incorporates common law legal concepts into civil law laws. This understanding refers to Tim Lindsay's opinion which states: "the adoption of a particular model seeks to achieve the same result as that produced by the original model"[12].

The practice of legal transplantation using the omnibus law model occurs in the regulation of land rights in the land cluster of Law no. 11 of 2020 concerning Job Creation (UUCK), which adopts a longer period of land rights following the concept of a monarchy or former monarchy that adheres to a long life covenant or long life lease as per the dominium and/or empire ideology. In fact, it is different from Indonesia which adheres to the Rights of the Nation and the Right to Control the State which cannot necessarily be included in the ideology of dominium or empire. If we start from the concept of National Rights and the Right to Control the State, the concept of Building Use Rights (HGB), Business Use Rights (HGU), Use Rights (HP) in Indonesia is not a land rental institution.

Countries with a dominium system make it possible for the country to implement a rental system, lease hold or covenant, with long and long terms. Constitutional problems arise if Indonesia, which does not adhere to a dominium system, nor is it a former kingdom or monarchy, provides a period of 80/90 years for land rights. The land ownership system adopted by Indonesia, such as HGU, HGB or HP, is not legally conceptually the same as the concept known as lease hold or covenant.

Even if HGB or HP is granted on land with ownership rights or on land with management rights (HPL), it is still different from a lease hold or covenant, because land lease agreements such as lease holds or covenants do not issue certificates, whereas HGB or HP given on land with rights. Owned by or on HPL land, a certificate is issued with the same form and type of certificate as HGB and HP on State Land. HGB or HP granted on Freehold land or on HPL land is called an encumbrance of rights, which occurs as a result of the follow-up to the land use agreement between a third party and the land owner. This is what is unique about Indonesian land law, the lessee is given a certificate whereas in other countries it is only a deed of agreement (land lease agreement/covenant).

Reconception or transplantation of the concept of land rights which was previously regulated in Law no. 5 of 1960 concerning Basic Agrarian Principles (UUPA) which was then conceptually added to by UUCK making land rights regulated by 2 (two) different laws but regulating the same legal issues, this could give rise to legal conflicts or agrarische conflictenrecht. The author can show an example of agrarische conflictenrecht in the regulation of HGB. In previous regulations, HGB was a type of land right regulated by the UUPA, conceptually it only gave the right to build and own buildings on land on the surface of the earth, but by the omnibus legislation HGB was changed, the concept of which could be granted. in the above ground space (RAT) and underground space (RBT). Likewise, regarding the regulation of the term of land rights, for example, the HGB period which was originally granted for a maximum of 30 years, then by omnibus legislation can be granted for 50 years if it is on state land. Meanwhile, HGB on HPL land for apartment buildings can be given for 80 years. Likewise, HP regulations which originally had a maximum term of 25 years in the omnibus legislation can be granted for 50 years. Likewise, HGU which was

[11]Ahmad Ulil Aedi, Sakti Lazuardi, and Ditta Chandra Putri. '*Arsitektur penerapan omnibus law melalui transplantasi hukum nasional pembentukan undang-Undang'*, Jurnal Ilmiah Kebijakan Hukum, 2020, Vol.2, p.7

[12]Syahriza Alkohir Anggoro, *Transplantasi Hukum Di Negara-Negara Asia: Suatu Perbandingan*, Indonesia Law Reform Journal, p. 19- 20.

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originally granted for a maximum period of 35 years by the omnibus legislation can be granted for a maximum period of 60 years.

The reconceptualization of the object of rights and the term of land rights is a small example of UUCK legal material. The reality of agrarische conflictenrecht also occurs in the HPL arrangements given to customary law communities, which socio-anthropologically have their own culture and laws, which becomes a conflict when customary land is given HPL and then the HPL is burdened with HGU, this policy is tantamount to clashing with national laws based on written evidence (written based evidence) with customary law based on oral and unwritten evidence (unwritten based evidence). Policies that have the potential to threaten the interests of the environment and indigenous communities, not only for the existence of the communities themselves, but also the territories they own and the sources of livelihood within them. In line with the research results of JMA Labi, SS Nur and K Lahae which states that proof of customary land ownership is generally not written and takes the form of recognition by the surrounding community with land boundaries in the form of natural signs, so simple is their legal system of proof which is inversely proportional to the national proof system . The reality of such customary law is textually recognized by the government as stated in Article 1 point 1 of the ATR/KBPN Ministerial Regulation No. 18 of 2019 concerning Procedures for Administration of Customary Law Community Unity Land which states "Customary Law Community Unity is a group of people who have the same cultural identity, living for generations in a certain geographical area based on ties of ancestral origin and/or common place. live, own property and/or jointly owned customary objects as well as a value system that determines customary institutions and customary legal norms as long as they are still alive in accordance with developments..."[13]

The difference in the character of customary law and national law will reflectively give rise to conflict if the Government forces customary land to be issued HPL and then be burdened with HGU. The position of customary law communities as HPL owners is certainly weak when faced with HGU owners who are generally large or even multi-national companies. The author agrees with HS Lumban Gaol and RN Hartono who stated that although in general there are various regulations governing indigenous peoples such as the Natural Resources Law, the Regional Government Law, the Special and Special Autonomy Law and the Forestry Law, indigenous peoples should be protected and protected, but in reality the position (and rights) of indigenous peoples are not always protected, including their communal land rights. It has been proven that millions of square meters of traditional land belonging to Dayak communities and children have been eroded and evicted by HGU-certified plantation lands and throughout 2019 there were 279 agrarian conflicts recorded in various regions in Indonesia and there was an increase in the number of heads of families (indigenous communities). those affected by agrarian conflict[14].

Customary Law, which was later adopted in the 1875-1879 Grondvervremdingsverbod staatsblad, does not allow buying and selling of customary (ulayat) land and traditional leaders may not alienate part or all of the land to foreigners,8 even though the agreement to encumber HGU over HPL belonging to indigenous communities is actually a sale. purchase customary land use and/or land alienation. Anthropologically, the position and role of land is vital and central for indigenous peoples, indigenous peoples cannot live without their land and for them land cannot simply be substituted with other commodities. It would be right for Ter Haar to AB Prasetyo to say that there is a deep-rooted relationship in nature. Their thinking is that everything is "all

[13]Ria Maya Sari *Potensi Perampasan Wilayah Masyarakat Hukum Adat dalam Undang-undang Nomor 11 Tahun 2020 tentang Cipta Kerja*, Vol.3, 2020, p.9.

[14]Heru Saputra Lumban Gaol and Rizky Novian Hartono, *Political Will Pemerintah Terhadap Pengelolaan Hutan Adat Sebagai Upaya Penyelesaian Konflik Agraria*, Jurnal Agraria dan Pertanahan, 2021, p. 42, 52.

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in pairs" (participeren denken) and in it there is a "legal relationship" (rechtsbetrekking) between humans (customs) and their land.

If in practice, based on UUCK, HGU is granted above HPL and plantation businesses modernize the area, then the existence of indigenous communities has the potential to be eliminated (land use annexation). If this is the case then Ria Maya Sari's statement stating that the UUCK seems to be a legal umbrella for legitimizing investment aggression by capital owners based on Article 33 of the 1945 Constitution and TAP MPR RI Number IX of 2001 concerning Agrarian Reform and Natural Resources (SDA) Management could be contains the truth.10 The a quo signal is coherent with the sound of Article 138 paragraph (2) UUCK which essentially states; On HPL land whose use is handed over to a third party, either in part or in whole, HGU, HGB and/or HP can be granted. Indeed, there are protection articles such as Article 17 UUCK in the plantation cluster which states; authorized officials are prohibited from issuing Plantation Business Permits on Customary Law Communities' Customary Land and are threatened with sanctions by Article 103 UUCK which states; Any official who issues a business permit related to plantations on customary law community customary land will be punished by imprisonment for a maximum of 5 (five) years or a fine of a maximum of IDR 5,000,000,000 (five billion rupiah). Protection and preservation of land of traditional communities and customary communities as well as legal protection is also provided by the state in the sustainable agricultural cultivation system cluster in Article 22 UUCK which states that Business Actors who use customary land rights do not hold consultations with customary law communities holding customary rights to obtain approval subject to administrative sanctions. The description of sociological issues and legal issues above shows that there is a state policy in the UUCK which gives birth to destructive norms in the land cluster which is inversely proportional to the protective plantation cluster and sustainable agricultural cultivation cluster.

Theoretically, it is common for state policy to change legal politics and create new laws in order to create new legal practices and legal orders to conform to the desired status quo. Actually, what is legal politics, which is so easily influenced by/and by state policy, is that legal politics is made up of state and/or government policy which is the parent of the politics of legislation, in other words legal politics is legal policy. In the author's opinion, legal politics must be in harmony with legal philosophy, legal theory and legal dogmatics in addition to operationalizing the basis of the state and the goals of the state (the Constitution). This is when state politics and legal politics become intertwined and influence each other. State politics can indeed make laws, once it becomes law the law then regulates the state and politics, this is the case with state policies which change the regulation of land rights while simultaneously changing the politics of national land law.

State policy (staatspolitiek)'s direction, principles and objectives can be identified from the propositions and/or norms contained in the law, while government policy (bestuurpolitiek) can be identified from the propositions and/or norms contained in government regulations. In other words, to recognize state policy on land rights regulation, you must study the laws, and if you want to recognize government policy on land rights, you must study government regulations and their implementing regulations. Thus, when a law is followed by government regulations, presidential regulations and ministerial regulations, state policy and government policy merge into legal policy (beleidsregel) and/or legal politics (rechtspolitiek).

The reality of post-UUCK legal policy, the regulation of land rights between those regulated by the UUPA and its implementing regulations and the regulation of land rights in the UUCK and its implementing regulations, makes Indonesian land law an anomaly (juridische anomaly). This prompted the author to conduct research on legal issues: Regulation of terms, subjects, objects and duration of land rights, between Pre and Post UUCK. The approaches used in discussing legal issues are the statutory approach and the conceptual approach. The author does not use a case approach because the UUCK has not been implemented perfectly and there have been no

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concrete cases submitted to civil courts or state administrative courts, except for formal review cases at the Constitutional Court which have been decided and declared UUCK conditionally unconstitutional.

Regulation of land rights by UUCK and UUPA in a normative juridical manner has given rise to conflicting norms and anomalies in these two laws. Anomalies and conflicting norms between laws do not only occur at the level of norms, propositions and conceptions, but also occur at the level of legal politics (rechtsidee) adopted by each law, namely first, the problem of the use of the term and understanding of the right to land; secondly, the problem of object regulation, subject expansion and the length of the period of privately owned land rights up to 3 generations. Thirdly, the disorderly drafting of the UUCK law which has been ruled conditionally unconstitutional by the Constitutional Court, will bring legal uncertainty to the regulation of land rights.

A-priori, legal uncertainty has an impact on the chaos of the state's legal protection system for land rights holders. The legal arguments that the author thinks about; first, the emergence of two laws that regulate the same legal issue even though theoretically it is not permissible for two different regulations to regulate differently the same legal issue; secondly, when the UUCK has not yet become effective, the UUPA still applies, the state is (hypothetically) powerless to overcome the problem of inequality in land ownership between the nation's children, land mafia problems, and land conflict problems inherent in the problem of overlapping and multiple certificates; third, problems at the constitutional level, relating to Article 28G paragraph (1) of the 1945 Constitution, the essence of which is that the state guarantees every person the right to personal protection, family, honor, dignity and property under its control, guarantees and protection provided by the state and The constitution becomes an anomaly when the UUCK regulates the HPL of ulayat/customary communities burdened with HGU which is generally business need and profit-oriented. The arrangement of HGU granted on HPL land of indigenous communities triggers a cultural antinomy between the anthropological culture of indigenous communities who own HPL on the one hand and the business culture of HGU owners who are homo homini lupus and homo economicus on the other hand. It could be true what expert Zohra Andi Baso said at the Constitutional Court hearing, that indigenous peoples' culture depends on natural resources in the forest, which in the end loses economic resources and they become poor, and HGU on indigenous peoples' HPL land could become state policy that opens wide land alienation and the process of impoverishing the nation's biological children.

According to the author, a simple way to resolve legal conflicts and/or conflicts over the regulation of land rights can be to use solutions; first, the Government and the DPR have agreed not to continue the UUCK remaking law ordered by the Constitutional Court Number 91/PUU-XVIII/2020, thus the UUCK will be permanently canceled, so there will no longer be legal anomalies and legal conflicts regarding the regulation of land rights in Indonesia; secondly, the Government and the DPR carried out a law remaking of the UUCK but deleted the content of land rights contained in the land cluster as far as terms, meanings, subjects and objects, as well as the term of land rights; third, continuing the UUCK law remaking but seriously harmonizing and synchronizing ideology, principles, objectives, and re-arranging objects, subjects, term of rights and substance of land rights guided by the spirit of Article 33 paragraph (3) of the 1945 Constitution and not conflicting with provisions in the UUPA except for the regulation of rights to underground space and above ground space.

If the reality in the future is reflected, UUCK has successfully carried out law remaking and is not repeatedly questioned at the Constitutional Court, then the solution uses four preferential principles to resolve legal conflicts (the internal order of preference):

1. *lex superior derogat legi inferiori*, higher regulations cancel lower regulations.
2. *lex posteriori derogat legi priori*, later regulations cancel previous regulations

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3. *lex specialis derogat legi generalis*, specific regulations override more general regulations.
4. *lex posterior generalis non derogat legi priori speciali*, unless stated otherwise, subsequent general provisions do not replace previous specific provisions.

The results of using the four preferences as mentioned above, produce a settlement pattern; first, denial of norms (disavowal); second, reinterpretation of norms (reinterpretation); third, cancellation of norms (invalidation); and fourth, restoration of norms (remedy). The weakness of the four preferential principles above is that they all really depend on the perspective, interests, goals and objectives of the party who wants to solve the problem, which in the end gives rise to pros and cons and even becomes a new polemic. In other words, there will always be debate between parties, whether UUCK is lex specialis or UUPA is lex specialist? It could be that UUCK which has a lex posteriori position must be prioritized because UUPA is lex prori, it could also be that UUPA has to be prioritized because of the principle of lex posterior generalis non derogat legi priori speciali.

According to the author, the most preferred solution is that the Government and DPR do not continue the UUCK so that there is no legal dualism, legal conflict, and no legal anomalies in regulating land rights in Indonesia or restoring UUCK norms that are not in line with existing land rights norms. regulated by UUPA (reinterpretation and invalidation), as well as a form of compliance with the Constitutional Court decision no. 21-22/PUU-V/2007.

CONCLUSION

The state policies contained in the UUCK and its implementing regulations governing land rights, namely the object, subject and substance of land rights as well as the term of land rights, have carried out reconceptualization, amputation and transplantation of the UUPA and its implementing regulations by means of omnibus legislation. The process of reconception, amputation and transplantation of conceptions and propositions in the old law by the new law without canceling the UUPA means that there are 2 (two) different laws regulating HGU, HGB, HP and HPL which can give rise to agrarische conflictenrecht at the juridical level-normative.

On this basis, it is recommended that the government and the DPR restore the norms governing land rights by paying attention to the norms, propositions, conceptions of land rights regulated by the UUPA, especially regarding the terms, meaning, object, subject and term of land rights, as well as implementing the Court's orders. The Constitution in its decision no. 21-22/PUU-V/2007. More specifically, the Government and the DPR have canceled the time periods for HGB, HGU, HP so that they no longer have long durations and do not follow monarchical or ex-monarchical countries or those that adhere to the dominium ideology. Next, review the arrangements for granting HGU on ulayat/customary community HPL land, so that there are no cultural and legal conflicts in the future. Finally, when the Government and DPR carried out law remaking UUCK in accordance with Constitutional Court decision no. 91/PUU-XVIII/2020, so as not only to improve the an sich procedure, but the substantive juridical return to the spirit and national ideology of Article 33 paragraph (3) of the 1945 Constitution and not to forget the noble testament of Pancasila socialism, the principles of kinship and mutual cooperation which have been translated beautifully by UUPA.

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