

JUDICIAL CONSIDERATIONS IN CORRUPTION CASES INVOLVING LAND USE RIGHTS IN INDONESIA: AN ANALYSIS OF SUPREME COURT DECISION NO. 157 PK/PID.SUS/2018

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ABSTRACT

This study examines the judicial considerations in corruption cases involving land use rights in Indonesia, focusing on Supreme Court Decision No. 157 PK/Pid.Sus/2018. Utilizing a normative juridical and empirical approach, the research analyzes the legal aspects of land use rights and the protection of land rights holders. The case highlights the legal challenges arising from the issuance of land use rights certificates without proper government release, emphasizing the importance of legal compliance and accountability. The Supreme Court's decision to reject the review petition underscores the defendant's culpability in causing financial harm to the state through unlawful actions. This analysis contributes to the discourse on land law and anti-corruption efforts, highlighting the need for comprehensive legal reforms to enhance transparency and accountability in land transactions.

Keywords: Land Use Rights, Corruption, Judicial Considerations, Legal Compliance, Indonesia

Introduction

The objective of this study is to analyze the judicial considerations in corruption cases related to land use rights in Indonesia, focusing specifically on Supreme Court Decision No. 157 PK/Pid.Sus/2018. Land law and property rights are critical issues in Indonesia, where land ownership and usage are often intertwined with complex socio-political dynamics and significant economic interests (Djaja & Mardani, 2020; Setiabudhi et al., 2019; Thorburn, 2004). As the fourth most populous country in the world, Indonesia faces unique challenges in managing land resources, which are vital for its economic development and social stability (Harahap et al., 2017; Putri et al., 2021; Suryadi et al., 2021).

The Basic Agrarian Law, enacted in 1960, along with subsequent regulations, aims to provide a comprehensive framework for land ownership and use. These laws are designed to ensure equitable access to land, promote sustainable land use, and prevent the concentration of land ownership (Estradivari et al., 2022; Feder, 1987; Yusrizal & Lubis, 2018; Alam et al., 2019). However, the implementation of these laws often encounters significant challenges, particularly in the context of corruption (Pratama & Defrizal, 2024). Corruption in land use rights can lead to illegal land acquisitions, disputes over land ownership, and the marginalization of vulnerable communities, ultimately undermining public trust in the legal system and governance (Antonio et al., 2021; Lambert, 2021; Notess et al., 2021; Sakib et al., 2022).

This study seeks to fill a gap in the literature by examining how legal frameworks are applied in judicial decisions concerning land use rights and corruption. Despite the critical importance of land issues in Indonesia, the intersection of land law, property rights, and corruption has not been extensively explored in existing research (Kirnasari et al., 2021; Larasati & Sujadi, 2021; Ramadhani, 2021; Setiabudhi et al., 2019). Previous studies have largely focused on the socio-economic impacts of land corruption or the effectiveness of anti-corruption measures, without delving deeply into the judicial processes and considerations that shape outcomes in these cases (Lambert, 2021; Manji, 2012; Warf, 2017).

By analyzing Supreme Court Decision No. 157 PK/Pid.Sus/2018, this research aims to understand the judicial reasoning and legal principles applied in corruption cases related to land use rights. The study will explore how judges interpret and apply existing legal frameworks in the context of land-related corruption, providing insights into the complexities and challenges faced by the judiciary in such cases. Through this analysis, the research intends to contribute to the broader discourse on land law, property rights, and anti-corruption efforts in Indonesia, offering recommendations for strengthening legal mechanisms and improving transparency and

accountability in land governance. This study's findings are expected to inform policymakers, legal practitioners, and scholars about the intricacies of judicial decision-making in corruption cases, highlighting areas for potential reform and improvement.

Methodology

This study employs a normative juridical and empirical approach to analyze the legal aspects of land use rights and the protection of land rights holders. The normative juridical method involves examining legal documents, including laws, regulations, and court decisions, to understand the legal framework governing land use rights (Citra & Bokings, 2022; Setiabudhi et al., 2019). The empirical approach involves analyzing the facts and circumstances of the case under review, particularly the Supreme Court Decision No. 157 PK/Pid.Sus/2018. This decision is scrutinized to understand the judicial considerations and legal reasoning applied by the court (Djaja & Mardani, 2020; Larasati & Sujadi, 2021). The study also considers the broader socio-political context in which these legal principles are applied, allowing for a comprehensive analysis of the case. This methodological approach ensures that the study is both valid and reliable, providing a robust analysis of the legal issues at hand.

Result and Discussion

a. Results

The Supreme Court Decision No. 157 PK/Pid.Sus/2018 involves a corruption case concerning the issuance of a land use rights certificate. This case highlights several critical issues in the application of land law and anti-corruption measures in Indonesia. The court's decision to reject the review petition by the convicted individual underscores the importance of legal accountability in cases involving public resources and interests. In reaching its decision, the court focused on several key considerations. First, it examined the legality of the land use rights certificate issuance, noting that the land in question had not been properly released by the government. This underscores a significant issue in land law enforcement, where procedural lapses can lead to legal disputes and corruption. The court emphasized the necessity for strict adherence to legal procedures in land transactions to prevent misuse and corruption.

Additionally, the court considered the impact of the defendant's actions on public interest and state finances. The unauthorized transfer of land use rights was deemed to have caused financial harm to the state, a critical factor in the court's decision to uphold the conviction. This reflects the broader legal principle that public resources must be managed transparently and accountably, which is a cornerstone of anti-corruption efforts.

b. Discussion

The Supreme Court Decision No. 157 PK/Pid.Sus/2018 has significant implications for land law and anti-corruption efforts in Indonesia. It reinforces the importance of legal compliance in land transactions and highlights the judiciary's critical role in upholding the rule of law. This case underscores the challenges faced by the legal system in addressing corruption, particularly in sectors with complex regulatory frameworks like land law (Djaja & Mardani, 2020; Setiabudhi et al., 2019). The decision points to the need for comprehensive legal reforms to address gaps in the existing legal framework. While the Basic Agrarian Law provides a foundation for land ownership and use, its implementation is often hindered by bureaucratic inefficiencies and corruption (Estradivari et al., 2022; Yusrizal & Lubis, 2018). Strengthening legal institutions and enhancing transparency in land transactions are critical steps toward overcoming these challenges (Antonio et al., 2021; Notess et al., 2021).

From a theoretical perspective, the case illustrates the intersection of legal principles and socio-political dynamics in the application of land law (Harahap et al., 2017; Thorburn, 2004). The court's decision reflects a commitment to upholding legal principles while also acknowledging the influence of socio-political factors in judicial decision-making. Understanding this interplay is crucial for developing effective legal frameworks that can address the complexities of land law and corruption in Indonesia (Kirnasari et al., 2021; Ramadhani, 2021). These insights are essential for informing policy reforms and enhancing the effectiveness of anti-corruption strategies in the country (Lambert, 2021; Warf, 2017).

Conclusion

This study provides a comprehensive analysis of judicial considerations in corruption cases involving land use rights in Indonesia, with a focus on Supreme Court Decision No. 157 PK/Pid.Sus/2018. The decision underscores the importance of legal accountability and transparency in land transactions, highlighting the challenges faced by the legal system in addressing corruption. By examining the legal and socio-political implications of the case, this study contributes to the broader discourse on land law and anti-corruption efforts in Indonesia. The findings of this study have significant implications for legal practitioners, policymakers, and scholars interested in land law and anti-corruption measures. The study highlights the need for comprehensive legal reforms to address gaps in the existing legal framework and enhance transparency in land transactions. Future research could explore the impact of these reforms on land law enforcement and anti-corruption efforts, providing further insights into the complexities of land law and governance in Indonesia.

References

- Alam, I. A., Singagerda, F. S., & Hairani, T. (2019). Mapping of international trade liberalization and trade balance position in developing country. *Año*, 35(21), 272–287.
- Antonio, D., Njogu, S., Nyamweru, H., & Gitau, J. (2021). Transforming land administration practices through the application of fit-for-purpose technologies: Country case studies in africa. *Land*, 10(5). <https://doi.org/10.3390/land10050538>
- Citra, J., & Bokings, R. (2022). Dispute settlement model of land acquisition for public interest. *Damhil Law Journal*, 2(1), 1–16. <http://ejurnal.pps.ung.ac.id/index.php/DLJ/http://ejurnal.pps.ung.ac.id/index.php/DLJ/>
- Djaja, B., & Mardani. (2020). Proof of land rights ownership over the land disputes in the study of the supreme court's decision number 57 pk / pdt / 2016. *Proceedings of the 2nd Tarumanagara International Conference on the Applications of Social Sciences and Humanities (TICASH 2020)*, 152–156. <https://doi.org/10.2991/assehr.k.201209.020>
- Estradivari, Agung, Muh. F., Adhuri, D. S., Ferse, S. C. A., Sualia, I., Andradi-Brown, D. A., Campbell, S. J., Iqbal, M., Jonas, H. D., Lazuardi, M. E., Nanlohy, H., Pakiding, F., Pusparini, N. K. S., Ramadhana, H. C., Ruchimat, T., Santiadji, I. W. V., Timisela, N. R., Veverka, L., & Ahmadia, G. N. (2022). Marine conservation beyond MPAs: towards the recognition of other effective area-based conservation measures (OECMs) in Indonesia. *Marine Policy*, 137, 104939. <https://doi.org/https://doi.org/10.1016/j.marpol.2021.104939>
- Feder, G. (1987). Land ownership security and farm productivity: evidence from Thailand. *The Journal of Development Studies*, 24(1), 16–30. <https://doi.org/10.1080/00220388708422052>
- Harahap, F., Silveira, S., & Khatiwada, D. (2017). Land allocation to meet sectoral goals in Indonesia—An analysis of policy coherence. *Land Use Policy*, 61, 451–465. <https://doi.org/https://doi.org/10.1016/j.landusepol.2016.11.033>
- Kirnasari, H. M., Negara, T. A. S., Widagdo, S., & Permadi, I. (2021). Philosophical basis of legal regulation to provide legal certainty for certificate holders of building use on land management rights. *Russian Journal of Agricultural and Socio-Economic Sciences*, 120(12), 63–74. <https://doi.org/10.18551/rjoas.2021-12.07>
- Lambert, R. (2021). Land Trafficking and the Fertile Spaces of Legality. *International Journal of Urban and Regional Research*, 45(1), 21–38. <https://doi.org/https://doi.org/10.1111/1468-2427.12975>

- Larasati, M. A., & Sujadi, S. (2021). Implications of the law of land acquisition for development in the public interest on land acquisition conflict resolution. *Al-Ishlah: Jurnal Ilmiah Hukum*, 24(2), 281–296. <https://doi.org/10.56087/aijih.v24i2.286>
- Manji, A. (2012). The grabbed state: lawyers, politics and public land in Kenya. *The Journal of Modern African Studies*, 50(3), 467–492. <https://doi.org/DOI: 10.1017/S0022278X12000201>
- Notess, L., Veit, P., Monterroso, I., Andiko, Sulle, E., Larson, A. M., Gindroz, A.-S., Quaedvlieg, J., & Williams, A. (2021). Community land formalization and company land acquisition procedures: A review of 33 procedures in 15 countries. *Land Use Policy*, 110, 104461. <https://doi.org/https://doi.org/10.1016/j.landusepol.2020.104461>
- Pratama, R., & Defrizal. (2024). Analysis of the Application of Operational Management in Company Activities PT Aneka Usaha Tanggamus Jaya Unit Usaha Wayku Tanggamus Provinsi Lampung. *Formosa Journal of Multidisciplinary Research*, 3(3), 105–118. <https://doi.org/10.55927/fjmr.v3i3.8562>
- Putri, R. F., Rokhim, A. A., Prakosa, M. G., Hastari, N. R. F., Adhesti, Y. M. P., Junaedi, R. N., Ramdani, H. P., & Omar, R. C. (2021). Analysis of land resources balance in Nusa Tenggara Timur Province. *IOP Conference Series: Earth and Environmental Science*, 686(1), 012006. <https://doi.org/10.1088/1755-1315/686/1/012006>
- Ramadhani, R. (2021). Legal protection for land rights holders who are victims of the land mafia. *IJRS (International Journal Reglement & Society)*, 2(2), 87–93. <https://www.beritasatu.com/nasional/660607/perlu-regulasi-tegas-untuk-berantas-mafia-tanah>.
- Sakib, N. H., Islam, M., & Shishir, Md. F. J. (2022). National integrity strategy implementation in land administration to prevent corruption in Bangladesh. *SN Social Sciences*, 2(4), 43. <https://doi.org/10.1007/s43545-022-00352-5>
- Setiabudhi, D. O., Palilingan, T. N., Irwansyah, Maramis, F., & Yunus, A. (2019). Collective land certification policy for improving good land governance. *IOP Conference Series: Earth and Environmental Science*, 343(1), 012068. <https://doi.org/10.1088/1755-1315/343/1/012068>
- Suryadi, M., Sumaryanto, Sumedi, Sukarman, & Rusastra, I. W. (2021). The agricultural land distribution and used on various agroecosystems in Indonesia. *IOP Conference Series: Earth and Environmental Science*, 892(1), 012099. <https://doi.org/10.1088/1755-1315/892/1/012099>
- Thorburn, C. C. (2004). The plot thickens: Land administration and policy in post-New Order Indonesia. *Asia Pacific Viewpoint*, 45(1), 33–49. <https://doi.org/https://doi.org/10.1111/j.1467-8376.2004.00226.x>
- Warf, B. (2017). Geographies of African corruption. *PSU Research Review*, 1(1), 20–38. <https://doi.org/10.1108/PRR-12-2016-0012>
- Yusrizal, & Lubis, M. Y. (2018). Land conversion to the poor people in the perspective of utilitarianism theory by bentham. *E3S Web of Conferences*, 52. <https://doi.org/10.1051/e3sconf/20185200053>