

Access reform policy within Agrarian Reform Frames in ex-residency area of Surakarta, Indonesia

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ABSTRACT

This present research aims to 1). Describe the land policy in the Ex-residency area of Surakarta which includes Surakarta, Sragen Regency, and Wonogiri Regency; 2). Formulate a model of legal policy of access reform within the framework of agrarian reform. This type of research is a juridical - empirical study using two approaches, namely a qualitative non-doctrinal approach and an agrarian reform concept approach. The recent land policy in the Surakarta Ex-Residency area is based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL) except the Surakarta Land Office which has the status of a complete city based its land certificate policies on the Agrarian Regional Program (PRODA). The policy offered in the research was analyzed with the Fishbone model which sequentially explained a visual list composed of various causes that influenced a process. It was carried out by separating and connecting one cause with another. The identification process was performed by looking for root causes that influenced the non-realization of the legality of access reform in the Surakarta Ex-Residency area through several indicators, such as (1) regulation; (2) land office; (3) society; as well as banking. Therefore, the government needs to optimize the implementation of agrarian reform in accordance with People's Consultative Assembly (MPR) Decree Number IX/MPR/2001 on Agrarian Reform and to formulate regulations for implementing agrarian reform regarding access reform.

Key words : Agrarian reform, Access reform, Community welfare, Surakarta, Indonesia

Introduction

Law Number 5 of 1960 concerning Basic Regulation on Agrarian Principles (UUPA) in the Indonesian land law system becomes a foothold in the regulation of land law which places more emphasis on individual land ownership in response to the clarity of control of land when the land rights are transferred (Haris, 2005). Agrarian reform is expected to encourage changes in the agrarian structure with the aim of increasing poor peasants' access to land tenure and to improve their welfare as well (Arisaputra, 2013). Agrarian reform generally in-

volves redistribution of land and/or changes in regulations that increase land access and/or tenure security (Besley and Burgess in Resosudarmo, 2019) which includes sustainable processes relating to the restructuring of land ownership, use and utilization of agrarian resources. This is implemented in the framework of achieving legal certainty and protection as well as justice and prosperity for all Indonesian people (Sihombing, 2017).

The current status quo of agrarian policies rolled out by the Jokowi - Ma'aruf Amin government is to continue Jokowi's first period of government program as stipulated in the vision, mission and action

program of Jokowi - Ma'rif Amin (2019-2024), namely: First, accelerating redistribution of assets (agrarian reform) that are right on target; Second, continuing community assistance in the use, utilization and production of land under the object of agrarian reform and social forestry; Third, continuing to accelerate the legalization of assets (certification) of community-owned land and waqf land to support legal certainty and prevent disputes over land (Presidential Staff Office: 2019). On the face of it, the policies proposed by the government are positive, however, they are inseparable from the gaps and weaknesses that need to be studied through their implementation at the local government level.

Central Java as one of the largest provinces in Indonesia through the Ministry of Agrarian Affairs and Spatial Planning (ATR)/National Land Agency (BPN) until 2019 explained that out of 21.7 million parcels of land in Central Java, currently, only 12.6 million are certified fields or equivalent to 57.79% and 9.19 million parcels are uncertified fields or 42.21% (Government of Central Java Province: 2019). In investigating the effectiveness of the implementation of agrarian reform in Central Java Province, it is necessary to conduct research in several regencies or cities of the Surakarta Ex-Residency Region (Surakarta, Sragen Regency, and Wonogiri Regency) to become objects of research representing urban areas (Surakarta), rural areas (Sragen Regency) and transmigration areas (Wonogiri Regency) to find out how effective the existence of a land policy is in accommodating community needs.

This land policy is targetting the high legalization of assets, meanwhile, access reform is insignificant. This does not rule out the possibility of creating a certain social condition in the future which is far from the expected welfare through the legalization of assets which only patents the rights to tenure, ownership, use, and utilization. But it should also utilize land so that human needs for food can be fulfilled. The lower-middle-class society who is characterized as poor, both in health and nutrition and less-educated can improve their welfare by increasing income (Mahpud, 2016). One of the ways to achieving this is by utilizing the assets owned, including the land certificate through the targeted access reform program. Agrarian reform must be an important part of a government strategy aimed at reducing poverty and oriented towards civil society (Rosset, Peter: 2006). Responding to this, the

People's Consultative Assembly Decree No. IX/MPR/2001 on Agrarian Reform was published, which focuses on achieving the target of legalizing assets which are a small part of agrarian reform by restructuring tenure, ownership and unequal use of land to create a basis of the productive power of the community and achieve social justice so that it can improve the welfare of society.

Based on the description above, the objectives of this current research are 1). To describe land policy in the Ex-Residency area of Surakarta which includes Surakarta, Sragen Regency, and Wonogiri Regency. 2). To formulate access reform policies in the frame of agrarian reform by using a fishbone analysis model whose outcome is the legitimacy or legal umbrella provision by designing implementing regulations on access reform in the Surakarta Ex-Residency Area.

Materials and Methods

This research is empirical legal research or socio-legal research using two approaches; non-doctrinal approach and agrarian reform concept approach. The data source is classified as primary and secondary data sources. The primary data was obtained directly from informants who have knowledge about access reform policies in the regency or city areas of the Surakarta Ex-Residency Region (Surakarta, Sragen Regency, and Wonogiri Regency). The secondary data, on the other hand, was used to support the primary data. This type of data was obtained through the study of literature, literature books, documents, legislation, and other written sources.

Results and Discussion

Land Policy in the Ex-Residency Area of Surakarta

The current legal system in Indonesia is sourced from the tradition of the customary law system, Islamic law, and western law which are the three legal systems used as the main components in the formation of law in Indonesia. Indonesia is one of the countries that practices a mixed system, which means the legal system of law, customary law, and Islamic law are applied at one time (Umar, 2014). In order for humans to carry out their functions, concrete legal rules are created. According to Ziauddin Sardar, the law is a value center that contains rules,

which aim at universal general welfare for all beings, including human welfare for the present and the future and in the afterlife (Absori, 2015).

Land law policy is strongly influenced by the style of leadership of each regime in government. In the era of President Susilo Bambang Yudhoyono's administration, the government assisted the people in certifying their land so that it had a clear legal status. In 2005 the Government waived the cost of obtaining certificates for 410,361 parcels of land. In 2006, this figure increased by 44 percent to include 591,000 plots of land. Then in 2007, it was targeted that the fee waiver could serve 1,113,130 parcels of land, which meant an increase of 89 percent (Nurdin, 2018).

The current administration of President Joko Widodo has a good intention to achieve agrarian reform through land reform which is one of the objectives of his government. This is evidenced by the issuance of Ministerial Regulation No. 6 of 2018 on Complete Systematic Land Registration in which the ATR / BPN ministry targets 126 million certified parcels of land throughout the country in 2025. However, these all need to be tested, so they can be implemented in reality, especially in dealing with land issues, among others, a strong sectorization and contestation of control over state lands which are divided into three major sectors, namely the mining, plantation, and forestry sectors (Sembiring Julius, 2016).

Land law policy in the Regional Government of the Ex-Residency Area of Surakarta, namely Surakarta, Sragen Regency, and Wonogiri Regency follows the instructions issued by the central government which is the Ministerial Regulation Number 6 the Year 2018 regarding Complete Systematic Land Registration as a manifestation of the Instruc-

tions President Number 2 of 2018 concerning the Acceleration of Complete Systematic Land Registration in the entire territory of the republic. Unlike the other land offices, the Surakarta Land Office implements a land certificate policy based on the stipulation of a decree issued by the Head of the Housing Office and the Head of the Surakarta Land Office every year in accordance with the targets and needs of the implementation of the Regional Agrarian Program, hereinafter abbreviated PRODA (Surakarta Land Office: 2020). The following data shows the target and realization of the implementation of the land certificate policy in the ex-residency area of Surakarta in 2019:

Based on these data, the implementation of the land certification policy in the Ex- Residency Area of Surakarta has run effectively in accordance with the achievement of targets from each land office with the following realization in 2019: 1). Sragen Regency 30,000 land parcels; 2). Wonogiri Regency 15,850 parcels of land; and 3). Surakarta with a total of 100 parcels of land. Substantially, the land policy exists to improve the legal substance relating to the legalization of assets. However, it is also necessary to understand the legal impact after the regulation is launched, especially for the welfare of the community. These impacts can be seen through the use of land certificates as capital to improve the welfare of life (Bangsawan, M., Absori, 2019) as an effort to gain access to economic resources, this is then known as access reform. Access reform is a manifestation of the presence of the state to the recipients of asset reform in order to be able to empower their land to improve their welfare. The land policy, indirectly, has affected the increase of desire of the community to apply for loans to banks, accompanied by the installation of mortgage rights on land objects as

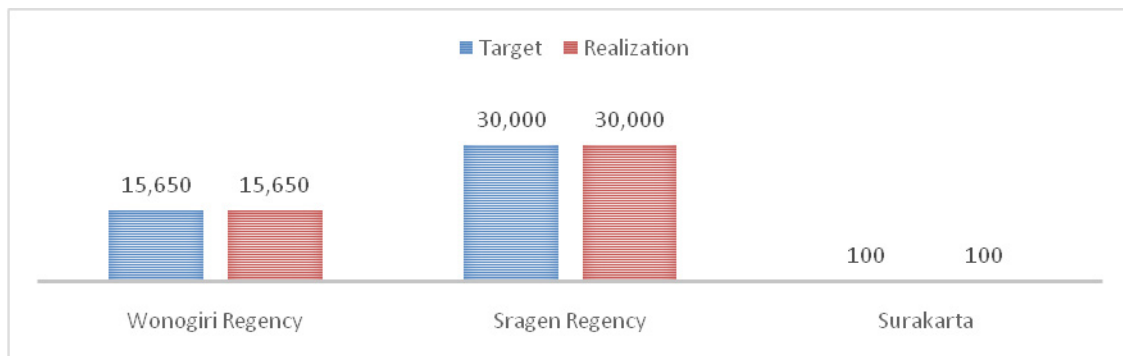


Fig. 1. Target and Realization of Land Certification Policy in the Ex-Surakarta Residency Area in 2019

Source: Data of the Land Office in the Ex-Residence Area of Surakarta in 2019

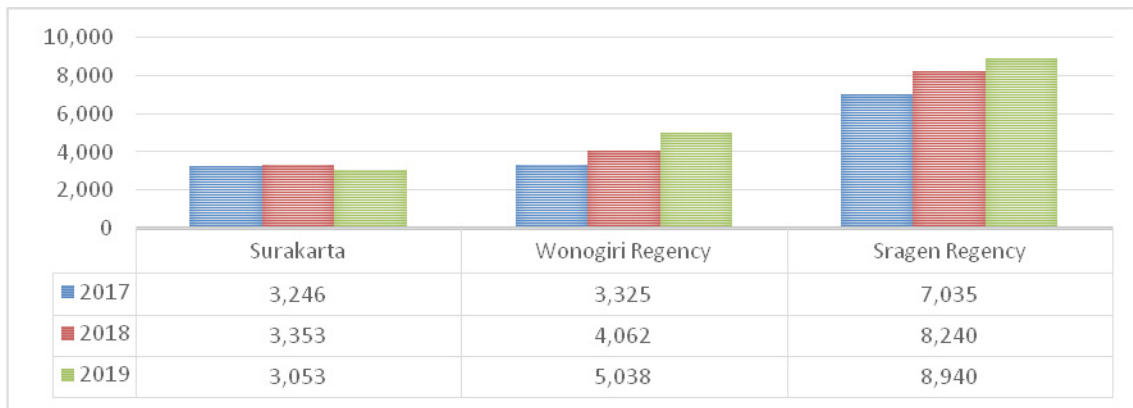


Fig. 2. Recording of Mortgage Rights in the Ex-Residency Area of Surakarta in 2017-2019

Source: Data from the Land Office in Surakarta Ex-Residency Area in 2019

collateral objects. The following chart shows data on the recording of mortgage rights in the Ex-Residency area of Surakarta in 2017 - 2019.

The bar chart shows an increase in the number of applicants for the recording of mortgage rights in the ex-residency area of Surakarta. However, the high number of applicants is not a sole indicator or benchmark of the increasing desire of the community to collateralize their certificates. In that case, it should also be followed by the data of the value of the mortgage rights of the certificates as shown in the following chart.

The above data features that Surakarta received the highest value of mortgage rights compared to the two regencies with a total value of Rp. 13,054,673,153,770; while Sragen Regency is in second place with a total value of mortgage of Rp. 7,082,804,290,104; followed by Wonogiri Regency with a total value of mortgage of Rp. 2,516.059,663,495. The recording of the mortgage is a crucial factor in de-

termining the provision of credit at the bank as well as to guarantee the performance of achievements in an agreement. Therefore, the implications of the land certificate policy on the welfare of the community in the Surakarta Ex-Residency area are quite appropriate when viewed in terms of the targets and objectives to ensure legal certainty of land rights (certificates). However, optimizing access to these certificates on economic resources is also important and is the key to agrarian reform that is expected to be able to improve welfare and foster the independence of a balanced (just) society so that it can realize the welfare of all walks of life in the frame of sustainable development (Absori, 2006).

Policy Model of Access Reform in the Frame of Agrarian Reform

The land is an important resource for Indonesia. As an agrarian country, the land-based economy contributes significantly to the welfare of the commu-

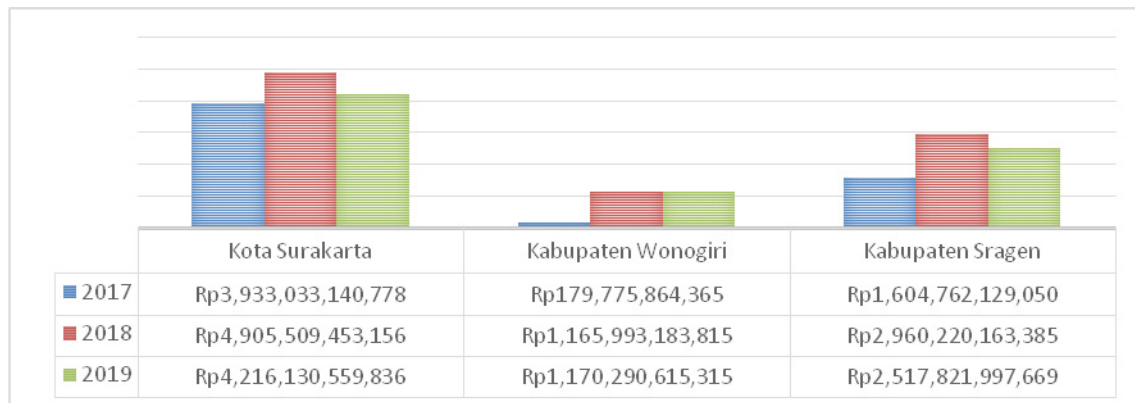


Fig. 3. Recording of Mortgage Value in the Surakarta Ex-Residency Area in 2017 - 2019

Source: Data from the Land Office in Surakarta Ex-Residency Area in 2019

nity. The land is the basis of development since it has a cultural and social value. The importance of land gives rise to conflicting claims. Therefore, the government pays serious attention to land development and land management (Winoto, 2009). Land policy as part of efforts to realize the goals of agrarian reform must aim at social transformation and address social conflicts or reduce the possibility of future conflicts (Wiradi in Rejekiningsih, 2019). Agrarian disputes in Indonesia cannot be understood merely as agricultural disputes or land disputes, but are interrelated with the development of economic systems, minority competition, and inequality between traditional and modern life (Ginting, 2020).

The land policy that is being developed at the moment seeks to fully describe the content contained in the spirit and mandate of the constitution and the Agrarian Principles Regulation (UUPA) so that it can be achieved to the maximum extent possible in an effort to encourage agrarian reform that has been prepared by Indonesia's founders, and is the result of a desire to make fundamental changes in imbalance economic and agrarian systems inherited from the colonial era (Purwanto, 2013). The land policy implemented by the land office in the Surakarta Ex-Residency area is a small part of the agrarian reform process. People's Consultative Assembly Decree No: IX/MPR/2001 Concerning Agrarian Reform confirms that the principle of agrarian reform rests on three main principles,

namely 1). Democratic principles, in the dimension of equality between the government and the people, community empowerment, and the development of good governance in the control and utilization of agrarian resources; 2). The principle of justice, in the philosophical dimension of both intergenerational justice and intragenerational justice in efforts to access agrarian resources; 3). The principle of sustainability, in the dimension of the sustainability of functions and benefits that are empowered and effective (Maria, 2001).

The government, in the implementation of agrarian reform, refers to two schemes called asset reform and access reform (Waryanta, 2018). Asset reform is the presence of the state to provide land to the people who need it and to strengthen land ownership rights over lands that have been controlled by the community. While access reform is a manifestation of the presence of the state to the recipients of asset reform in order to be able to empower their land to improve their welfare (Indra Bangsawan: 2018). With regard to access reforms, there has been an increase in the community's desire to apply for loans, accompanied by the installation of mortgage rights on land objects as collateral as described in the previous discussion. Therefore, the Land Office in the Ex-residency area of Surakarta needs to respond to the wishes of the community as a form of the access reform program that eases people to obtain economic resources (credit).

Analysis of land policy in the Surakarta Ex-Resi-

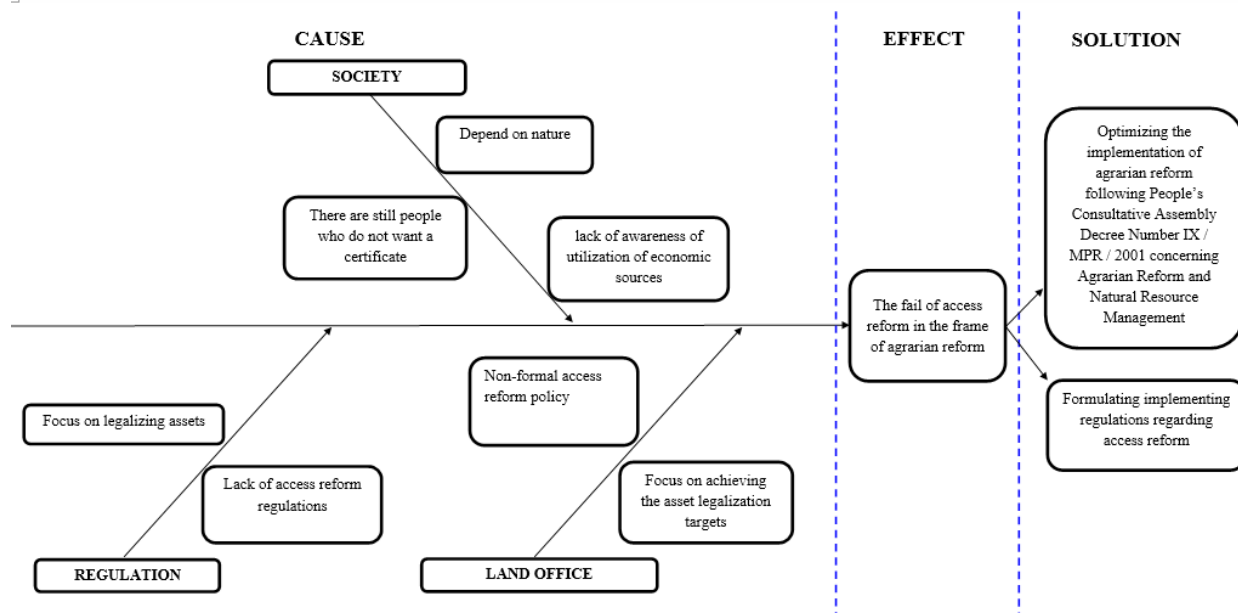


Fig. 4. Fishbone Diagram Analysis

dency area is carried out by fishbone diagrams which sequentially helps to explain a visual list compiled in a structured manner and illustrate various causes that influence the process by separating and linking one cause with another (Nurhayati, Nobleman, 2019).

Based on the fishbone diagram above, several indicators of the non-optimal implementation of agrarian reform in the Surakarta Ex-Residency area are explained as follows: 1). Regulations, the problems encountered in terms of regulation are still focused on the legalization of assets, it is undeniable that the current asset legalization policy refers to Ministerial Regulation No. 6 of 2018 concerning Complete Systematic Land Registration in which the ATR / BPN ministry targets 126 million fields certified land in all regions of Indonesia in 2025. This then encourages each land office to complete the target of legalizing assets as much as possible in a short time. While the implementation of agrarian reform regulated in Presidential Regulation No. 86 of 2018 concerning Agrarian Reform in terms of asset redistribution has not been running optimally. The Agrarian Reform Consortium (KPA) explained that there are 400.000 hectares of land to be distributed to priority subjects, namely farmers, agricultural laborers, fishermen, and communities affected by agrarian conflicts, however, the data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) shows that only 270,237 hectares of the total land have been successfully distributed. Furthermore, there is still a lack of access to reform arrangements. Basically, the regulation of access reform refers to Article 6 TAP MPR Number IX/MPR/2001 which is intended to make arrangements in terms of control, ownership, use of land to realize justice and prosperity in the land sector. Furthermore, the National Medium-Term Development Plan 2015 - 2019 which was later reaffirmed in Presidential Regulation No. 86 of 2018 on Agrarian Reform mentioned that the agrarian reform agenda is divided into two, namely the legalization of assets and redistribution of assets. The regulation of agrarian reform should be followed up by the government by realizing the structuring of assets and structuring real and fair access, not only by regulating the legalization of assets and redistribution of assets but also making arrangements regarding the distribution of access; 2). The Land Office, Ministry of ATR/BPN does not include the access reform program in the budget

implementation checklist (DIPA) so that several Land Offices in the Surakarta Ex-Residency took the initiative to carry out non-formal access reforms, the land offices which have carried out the action are Sragen Regency Land Office and the Wonogiri Regency Land Office. The land office in the Surakarta Residency area is still focused on achieving the target of asset legalization with a quite large target. The ATR/BPN Ministry has prepared its budget through a budget implementation checklist (DIPA). Until now, the Land Office in the Surakarta Residency area that has completed the achievement of the target of legalizing assets is the Sukoharjo Sub-district Land Office; 3). Society, the community does not fully use the economic resources where not all people in the area utilize their certificates to get access to capital sources at the bank. However, some people consider that the issuance of certificates is enough and they do not want to mortgage their certificates in banks because they prioritize the certainty and legal protection functions of their rights. Land certificates that have been issued are very useful especially as the protection of ownership of land rights. Furthermore, the community depends on nature, especially farmers still rely on the availability of agricultural resources such as water that continues to flow. However, this all is only intended to grow rice and the farmers do not want to try to cultivate fruits or vegetables that also have a high sale value in the market. Therefore, it is necessary to optimize the use of nature that has been given by God in order to be able to shift the paradigm of the farmer who only focuses on planting rice into other commodities that can improve their welfare.

There is one inseparable aspect related to the utilization of economic resources (credit), namely, banking. Communities receiving land certificates under the PTSL and PRODA schemes in the Ex-Residency area of Surakarta felt greatly helped by the program. After the land certificate was rolled out, community loans to banking institutions experienced a fairly high increase, both in terms of the number of customers and the number of loans. However, any collateral in the bank certainly has risks, especially for farmers and small entrepreneurs. The banking sector is expected to issue a specific policy for customers who are late in paying installments due to a decline in their business (goodwill), especially for farmers and small businesses who use their land certificates as collaterals.

Conclusion

Several conclusions are drawn as follows:

1. Land policy in the Surakarta Ex-Residency Area (Surakarta, Sragen Regency, and Wonogiri Regency) is based on the Minister of Agrarian and Spatial Planning/Head of the Republic of Indonesia's National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL) and Agrarian Regional Programs (PRODA). The existence of the land policy is not only aimed at achieving the target of land asset legalization. But also, as a form of government service to change the status of community-owned land to be registered administratively so that it has value and can support community economic growth.
2. The access reform legal policy model with fishbone diagram analysis helps to explain and illustrate various reasons for the absence of regulations related to access reform by separating and linking one cause to another. By looking at the root causes, the following indicators are considered to influence the non-realization of the legality of access reform: (1) Regulation, which focuses on achieving the legalization of assets and the lack of access reform arrangements; (2) Land Offices, there are some land offices that carry out non-formal access reforms; (3) Society, there are still people who do not utilize economic resources and depend on nature; and banking sector which is still not optimal to anticipate farmers and small entrepreneurs who are late in paying their installments. Therefore, optimization of the implementation of the Decree of the People's Consultative Assembly Number: IX / MPR / 2001 on Agrarian Reform must be carried out through the formulation of further arrangements regarding the implementation of agrarian reform by each land office, especially related to the implementation of access reforms that will help improve the welfare of the community.

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Conflict of Interest

All of the authors hadn't any conflict of interest

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