

Critical Studies of the Land Mafia Practices: Evidence in Indonesia

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Abstract

This study aims to present an overview of land mafia practices in Indonesia which raises problems of land cases, land dispute conflicts that lead to *Staat Van Oorlog en Beleg* (SOB) or a state of emergency. The actions and modus operandi of the land mafia in Indonesia are carried out both individually and in groups based on bad intentions involving politicians, criminals, property traders and corrupt government officials. The research methodology used is normative law with a qualitative analysis approach. This document uses primary, secondary and tertiary legal data which is processed from scientific contributions published in research academic databases. This scientific contribution concludes that it is hoped that the problem of land disputes in Indonesia can be resolved properly and amicably. It is hoped that a comprehensive study that includes the government can be carried out as soon as possible so that the problem of land disputes due to land mafia actions does not have the potential to spread and be resolved properly and correctly. Land dispute resolution mechanisms can be resolved by the government by adopting settlements carried out by professional parking authorities. This basic reason is a manifestation of the rights and responsibilities of each party. This study is of interest to the government and legislators, academics and land observers to address SOB related to land mafia practices in Indonesia as a crime in the land sector.

Keywords

Land Mafia, Modus Operandi, Bad Faith, Staat Van Oorlog en Beleg (SOB), Indonesia

1. Introduction

At this time, the meaning of land as an asset has been transformed in various developing countries, including Indonesia. Initially, land was traditionally con-

sidered a factor of production (Metzemakers & Louw, 2005). Murdiantoro (2011: p. 9) states that the existence of land production factors is not only seen in terms of the width and narrowness, but also from other aspects, such as: soil type, type of land use (paddy fields, dry fields, etc.), topography (soil uplands, lowlands, and coastal plains), land ownership, land values. However, in its development, land has become a mainstay of infrastructure development and is very important for providing various civil services (Tirumala & Tiwari, 2022) to accelerate physical development.

Therefore, land already has economic value so that it moves quickly to keep up with financial and technological developments for urban and industrial development (Ginting, 2020). Consequently, land leads to a marginal existence in the modern mainstream economy, and land becomes an indispensable necessity for all economic activities (Metzemakers & Louw, 2005). According to Ginting (2020), the need for land is very significant, and includes legal, economic, political, sociological, religious, cultural and state strategic dimensions. Land plays an important role in the country's economy, for example, effective distribution of land allows people to transition from poverty to a developed economy based on human capital, and issues related to property rights, inequality, and the political economy and distribution of land are unavoidable (Azadi & Vanhaute, 2019). Horan (2013) states that land issues affect economic development because land values increase, and investors around the world are very concerned about this. According to Horan (2013), there is ample evidence that certainty over land rights can increase food production, and this can be done through land tenure reform, including legal and regulatory reform, institutional capacity building, and the formalization of land rights.

Meanwhile, Metzemakers & Louw (2005) stated that the manufacturing industry needs space for factories, the service sector needs land for offices, transportation, and logistics companies need roads, seas and airports, and so on. Then, experts in Sulaiman & Satriawan (2021) state that the notion of land disputes is a process of interaction between two or more people or groups, each of whom fights over their interests over the same object, namely land and other objects related to land. The configuration of conflicts or land disputes faced by the community is more or less related to existing agrarian relations, non-agricultural factors, and the policy approaches applied at certain times (Sulaiman & Satriawan, 2021). Disputed land is land whose ownership is disputed by two parties, where they are fighting over each other to claim ownership of the land (Sihombing, 2004).

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The problem of land disputes is a case that can be said to often occur in Indonesia. According to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) of the Republic of Indonesia, there have been cases indicated as land mafia in Indonesia (Widjayanto, 2021). Widjayanto (2021) states that disputed land issues are cases that can be said to often occur in Indonesia, including the following:

- 1) A third of cities in South Sulawesi are being sued by the land mafia;
- 2) The case of expropriation of the parents' land certificate of former Deputy Minister of Foreign Affairs Dino Patti Djalal;
- 3) Dispute over land owned by PT Krakatau Steel (Persero) Tbk in Banten; and
- 4) The North Sumatra region has become a hot spot for agrarian conflicts (Tjandra, 2021), and among them the prominent ones are land conflicts at PTPN II North Sumatra, and in other areas such as land conflicts in Mesuji, Lampung and at PTPN VII Cinta Manis Ogan Ilir, South Sumatra (Wijaya, 2012).

Cases of disputed land issues in Indonesia, from 2018 to June 2021 reached 242 cases, and the handling of these cases was carried out by the ATR/BPN ministry by involving the police and prosecutors as partners in law enforcement (Widjayanto, 2021; Lazuardi, 2021). Of the 242, the number of these cases, which have been handled by the Ministry of ATR/BPN, some are already P21, meaning the court has concluded, and some have been settled in a civil manner because the land has already been developed for victims who are entitled and the types of cases also vary, for example document falsification, changing land boundaries illegally and so on (Widjayanto, 2021; Lazuardi, 2021). According to the Head of the Advocacy Department of the Agrarian Reform Consortium (KPA) Roni Septian in Maharan (2021) explained, there are 4 causes for the rampant land mafia practices in Indonesia.

- 1) The development climate in Indonesia still depends on investment. The investment-based development climate in Indonesia is the first cause of the frequent occurrence of land mafia crimes, and many land mafia practices are protected by security forces, especially the police.

- 2) Closed land information Information related to land in Indonesia is still not transparent. Therefore, law enforcement officials and the public have no control over information regarding land affairs. For example, in Sukamukti Village, why was it not notified beforehand that there had been transmigration and then fictitious Cultivation Rights (HGU) appeared in 1997, which in 2020 a certificate of ownership rights was also issued. This indicates how the government is not transparent regarding land information, so that the people of Sukamukti do not yet know whether their land is included in the Cultivation Rights (HGU)

or not.

3) Linkages between entrepreneurs and local government. The third condition that fosters land mafia practices is the entanglement between entrepreneurs and the local government, with the National Land Agency (BPN), local government and so on. For example, after the Sukamukti residents received land certificates in 2020, one year after the Head of the OKI District Land Office unilaterally withdrew the forced withdrawal of the land certificate. If there was no involvement from the local government or BPN, it would be impossible for the land mafia to appear in various places.

4) Weak law enforcement Weak law enforcement conditions, especially in areas that intersect with plantation areas, is the fourth condition that causes land mafia practices to occur

Based on these various descriptions, it can be interpreted that land disputes in Indonesia arise due to the existence of land mafia practices so that they need to be resolved in the right way to overcome them, and carried out peacefully. Therefore, this article is entitled: “Critical Studies on Land Mafia Practices: Evidence in Indonesia”. This research is entitled: The systematic discussion starts from 1) The Meaning of Disputed Land Conflict in Indonesia; 2) The Factors Causing Conflict over Land Disputes in Indonesia; 3) The Modus Operandi of the Land Mafia in Indonesia 4) The Steps for Resolving Land Disputes in Indonesia, and ends with a conclusion. Therefore, the formulation of the research problem is as follows:

- 1) What is the Meaning of Disputed Land Conflict in Indonesia?
- 2) What are the Factors Causing Conflict over Land Disputes in Indonesia?
- 3) What is the Modus Operandi of the Land Mafia in Indonesia?
- 4) What and how are the Steps for Resolving Land Disputes in Indonesia?

2. Literature Review

According to experts in [Tirumala and Tiwari \(2022\)](#), along with social and economic development, especially in the urban context and increasing population, the availability of land as per capita land has decreased ([Novita, 2022](#)), and is very minimal ([Ginting, 2020](#)). The need for land is very significant so that it has an impact on levels of hunger, poverty and welfare ([Tirumala & Tiwari, 2022](#)), and also has an impact on the emergence of land disputes due to land mafia practices. According to the Big Indonesian Dictionary or *Kamus Besar Bahasa Indonesia* or KBBI (2000), the mafia is a secret society engaged in crime (criminal); judiciary consisting of: 1) A group of advocates who control the judicial process so that they can acquit the accused if the accused can provide money in accordance with the amount requested by them: issues regarding the trial are spread through coverage in various newspapers; 2) Conspiracy between law enforcers and justice seekers; 3) Forgiveness is any business or anything related to the mafia.

According to [Hanifah \(2022\)](#), the land mafia are individual groups and or le-

gal entities that take actions intentionally to commit crimes that can hinder the implementation of handling land cases. The land mafia is an act of appropriating the rights of other people (Ramadhani, 2022), land crimes involving a group of people working together to illegally own or control other people's land or violate the law (Puspita Sari, 2022) through various means, the *modus operandi*. *Modus operandi*, a Latin phrase meaning method of operation (Black's Law Dictionary, N/D). According to The Wex Definitions Team (2020), *modus operandi* refers to a method of operation or pattern of criminal behavior that is so distinctive, and is used as a basis for admitting evidence of another crime and is permitted by Regulation 404(b)(2) of the Federal Rules of Evidence. In this case, the *modus operandi* can be interpreted as a way of operating individuals or groups in carrying out their crimes which are included in a pattern of criminal behavior that is so typical.

The *modus operandi* of the land mafia is carried out in a very planned and systematic way to occupy land illegally resulting in conflicts over land tenure and use which are often resolved through violence (Sihombing, 2004: p. 5), and often even result in loss of human life (Puspita Sari, 2022; Sulaiman & Satriawan, 2021). Then, the perpetrators of the land mafia generally use the *modus operandi*, a Latin phrase which means the method of operation (Black's Law Dictionary, N/D). According to The Wex Definitions Team (2020), *modus operandi* refers to a method of operation or pattern of criminal behavior that is so distinctive, and is used as a basis for admitting evidence of another crime and is permitted by Regulation 404(b)(2) of the Federal Rules of Evidence. In other words, the *modus operandi* can be interpreted as a way of operating individuals or groups in carrying out their crimes which are included in a pattern of criminal behavior that is so typical.

Furthermore, the notion of disputed land is land whose ownership is disputed by two parties, where they are fighting over each other to claim ownership of the land. Land disputes are cases that can be said to often occur in Indonesia (Nur, 2012: p. 18). According to Pawlak (1998), in a conflict, at least two parties, called agents, are at odds about a problem. Actors can be individuals, groups, companies, countries, political parties and others. Katz and Kahn (1978: p. 615) define conflict as certain types of interactions, which are characterized by struggles against barriers, acts of harm or prejudice and by the rejection or retaliation of those efforts. According to Robbins (1998: p. 435), conflicts or disputes arise because there are underlying conditions (antecedent conditions), and these conditions can be interpreted as a source of conflict consisting of three categories, namely communication, structure, and personal variables.

According to Limbong (2012: pp. 66-70), the root of land conflict is a fundamental factor that causes land conflict. According to experts in Safitri (2011: p. 58), agrarian conflict is a manifestation of legal conflicts that regulate agrarian-related issues. According to Nur (2012: p. 18), the centralism of agrarian law which was implemented to resolve agrarian cases actually backfired and caused

conflicts involving many parties. Therefore, criminal acts against land owned by other people have raised complicated issues in criminal law in Indonesia (Sihombing, 2018), and constitute a delict. According to Kansil (1989), offense is an act that violates the law, and therefore is contrary to the law which is carried out intentionally by a person who can be accounted for and accompanied by threats (sanctions) in the form of certain crimes (Moeljatno, 2008) as an act of crime (Prodjodikoro, 2008). Therefore, if the act is still carried out, it can be said to have violated the law and can be subject to sanctions or criminal penalties (Wahyuni, 2022).

3. Materials and Methodology

The research method used is normative legal research, researching literature or secondary data (Soekanto & Mamudji, 2003: p. 13) in order to answer the legal issues faced (Marzuki, 2010: p. 35) as written in laws and regulations or norms which are benchmarks human behavior that is considered appropriate (Amiruddin & Asikin, 2006: p. 118) by using qualitative data. The source of data used in this study is secondary data in the form of primary legal materials, laws and regulations which are sorted by hierarchy (Marzuki, 2010: p. 35). Then, secondary legal material as a source of data consists of text books, law journals, and the results of the latest symposia related to the research topic (Ibrahim, 2008: p. 295). While the tertiary legal materials used are legal materials that provide instructions and explanations of primary and secondary legal materials, such as dictionaries, as well as encyclopedias and tertiary legal materials (Suardita, 2017). Furthermore, the data collection technique used was literature analysis, with the aim of knowing the theories, methods and approaches that can be studied related to land mafia practices in Indonesia. This is done by investigating and analyzing data using a deduction pattern so that researchers can examine more comprehensively the various legal principles regarding the problems of land mafia practices in Indonesia related to the legal realm in the form of legal facts in a systematic and logical manner.

4. Discussion

4.1. The Meaning of Disputed Land Conflict in Indonesia

The definition of land dispute is stated in the Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 3 of 2011, concerning Management of the Study and Handling of Land Cases. Article 1; In this Regulation what is meant by:

- 1) Land cases are disputes, conflicts, or land cases that are submitted to the National Land Agency of the Republic of Indonesia to obtain settlement handling in accordance with statutory provisions and/or national land policies.
- 2) Land Disputes, hereinafter abbreviated as Disputes, are land disputes between individuals, legal entities, or institutions that do not have a broad socio-political impact.

3) Land Conflict, hereinafter abbreviated as Conflict, is a land dispute between individuals, groups, groups, organizations, legal entities, or institutions that have tendencies or have had a broad socio-political impact.

4) Land cases, hereinafter abbreviated as Cases, are land disputes whose settlement is carried out by a judicial institution or a court decision which is still being requested for the handling of the dispute at the National Land Agency of the Republic of Indonesia

According to the Consortium for Agrarian Reform (*Konsorsium Pembaruan Agraria* or KPA) in Fadli (2021), there are five provinces that have contributed the highest cases of agrarian conflict in Indonesia throughout 2020 as follows:

1) Riau Province, namely 29 cases of agrarian conflicts and land affected by agrarian conflicts covering an area of 60,339 hectares. Riau is the top province contributing to agrarian conflicts in Indonesia and is mainly dominated by oil palm plantation investment and business.

2) Jambi Province, namely as many as 21 cases of agrarian conflicts and the area of land affected by agrarian conflicts covering an area of 17,988 hectares of land, the Highest Cases of the Jambi Province Plantation Sector were mostly caused by forestry Industrial Plantation Forest (*Hutan Tanaman Industri* or HTI) companies such as the Sinarmas Group.

3) North Sumatra Province with 19 cases of agrarian conflict and 23,969 hectares of land affected by agrarian conflict. Agrarian conflict cases were dominated by PT Perkebunan Nusantara (Persero) and private plantations which were also related to conflicts dealing with indigenous peoples.

4) South Sumatra Province with 17 cases of agrarian conflicts and an area of land affected by agrarian conflicts covering an area of 23,969 hectares.

5) East Nusa Tenggara (*Nusa Tenggara Timur* or NTT) Province with a total of 16 cases of agrarian conflict and 28,897 hectares of land affected by agrarian conflict.

Referring to **Figure 1** below, it can be seen that Riau Province is in the first position as the highest contributor of agrarian conflict cases in Indonesia throughout 2020. From the data it can be described that Riau Province contributed 29 cases of agrarian conflict, and the land area affected by agrarian conflicts is 60,339 hectares of the total area. 624,272 hectares of conflict-affected land in Indonesia. Therefore, all parties, especially the government, are expected to show a strong attitude or political will to actually resolve agrarian conflicts that have been rooted for decades in Indonesia. Ironically, in terms of numbers, agrarian conflicts throughout 2022 show a trend of a drastic increase in terms of the area affected. The extent of agrarian conflicts occurred in 33 provinces, which reached 1.03 million hectares, and affected more than 346,000 families, and there were 497 cases of criminalization experienced by fighters for land rights in various regions (Pandu, 2023).

On the other hand, complicated issues in criminal law in Indonesia related to land conflicts are caused by the large number of lands controlled by the state or by private legal entities that are not managed professionally, do not have clear

Cases of Agrarian Conflicts and Land Affected by Agrarian Conflicts

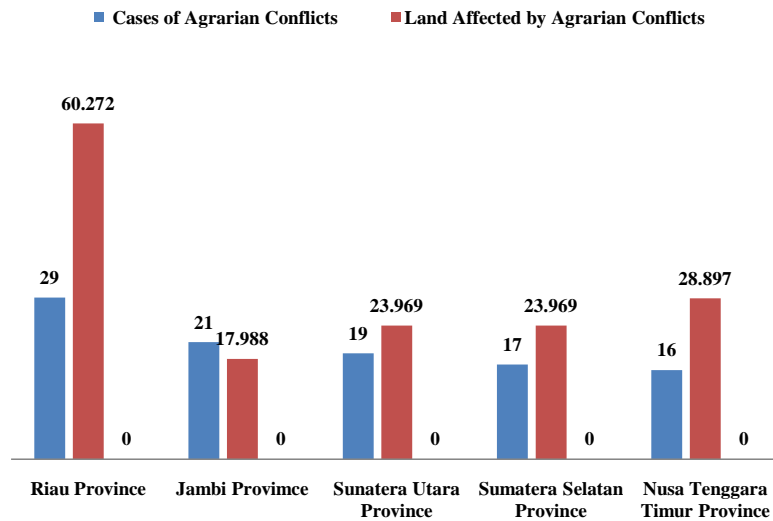


Figure 1. Five provinces with the highest cases of agrarian conflict in Indonesia throughout 2020.

boundaries and most of them are neglected (Sihombing, 2018), According to Sihombing (2018), it is conditions like these that cause people to live around the land, namely cultivating or managing the land to support themselves and their families (Sihombing, 2018). Other problems also arise when lands that were not previously certified, which has been inhabited by residents for tens or hundreds of years, then recently a certificate appears in the name of a certain corporation or certain legal entity (Sihombing, 2018).

According to Sihombing (2018), conflicts are inevitable, land owners who have rights to the land question the people who manage the land, and generally they report it to the police as justification, offense. Delict or criminal act is an act that is prohibited to be carried out by a person or group. As a delict, the ruler of the land reports and criminalizes the people who inhabit these lands. In this case, the police as law enforcers use Article 167 and/or Article 385 of the Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHPidana) on reports from landlords as follows:

1) Article 167 of the Criminal Code paragraph (1) Anyone who violates the rights of other people enters by force into a house or closed room or yard, which is used by another person, or is there without any rights, does not immediately leave that place on at the request of the rightful person or on behalf of the rightful person, shall be punished with a maximum imprisonment of nine months or a maximum fine of Rp. 4500; paragraph (2) Whoever enters by breaking or climbing, using a fake key, fake orders or fake official clothes, or whoever does not know the right and other than wrong reasons, enters the place mentioned earlier and is caught. There at night, considered as having entered by force. (Criminal Code 98); paragraph (3) If he issues threats or uses intimidating

means, he shall be punished with imprisonment for a maximum of one year and four months; and paragraph (4) The punishment stipulated in paragraphs 1 and 3 can be increased by a third, if the crime was committed by two or more people together (Criminal Code articles 88, 168, 235, 363, 365, 429).

2) Article 263 paragraph (1) and paragraph (2) of the Criminal Code. The process of investigating the crime of signature forgery on letters as referred to in article 263 paragraph (1) of the Criminal Code, and article 263 paragraph (2) of the Criminal Code regarding forgery of letters, namely: paragraph (1) Whoever makes a fake letter or falsifies a letter, which can issue a right, an agreement (obligation) or a discharge of debt, or which may be used as a statement for an action, with the intention of using or instructing other people to use the letters as if the letters were genuine and not forged, so if you use them you can bring about something losses are punished for forgery of letters, with a maximum imprisonment of six years; and paragraph (2) With a similar penalty, whoever deliberately uses a forged or forged letter as if the letter was genuine and not forged, if using it can cause a loss (hereinafter regulated in the Criminal Code, Article 35, Article 52, article 64 paragraph 2, article 276, article 277, article 416, article 417 and article 486).

3) Article 385 of the Criminal Code—Protect Land Owners in Indonesia from Expropriation. Citizens, government agencies, and private companies can become the injured party because their rights as legal land owners have been usurped by other parties in an irresponsible manner. With a maximum prison sentence of four years, the punishment provided for in Article 385 of the Criminal Code is as follows: paragraph 1e. Whoever with the intent to benefit himself or another person by fighting the right to sell, exchange, or make a debt dependent on a people's right to use government land or private land or a house, work, plants or seeds on the land where people exercise the people's right to use the land, while he knows that another person has the right or is entitled to the said item; paragraph 2e. Whoever with similar intent sells, exchanges or makes collateral for a debt of a people's right in using government land or private land or a house, acts of plants or seeds on the land where people exercise rights has indeed been made a debt dependent, but he has not notified that matter to the party another; paragraph 3e. Whoever, with similar intent, makes the debt owed to a people's right to use government land or private land by concealing from another party that the land where the person is exercising said right has been mortgaged; paragraph 4e. Whoever with similar intent mortgages or leases a piece of land where a person exercising the rights of the people to use the land, knowing that another person has the right or shares the right over the land; Whoever, with similar intent, sells or exchanges a plot of land where a person exercising the right of the people to use the land that has been mortgaged, but does not notify the other party that the land has been mortgaged; paragraph 5 e. Whoever with similar intent sells or exchanges a plot of land where a person exercising the right of the people to use the land that has been mortgaged, but does not notify the other

party that the land has been mortgaged; and paragraph 6e. Whoever with similar intent leases a piece of land where a person exercises the rights of the people to use the land for a certain period, knowing that the land for that period has also been leased to another person (hereinafter see Criminal Code article 383, article 394 s, article 404, article 424, and article 486).

Land cases are disputes, conflicts, or land disputes that are submitted to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency and Regional Offices of the National Land Agency (ATR/BPN), the land office according to their authority to get handling and settlement in accordance with the provisions of laws and regulations. If your case has not reached the judiciary, then the case can be categorized as a land dispute or conflict. Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21/2020 concerning Handling and Settlement of Land Cases, land cases are divided into three classifications. Here are more details.

1) Land Disputes are land disputes between individuals, legal entities, or institutions that do not have a broad impact.

2) Land Conflicts Land conflicts, namely land disputes between individuals, groups, groups, organizations, legal entities, or institutions that have a tendency or have had a broad impact.

3) Land Cases This case is a land dispute which is handled and resolved through the judiciary. Land disputes and conflicts are still classified into 3 (three) classifications: a) Minor Cases It is said to be a mild case because the procurement is in the form of technical-administrative instructions. So that the settlement is sufficient to be carried out with a settlement instruction letter to the applicant or complainant; b) Moderate Cases Cases involving law in their settlement and clear administration but do not cause social, political, security and economic symptoms; and c) Serious Cases Dispute cases can be said to be serious if they involve many people and the legal dimension is quite complex. So that it can cause social, political, security and political turmoil.

Based on various previous descriptions, the notion of land disputes can be interpreted as differences in interests between individuals or institutions in the same object, land. Land disputes can be interpreted as disputes over land generally manifested in relations between them which often involve several parties such as: individuals, groups, groups, organizations, legal entities, or institutions that do not have the potential to have a broad impact from the socio-economic aspect, politician and jurist. Whereas land conflicts can be interpreted as occurring in Indonesia as involving several parties such as: individuals, groups, groups, organizations, legal entities, or institutions that have the potential to have a broad impact from a socio-political and juridical aspect due to land mafia practices.

Thus, the land mafia is two or more people who work together to seize other people's land. The usual modes used by the land mafia include falsification of

documents (for rights), seeking legality in court, legal/without rights residents (wilde occupatie), engineering cases, collusion with unscrupulous officials to obtain legality, corporate crimes such as embezzlement and fraud, forgery of power management of land rights, as well as the loss of land warkah. The actions of the land mafia are not far from issues of dispute and conflict. Characteristics of what the land mafia does are usually systematic and planned. In addition, their actions violated the law and were carried out jointly. In general, land mafia operations do not stop at administrative falsification and even make spatial changes to infrastructure projects (Echo, 2022).

4.2. The Factors Causing Conflict over Land Disputes in Indonesia

Dispute problems are usually caused by a number of factors, and the most common is the problem of buying and selling land. In general, there are several other factors, including: 1) Lack of clarity on land certification process; 2) Lack of attention to administrative processes so that it is easy for others to claim; 3) Limited human resources; 4) Policies that are not yet optimal; and 5) Implementation of land administration that is less orderly. According to Article 35 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21/2020, regarding Handling and Settlement of Land Cases.

Cancellation of Legal Products due to administrative defects and/or juridical defects as referred to in Article 29 paragraph (1) letter a Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21/2020 is caused:

- 1) Errors in the process/procedure of issuing land rights, registration of rights and the process of maintaining land registration data;
- 2) Error in measurement process/procedure;
- 3) Errors in the process/procedure for issuing a replacement certificate;
- 4) Errors in the process/procedure for issuing Mortgage certificates;
- 5) Misapplication of laws and regulations;
- 6) Error subject to rights;
- 7) Error object rights;
- 8) Wrong type of right;
- 9) Overlapping land rights;
- 10) Overlaps with forest areas;
- 11) Incorrect determination of land consolidation;
- 12) Errors in asserting land as land reform objects;
- 13) Errors in the process of granting permission for the transfer of rights;
- 14) Errors in the process of issuing cancellation decrees;
- 15) There is a criminal court decision with permanent legal force proving the existence of a criminal act of forgery, fraud, embezzlement and/or other criminal acts;
- 16) There are documents or data used in the certificate issuance process that

are not products of the agency based on a statement from the agency concerned; and

17) There is a court decision where in its legal considerations it is proven that there is a fact that there is a defect in the issuance of the Ministry's legal product and/or that there is a defect in the legal action in the transfer of rights but the decision is not stated explicitly.

Cancellation of Certificates of Land Rights, Certificates as proof of rights, when it is associated with the publication system in Indonesia, it adopts a negative publication system that leads to positive publications. That is, the holder of the certificate is considered as the owner of land rights. Regarding the legal power of certificates as proof of rights, provisions are regulated in Article 32 of Government Regulation Number 24 of 1997 concerning Land Registration (*Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah* or PP No.24/1997). PP No.24/1997 states that a certificate is a proof of right that is valid as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the measurement letter and title book.

According to Government Regulation No. 24/1997 regarding rights to a plot of land, a certificate is legally issued in the name of a person or legal entity, so those who acquire the land are in good faith and actually control it. In this case, other parties who feel they have rights to the land can no longer demand the implementation of said rights if within 5 (five) years from the issuance of the certificate does not submit a written objection to the certificate holder and/or the Head of the Regency/Municipal Land Office who concerned or not submitting a lawsuit to the court regarding the ownership of the land or the issuance of the said certificate.

Regulation of The State Minister for Agrarian Affairs/Head of the National Land Agency Number 3 of 1999 concerning Delegation (*Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1999 tentang Pelimpahan* or Permen ATR/BPN No. 3/1989) regulates matters related to the authority to grant and cancel decisions on granting state land rights. According to Article 1 number (12) of Permen ATR/BPN No.3/1989 that cancellation of land rights is a cancellation of a decision regarding a land right because the decision contains legal defects in its issuance or implements a court decision that has permanent legal force. According to Article 1 number (14) Regulation of the Minister of Agrarian Affairs/Head of BPN No. 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights (*Permen ATR/BPN No. 9/1999*), the meaning of canceling land rights is canceling the decision to grant land rights or certificates of land rights because the decision contains defects in administrative law in issuing them, or carrying out court decisions that have permanent legal force.

According to Basri (1989: p. 45), the definition contained in Article 1 point (14) of Permen ATR/BPN No. 9/1999 is a broader and firmer definition than the

formulation mentioned in Article 1 point (12). Permen ATR/BPN No. 9/1999 This is because according to Article 1 point (14) Permen ATR/BPN No. 9/1999, cancellation can not only be made to decisions on granting land rights, but can also be made to certificates of land rights., even though with the cancellation of the decision to grant land rights, the certificate of land rights is automatically canceled as well. Article 106 of Permen ATR/BPN No. 9/1999 states that a decision to cancel a land right due to an administrative legal defect in its issuance can be made due to an application from an interested person or by an authorized official without a request.

Requests for annulment of rights can be submitted directly to the Minister or appointed official or through the Head of the Land Office. Article 107 Permen ATR/BPN No. 9/1999 states that administrative legal defects are: 1) Procedural errors; 2) Misapplication of laws and regulations; 3) Error subject to rights; Right object error; 4) Wrong type of right; 5) Widespread calculation error; 6) There are overlapping land rights; 7) Juridical data or physical data is incorrect; and 8) Other errors of an administrative law nature. Referring to the brief description, it can be seen that even though a certificate of land rights has been issued and has strong evidentiary power, it does not mean that it can be free from lawsuits from other people who object to the issuance of certificates of land rights. Apart from that, administrative defects can also occur in the issuance therefore the juridical consequence is the cancellation of the certificate of land rights.

Land conflict can be interpreted as a conflict that arises as a result of the relationship between people or groups related to the problem of the earth and all the natural wealth found on the surface or in the bowels of the earth. In land conflicts, there is an advanced land mafia that carries out spatial changes to infrastructure projects. The presence of the land mafia is not without cause; the land mafia exists for three reasons, namely low supervision, lack of law enforcement, and being closed off. Moreover, land is a lucrative form of investment and economic commodity. Moreover, the existence of land is always needed by the community. One of the land mafia cases was a fictitious notary in February 2020. This case resulted in the exchange of original certificates and fake certificates. This land mafia falsified Identity Cards (*Kartu Tanda Penduduk* or KTP), Family Cards (*Kartu Keluarga* or KK), and Taxpayer Identification Numbers (*Nomor Pokok Wajib Pajak* or NPWP) with fake identities. There are also other land mafias that target farmers. These land mafias are provoking the public to illegally cultivate land in Cultivation Rights (*Hak Guna Usaha* or HGU) plantations.

The government is trying to eradicate the land mafia through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), especially the Prevention and Handling of Land Conflicts (Arjanto, 2021). According to Limbong (2012: pp. 66-70), it is important to identify and inventory the roots of land conflicts in order to find a solution or form of settlement that will be carried out. Common causes of land conflicts can be grouped into two factors, namely legal factors and non-legal factors as follows:

1) Legal Factors—Several legal factors have become the root of recent land conflicts, including: a. Overlapping regulations. The Law on Basic Regulations on Agrarian Principles Number 5 of 1960 (UUPA No. 5/1960) as the parent of regulations in the field of other agrarian resources, in its journey several laws and regulations relating to agrarian resources were made but did not place UUPA No. 5/1960 as the main law, even placing UUPA No. 5/1960 on par with the agrarian law. UUPA No. 5/1960, which was originally a legal umbrella for land policy in Indonesia, became dysfunctional and substantially contradicted by the issuance of various sectoral laws and regulations such as the Forestry Law, Mining Law, Transmigration Law and others; and b. Judicial overlap. At present there are three judicial institutions that can handle a land conflict, namely civil court, criminal court and state administrative court (*Pengadilan Tata Usaha Negara* or PTUN). In certain forms of conflict, one of the parties who wins civilly does not necessarily win criminally (in the event that the conflict is accompanied by a criminal act).

2) Non-legal factors—Several non-legal factors that are at the root of land conflicts include: a) Overlapping land use. Over time, rapid population growth has resulted in an increase in population, while food production has remained the same or may have decreased because many agricultural lands have changed functions. It is unavoidable that in the same plot of land different interests may arise; b) The economic value of land is high. There is an assumption that aside from gold, the value of land from time to time will increase, so that obtaining land is increasingly difficult; c) Awareness society increases. The existence of global developments as well as increased developments in science and technology has an effect on increasing public awareness. The mindset of the community towards the community has also changed. With regard to land as a development asset, there has been a change in the mindset of the people towards land tenure, namely no longer placing land as a source of production but instead making land a means for investment or an economic commodity; d) The land remains, the population increases. Very fast population growth both through birth and migration as well as urbanization, as well as a fixed amount of land, makes land an economic commodity with a very high value, so that every inch of land is defended as much as possible; and e) Poverty. Poverty is a complex problem that is influenced by various interrelated factors. Limited access to land is one of the factors causing poverty due to the limited assets and productive resources accessible to the poor.

3) Instruction of the Minister of Home Affairs Number 14 of 1982 concerning Prohibition of the Use of Absolute Power for Transfer of Land Rights, the Second Dictum (*Instruksi Menteri Dalam Negeri Nomor 14 Tahun 1982 tentang Larangan Penggunaan Kuasa Mutlak Sebagai Pemindehan Hak atas Tanah, Diktum Kedua*)—Instruction of the Minister of Home Affairs Number 14 of 1982 regulates as follows: a) Prohibit sub-district heads and village heads or officials at the same level from making/strengthening the making of an absolute

power of attorney which is essentially a transfer of land rights; b) The absolute power referred to in the First Dictum is a power which contains an element which cannot be withdrawn by the authorizing agent. An Absolute Power of Attorney which is essentially a transfer of land rights is an Absolute Power of Attorney that gives authority to the recipient of the power of attorney to control and use the land and to perform all legal actions that according to law can be carried out by the holder of the right; c) Prohibiting Agrarian Officials from serving the settlement of the status of land rights using an Absolute Power of Attorney as proof of the transfer of land rights; and d) Matters relating to the prohibition on the use of absolute power as a transfer of land rights, will be further regulated in the form of statutory regulations.

The granting of absolute power of attorney can be used as a means of transferring land rights. Starting from the issue of implementing the transfer of land rights with absolute power, which has created difficulties in its approval, after the Minister of Home Affairs Instruction No. 14 of 1982 came into force, especially regarding the registration of the transfer of names at the register office of the sale and purchase transactions of land rights with power of attorney that has occurred, because in reality it can be seen, that the system of absolute power has been misused for the benefit of certain groups of people. This will have a negative effect on development, because the administration of land organized by the government is hampered, with the granting of absolute power as a means of transferring land rights, so that the control and use of land with absolute power is not based on statutory regulations. As a result, the land controlled by the buyer is not in accordance with social functions and is not in accordance with national interests.

Furthermore, the typology of land conflicts is a type of dispute, conflict and or land case that is conveyed or complained about and handled (Sumarto, 2012: p. 5). According to Sumarto (2012: p. 5), the typology of land conflicts handled by the Indonesian National Land Agency can be grouped into 8 (eight), consisting of issues related to:

- 1) Land Ownership and Ownership, namely differences in perceptions, values or opinions, interests regarding the status of control over certain lands that are not or have not been attached to rights (state land), or to which rights have been attached by certain parties;

- 2) Determination of rights and registration of land, namely differences in perceptions, values or opinions, interests regarding the process of determining rights and registration of land which is detrimental to other parties, thus giving rise to the notion that the determination or permit in the field of land is not valid;

- 3) Boundary or location of land parcels, namely differences of opinion, value of interests regarding the location, boundaries and area of land parcels recognized by one party which have been determined by the National Land Agency of the Republic of Indonesia or which are still in the process of determining boun-

daries;

4) Land Acquisition, namely differences of opinion, interests, perceptions or values regarding the status of land rights whose acquisition originates from the land acquisition process, or regarding the legitimacy of the process, implementation of land release or acquisition and compensation;

5) Land reform objects, namely differences in perceptions, values or opinions, interests regarding confirmation procedures, control and ownership status, the process of determining compensation, determining subject objects and distribution of land objects for land reform;

6) Claims for compensation for private land, namely differences in perceptions, opinions, interests or values regarding decisions regarding the government's willingness to provide compensation for private land that has been liquidated;

7) Ulayat Land, namely differences in perceptions, values or opinions, interests regarding the status of ulayat and customary law communities over certain areas whether land rights have been issued or not, but are controlled by other parties;

8) Implementation of Court Decisions, namely differences in perceptions, values or opinions, interests regarding decisions of judicial bodies relating to the subject or object of land rights or regarding the procedure for issuing certain land rights. If observed closely, what has been identified by previous land reviewers in relation to agrarian disputes, in several respects there is some truth.

According to [Suparman \(2008\)](#), another important thing to note about the characteristics of agrarian disputes is that there has been a shift in pattern between the post-independence period and the New Order era as follows:

1) In the post-independence period until the late 1960s, disputes usually occurred in the countryside between sharecroppers and landlords;

2) In the decade of 1980 until the end of the New Order, disputes occurred between local land owners against big investors or the government; and

3) During the reform period, disputes took the form of cultivating people against the government or industry with a very strong position of the people, where land looting occurred a lot.

According to [Fuady \(2006\)](#), various agrarian disputes, there are various elements that are often involved in them, the main ones are: 1) There are strong economic, political or social actors; 2) Problematic administration, including adjudication processes that are not well organized; and 3) Involve community members who are very unfamiliar with positive law but in reality have controlled the land for a long time, and even for generations. In general, when land disputes occur, the victims are usually members of the public who are very unfamiliar with positive law. According to [Nur \(2012: p. 18\)](#), several factors causing land dispute problems in Indonesia are as follows:

1) Unequal distribution of utilization of existing agrarian resources;

2) There is territorial expansion by a group, and this occurs more frequently

in urban areas;

3) There are economic activities of some members of the community. Of course, this is an economic activity that can disrupt the surrounding community; and

4) There is a population density that demands the provision of more extensive land.

Then, if it is analyzed related to the position of the parties involved in the dispute, then there is a vertical conflict in the sense of a conflict between the community and the government or the authorities, horizontal is a conflict between one community and another, and conflict between the community and investors.

Based on various previous descriptions, the factors causing land disputes in Indonesia are due to problems regarding the sale and purchase of land, gaps in analysis related to supply and demand for land, inadequate regulations, overlapping courts, settlements and convoluted bureaucracy. There are still many abandoned lands, high economic value, increased public awareness, fixed land while population increases, and poverty (Nurdin, 2018). Therefore, from a juridical perspective, disputed land conflicts in Indonesia generally begin when complaints from one party (person/entity) contain objections and demands for land rights, both regarding land status or priority of ownership, in the hope of obtaining a settlement, administratively in accordance with the provisions of the applicable regulations (Murad, 1991: p. 45).

Thus, the government must be present to resolve the factors that cause land disputes in Indonesia, especially the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) of the Republic of Indonesia has the task of carrying out government affairs in the field of agrarian/land and spatial planning as stipulated in Article 2 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) of the Republic of Indonesia Number 16 of 2020 concerning the Organization and Work Procedure of the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) of the Republic of Indonesia. Therefore, the Ministry of Agrarian Affairs/BPN as the authority in the field of agrarian affairs/land and spatial planning is expected to be able to work professionally, specifically trying optimally to push to zero base figures related to the practices and modus operandi of the land mafia in Indonesia.

4.3. The Modus Operandi of the Land Mafia in Indonesia

The modus operandi carried out by the land mafia tends to be very planned and systematic to occupy land illegally resulting in conflicts over land tenure and use. Land tenure and use conflicts committed by the land mafia are often resolved through violence (Sihombing, 2004: p. 5), and often even result in loss of human life (Puspita Sari, 2022). The problem of the land mafia in Indonesia has actually caused social and economic losses in society, and the land mafia works syste-

matically up to the government bureaucracy (Hanifah, 2022). According to Sihombing (2004: p. 5), land problems in rural and urban areas are basically caused by increasing the need for land, while on the other hand the available land area does not increase.

In this context, the modus operandi of the land mafia in rural areas is carried out by making fake land certificates, fake power of attorney, borrowed original land certificates. The objects targeted by the land mafia in the countryside include land, rice fields, plantations, forest areas, land conversion, and agriculture. In this case, the land mafia saw an opportunity for action due to causes related to urbanization, migration, inheritance, no certificates, ssi documents and others. While the modus operandi in urban areas, the actions carried out by the land mafia are by making fake land certificates, fake power of attorney, borrowed original land certificates.

Then, the objects that are targeted by the land mafia in urban areas include land, buildings (houses, buildings), vacant land, riverbanks, railroads and others. This can be described as shown in Figure 2 below, Schematic Modus Operandi of the Land Mafia in Urban and Rural Areas: Targets (Objects and Causes) as follows:

Furthermore, Figure 3 describes the Modus Operandi Scheme, and the Involvement of Persons in Land Mafia Practices in Indonesia related to the legal sphere as follows:

Referring to Figure 3, it can be seen who, and where the land mafia actors exist and what is the modus operandi of the land mafia in Indonesia. According to Junaidi (2012), Land mafia actors are a nexus consisting of corrupt politicians, criminals, property traders, and government officials and not just a few individuals. Furthermore, the Minister of Agrarian Spatial Planning/Head of the National Land Agency ((ATR/BPN) of the Republic of Indonesia, Hadi Tjahjanto in Arini (2022) stated that the land mafia problem in Indonesia has involved ATR/BPN persons, lawyers; notary officials making deeds Land (*Pejabat Pembuat Akta Tanah* or PPAT), sub-district and village heads. One example of the modus

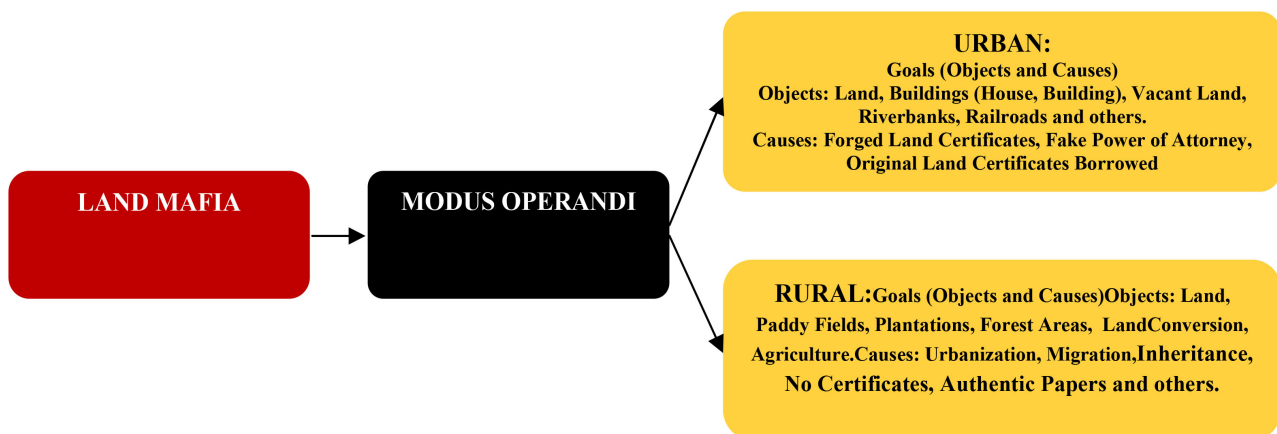


Figure 2. Schematic of the modus operandi of the land mafia in urban and rural areas: Targets (Objects and Causes).

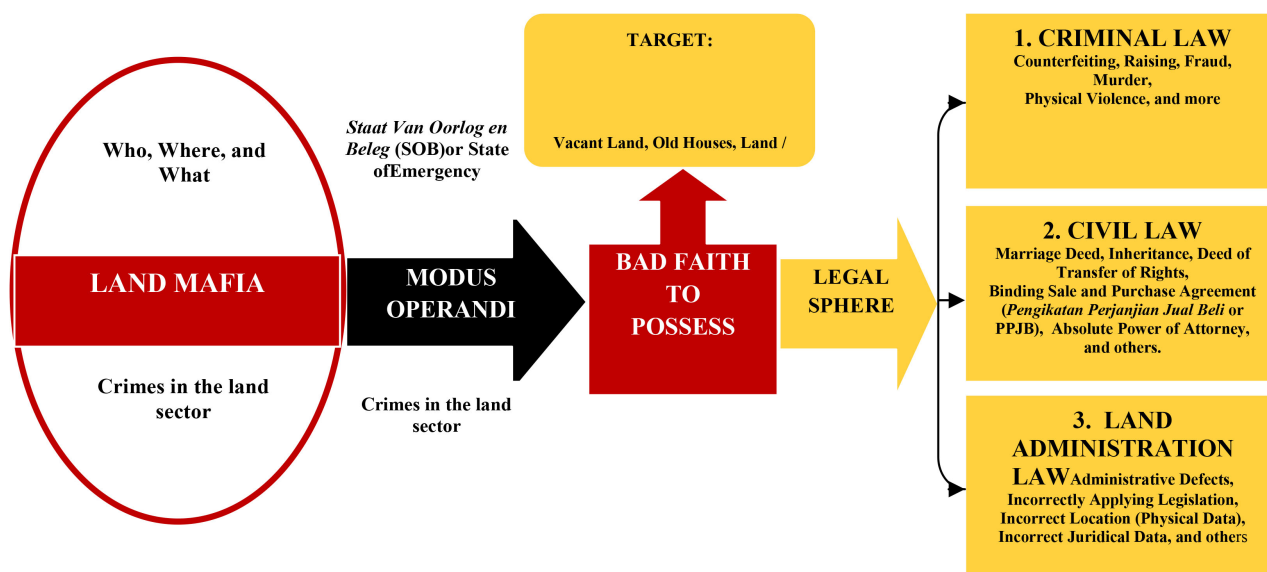


Figure 3. Modus Operandi Scheme, and the Involvement of Individuals in Land Mafia Practices in Indonesia in relation to the Legal Sphere.

operandi of the land mafia, which went viral in Indonesia in 2021, is the case that happened to the mother of the former Deputy Minister of Foreign Affairs of the Republic of Indonesia, Dino Patti Djalal, who was the victim of a plot theft of land certificates (Bustomi, 2021).

In this case, the land mafia carried out their actions by producing fake ID cards (KTP) and colluding with fake brokers and notaries. The mode of the conspiracy: targeting targets, making fake KTPs, colluding with black brokers + fake notaries, and installing photo-like figures on KTPs who are paid to play the role of fake KTP owners (Bustomi, 2021). There are three land certificates belonging to Zurni Hasyim Djalal, the mother of Dino Patti Djalal which are the object of the problem, namely land in West Cilandak, Pondok Indah and Kemang. However, the land in West Cilandak covering an area of 751 square meters is in the name of Yurmisnawita, Dino Patti Djalal's nephew. The land certificate has changed ownership to Freddy Kusnadi without his knowledge based on a sale and purchase deed drawn up by the Land Deed Making Officer (PPAT) (Indraini, 2012).

According to Puspita Sari (2022), the problem with the land mafia in Indonesia is the land mafia who occupy and control land illegally, for example law violations, corruption, collusion and nepotism, engineering cases in court and others. According to Hanifah (2022), the land mafia has a number of modus operandi in its actions by means of conspiracy, including:

1) Issuing and/or using more than one letter of title in the form of girik/pipil/kekitir/yasan/letter c/land certificate/register/certificate of land/statement of physical possession or other similar name, certificate of no disputes, or other letters related to land by the village head/lurah to several parties on the same piece of land.

2) Issuing and/or using documents that are indicated to be false in relation to land.

3) Occupying or controlling land without a permit on land belonging to other people: Property rights/Useholding rights (*Hak Guna Usaha* or HGU)/Building use rights (*Hak Guna Bangunan* or HGB)/Utilization rights (*Hak Pakai* or HP)/Management rights (*Hak Pengelolaan* or HPL) either expired or rights still apply.

4) Changing/moving/removing land boundary markers.

5) Apply for a replacement certificate because it is lost, while the certificate is still there and is still held by the owner or another person in good faith, resulting in two certificates on the same plot of land.

The land mafia in Indonesia as a crime in the land sector is a critical issue and has implications for the *Staat Van Oorlog en Beleg* (SOB) or a state of emergency. The actions of the land mafia in Indonesia carried out by both individuals and groups are based on bad intentions, and are included in the realm of law as follows:

1) Criminal Law, such as: Forgery, Raising, Fraud, Murder, Physical Violence, and many more;

2) Civil Law, such as: Marriage Deed, Inheritance, Deed of Transfer of Rights, Purchase Agreement (PPJB), Absolute Power of Attorney, and others; And

3) Land Administration Law, such as: Administrative Defects, Incorrectly Applying Legislation, Incorrect Location (Physical Data), Incorrect Juridical Data, and others.

Based on various previous descriptions, the *modus operandi* used by the land mafia is in the form of falsification of documents such as eigendom, girik, land certificates, land redistribution decrees, and signatures of measuring documents. The counterfeiting carried out by the land mafia is aimed at controlling assets and occupying land without legality. These modes include falsifying documents (reasons of rights), legal/unlawful occupation (*wilde occupatie*), seeking legality in court, fabricating cases, collusion with unscrupulous officials to obtain legality, corporate crimes (embezzlement and fraud), falsification of management powers, land rights, and loss of land certificates (Petriella, 2021). This land mafia can be interpreted as a group of people or individuals who commit crimes, the object of which is land, both in rural and urban areas. Therefore, the practice of the land mafia in Indonesia which involves other parties to support their activities has had such an impact that many people have been harmed.

Thus, the practice of the land mafia in Indonesia is still very troubling. As a result of this land mafia practice, not a few material losses were felt by the people who were victims because they were trapped by various modes of operation of the land mafia (Petriella, 2021). Therefore, the government is expected to be more optimal in eradicating land mafia practices which are very detrimental to society through legal instruments and land law reform. On the other hand, the government is expected to be able to make policies related to eradicating the

land mafia, and resolving land disputes more intensively and continuously by involving other related parties, as well as law enforcers (police, prosecutors, judges and lawyers).

4.4. The Steps for Resolving Land Disputes in Indonesia

The steps for public complaints in terms of settling land disputes in Indonesia are regulated in Article 33 paragraph (3) of the 1945 Constitution. Article 33 paragraph 1 of the 1945 Constitution regulates that water and natural resources contained therein are controlled by the state and used as much as possible for the prosperity of the people. This article explains the importance and boundaries of a land for society and the state. In terms of triggering land cases in Indonesia, land conflicts or disputes are caused by land mafia practices. Therefore, land disputes or conflicts must be resolved properly and correctly in accordance with statutory provisions.

According to Article 1 of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning Settlement of Land Cases (*Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Nomor 11 Tahun 2016 tentang Penyelesaian Kasus Pertanahan* (Permen ATR/BPN No. 11/2020) that land cases are disputes, conflicts, or land cases to get settlement handling in accordance with provisions of laws and regulations and/or land policies. In this case, there are several general procedures or steps related to public complaints regarding the resolution of land dispute issues through the ATR/BPN office, which are regulated in Article 1 paragraph 5 of Permen ATR/BPN No. 11/2020.

The Article 1 paragraph 5 of Permen ATR/BPN No. 11/2020 emphasizes that complaints are reports or objections submitted by parties who feel aggrieved, to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency regarding land cases. Then, several articles that regulate matters relating to the settlement of land dispute problems are Articles 4 to Article 7 of Permen ATR/BPN No.11/2020 as follows:

- 1) Dispute and Conflict Resolution is carried out based on: a. Ministry initiatives; or b. Community complaints;
- 2) Sending a complaint file in writing to the land office;
- 3) The complaint file will then be taken to the regional land office and transferred to the head of the land office;
- 4) Examination of files by officers, and if the conditions are met, they will be delegated to officials authorized to handle case cases;
- 5) Complaint administration process in the complaint reception register by the authorized official; The responsible official will start collecting data, validating and witness statements then proceed with an analysis of whether the complaint is the authority of the complaint or not; and If the complaint is in accordance with the authority of the ministry, it will be reported to the head of the ATR/BPN office. However, if the results are beyond the authority of the ATR/

BPN ministry, the case will be returned to the applicant, but the ATR/BPN ministry can facilitate settlement through mediation.

Settlement of land disputes in Indonesia can be done in various ways, both through non-litigation (for example: mediation, arbitration and conciliation). Settlement of land cases can also be resolved through Mediation, the term mediation appeared in 1980 which means the willingness to consult to reach an agreement in resolving disputes. Article 43 Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 21/2020, concerning Handling and Settlement of Land Cases, Cancellation of Legal Products (Permen ATR/Head of BPN No. 21/2020). Then, settlement of land cases can also be resolved through Mediation, the term mediation appeared in 1980 which means the willingness to consult to reach an agreement in resolving disputes. Article 43 Permen ATR/Head of BPN No. 21/2020: paragraph (1): Settlement of Cases can be resolved through Mediation; and paragraph (2): Mediation as referred to in paragraph (1) can be carried out by and on the initiative of: 1) Ministries, Regional Offices, Land Offices according to their authority and/or at the initiative of the disputing parties; or 2) Individuals or institutions at the initiative of the disputing parties.

Furthermore, article 44 of Permen ATR/Head of BPN 21/2020 paragraph 1 to paragraph 9 regulates mediation as follows:

1) Paragraph (1). In principle, mediation must be attended by the parties/principals;

2) Paragraph (2). In the event that the parties are unable to attend due to health reasons and/or other valid reasons, the Mediation can be represented by a power of attorney authorized to decide with the consent of the disputing parties;

3) Paragraph (3). In the event that the parties have been properly invited 3 (three) times but are not present, the mediation is declared failed;

4) Paragraph (4). In carrying out mediation, experts and/or related agencies may present with the agreement of the parties;

5) Paragraph (5). In the case of mediation a peace agreement is reached as stated in a peace deed and registered by the parties at the District Court where the jurisdiction of the land is the object of the case to obtain a settlement decision;

6) Paragraph (6). Implementation of the results of the negotiation related to land administration is submitted to the Ministry, Regional Office, Land Office according to their authority by attaching: a. peace decision; b. peace deed; and c. data/documents regarding the land object of the case;

7) Paragraph (7). In the event that the mediation does not result in an agreement and/or fails, then the Ministry, Regional Office, Land Office, according to their authority, will make a decision to settle the case;

8) Paragraph (8). The results of the mediation are set forth in the minutes of the Mediation Implementation which contain the agreement and follow-up of the Mediation signed by the Officer/head of the Settlement team/Mediator; And

9) Paragraph (9). The format of the peace deed as referred to in paragraph (5) and the format of the Minutes. The implementation of Mediation as referred to in Permen ATR/Head of BPN 21/2020 paragraph (8) is listed in Appendix XIV and Appendix XV which are an integral part of this Ministerial Regulation. (10) Mediation procedures are further regulated by Technical Instructions.

Whereas Article 45 of Permen ATR/Head of BPN 21/2020 regulates Dispute and Conflict Resolution by Traditional Institutions as follows: paragraph (1) In certain cases Disputes or Conflicts can be resolved through customary institutions based on local wisdom in the area where the object of the Dispute or Conflict is located; paragraph (2) The decision resulting from the resolution of a Dispute or Conflict through the customary institution as referred to in paragraph (1) is formalized in the form of an authentic deed and/or registered in court; and paragraph (3) Ministries, Regional Offices, Land Offices according to their authority can follow up on decisions resulting from Dispute or Conflict Resolution made by customary institutions as referred to in paragraph (2) in accordance with statutory provisions.

Then, Regulation of the State Minister for Agrarian Affairs/Head of the National Land Agency No. 3 of 1997, concerning Provisions for the Implementation of Government Regulation No. 24 of 1997, concerning Land Registration (*Peraturan Menteri Negara Agraria/Kepala Badan Pertanahan Nasional No. 3 Tahun 1997, tentang Ketentuan Pelaksanaan Peraturan Pemerintah No. 24 Tahun 1997, tentang Pendaftaran Tanah* or Permen ATR/BPN No. 3/1997). Permen ATR/BPN No. 3/1997 regulates the following matters:

1) Paragraph (1) In the event of a dispute regarding the boundaries of adjacent land parcels, the Adjudication Committee in systematic land registration or the Head of the Land Office/measurement officer appointed in sporadic land registration shall try to resolve it amicably through deliberation between the right holder and the holder of rights over the adjacent land, which, if successful, the resulting boundary determination is set forth in the Boundary Dispute Settlement Minutes (200 entries);

2) Paragraph (2) If until the time when the determination of boundaries and measurement of land parcels is to be carried out, efforts to settle peacefully through deliberations are not successful, then temporary limits shall be determined based on the boundaries which in reality are the boundaries of the land parcels in question as referred to in Article 19 paragraph (1) Government Regulation Number 24 of 1997, and parties who object, are notified in writing to file a lawsuit with the Court;

3) Paragraph (3) The matter of determining and measuring temporary limits as referred to in paragraph (2) is included in the checklist 201 and recorded on the measuring drawing;

4) Paragraph (4) If the dispute in question is submitted to the court and the court issues a decision that has permanent legal force regarding the said land accompanied by the Minutes of Execution or if peace is reached between the

parties before the announcement period as referred to in Article 26 of the Government Regulation Number 24 of 1997 expires, the notes regarding the provisional limit in the entry list 201 and measuring drawings are deleted by crossing them out in black ink;

5) Paragraph (5) Regarding land parcels which, according to evidence of tenure, can be registered through the recognition of rights in accordance with the provisions in Article 24 paragraph (2) of Government Regulation Number 24 of 1997 or can be granted with a right to an individual or legal entity, the stipulation the boundaries are carried out by excluding riverbanks and land planned for roads according to the Detailed Spatial Plan for the area concerned; And

6) Paragraph (6) In the systematic land registration of state land that will be given rights to individuals or legal entities and have been measured before the village/kelurahan area is determined as the location for systematic land registration but the measurement letter has not yet been drawn up, the boundaries are redefined by the Adjudication Committee.

Various ways of solving land dispute problems in Indonesia are as follows:

1) Mediation—In Indonesia, ways of deliberation to reach consensus are commonplace. For land cases that are civil in a broad sense, that is, they do not involve administrative and criminal aspects, as long as the parties want mediation methods, this alternative can be taken (Istijab, 2018: p. 12).

2) Arbitration—Arbitration is an alternative to non-litigation dispute resolution chosen by the parties by writing it as a clause in a special agreement after the dispute has occurred. Some things that need to be considered in choosing an alternative arbitration include determining what land disputes can be handed over to arbitrators, determining who has the right to become an arbitrator, and determining the nature of decisions that should be final and cannot be appealed (Indrawati et al., 2022); and

3) Conciliation—In dispute resolution there is a conciliator as a facilitator. The role of the conciliator is related to matters of communication between the parties, in order to obtain a solution in resolving disputes (Indrawati et al., 2022).

Meanwhile, litigation is an alternative to dispute resolution, as well as through a judicial body (Istijab, 2018: p. 12). Litigation is the settlement of land disputes carried out by way of litigation or through a court of law. The process of resolving land ownership disputes by means of litigation is considered to be able to provide legal certainty in resolving disputes (Indrawati et al., 2022). Settlement through the Judicial Body, namely submitted to the general court civil or criminal, if the dispute is regarding illegal land settlement which is made possible by Government Regulation in lieu of Law Number 51 of 1960 concerning Prohibition of Use of Land Without a Permit of the Rightful Person or Proxy (Perpu No. 51/1960) Perpu No. 51/1960 strictly regulates the prohibition of using land without permission from the right or proxy or through the state administrative court. In general, all land disputes can be submitted to court. In Indonesia, the

settlement of land disputes through courts is good within the scope of general courts (criminal and civil), state administrative courts. Even the religious court can spend a lot of money, for example the cost of the case is predicted to be greater than that the object of land being sued.

According to [Istijab \(2018: p. 12\)](#), it's no secret that there are relatively many land disputes whose settlement through the courts is felt to be less effective besides being time consuming and costly. Therefore, many people avoid going to court, and as an alternative, people usually make complaints to head of land office. This complaint can be made in writing through the mailbox, website or complaint counter of the ministry of ATR/BPR. In principle, the community must complete various files related to land disputes, including the following:

- 1) Photocopy of the identity of the complainant;
- 2) If authorized, must attach a power of attorney and identity of the attorney;
- 3) Evidence related to the complaint; and
- 4) A brief description of the land dispute case.

Furthermore, some examples related to land ownership dispute cases and their resolution are as follows:

Referring to [Table 1](#) below, it can be interpreted that Mediation is a peaceful way of resolving disputes that is appropriate, effective, and can open wider access to the parties to obtain a satisfactory and just settlement. Peace is the best way to resolve disputes between litigants. With peace, the litigants can explore a resolution that is mutually beneficial to one another. This is because, in peace, what is emphasized is not the legal aspect alone, but how both parties can still get the maximum benefit from the choices they have agreed on. Here it can also be seen that with peace, settlement actually emphasizes humanity and the desire to help and share. There are no losers or winners. There are only parties who win together. Therefore, in order not to get caught up in land disputes, it is better to buy property that has clear ownership and has been checked through the BPN. For example, housing in Alam Sutera starts at IDR 1 billion which is managed by a credible and trusted developer ([Tim Editorial Rumah.com, 2022](#)).

In the context of bureaucratic reform of the Supreme Court of the Republic of Indonesia which is oriented towards the vision of realizing a great Indonesian judiciary, one of the supporting elements is mediation as an instrument to increase people's access to justice as well as to implement the principles of administering justice that is simple, fast and low-cost. A peace agreement is reached, stated in a peace deed and registered by the parties at the District Court where the jurisdiction of the land is the object of the case to obtain a peace decision. If the mediation fails, then a decision is made to resolve the case. Especially for disputes and conflicts with moderate or mild cases, handling can be done without going through all the stages set out in [Permen ATR/Head of BPN 21/2020](#). In this regulation, it has completely regulated the stages of Handling Disputes and Land Conflicts sequentially through the stages.

Table 1. Examples of settlement of land disputes through non-litigation and litigation in Indonesia.

No	Land Dispute Resolution	Description of Settlement of Land Dispute Cases
1.	Non-Litigasi	<p>1) The case of land dispute over property rights and its resolution through alternative mediation that occurred in Bluluk Village, Colomadu District, Karanganyar involving the Head of Bluluk Village.</p> <p>a) This case started when in 2012 a property entrepreneur named Candra bought a plot of land with an area of 2785 m². The land is located in Bluluk Village with a title certificate in the name of Sayem. Before carrying out the sale and purchase transaction, Candra has repeatedly consulted the Karanganyar Land Office and checked the land. The Karanganyar Land Office has also stated that the land with ownership certificates in Sayem's name is valid. However, in mid-2013, there was a report to the Karanganyar Prosecutor's Office stating that the land purchased by Candra was part of the village treasury land, because previously there had been an exchange of land between Sayem's land in Serangan Hamlet and land owned by the village treasury in Bluluk Hamlet between Head of Bluluk Village with Sayem. In this regard, approximately 785 m² of the 2785 m² land belongs to Bluluk Village (Sulistifani, 2018).</p> <p>b) Handling the dispute is resolved by means of mediation. The mediation institution at the National Land Agency ("BPN") of Karanganyar Regency in the mediation process uses several models of dispute resolution, including: settlement mediation, in order to have the main objective of encouraging the realization of a compromise from the demands of the two parties to the dispute; facilitative mediation, in order to have the objective of avoiding the positions of the disputing parties and negotiating the needs and interests of the parties; transformative mediation, in order to find the causes of disputes; evaluation mediation, in order to seek agreement based on legal rights (Sulistifani, 2018).</p>
2.	Litigasi	<p>2) The cases of customary land disputes in the decision of the Supreme Court Decision Number 3064 K/Pdt/2010 which has permanent legal force. On January 23, 1973</p> <p>a) Thonce Bonay Upuya as the cassation respondent/plaintiff obtained a plot of land handed over according to custom from Mr. Demianus Tanawani, as the land owner, and as the biological parents of the cassation applicant/defendant with a land area of 7397 m² (Indrawati et al., 2022: p. 2). The handover of the land was based on a family relationship between the wife of Mr. Demianus Tanawani named Yuliana Mundoni, as the plaintiff's wife, Helena Mundoni's older sister. The plaintiff and his family manage, care for, and maintain the piece of land, by gardening, planting long-term crops, and building 1 permanent house (Indrawati et al.,</p>

2022: p. 2). On April 11, 1986, Mr. Demianus Tanawani came to the plaintiff to witness the designation of the land boundary, which was witnessed by Defendants II and III.

b) Then, in 1989 there was one of the programs of the South Yapen sub-district head, namely controlling the administration of land ownership, so that on August 1, 1989 a Land Acquisition Letter was drawn up which legitimized the verbal relinquishment by Mr. Demianus Tanawani to the plaintiff. In April 2009, the defendants carried out the construction of a residential house on the plaintiff's land. The actions of the defendants led to the demolition of 1 semi-permanent housing unit belonging to the plaintiff which caused the plaintiff to lose Rp. 25 million (Indrawati et al., 2022: p. 3). The actions of the defendants led to threats that led to physical clashes and disturbed family peace and public order. The actions of the defendants can also cause the plaintiff to suffer losses from the loss of part of the land that was built for the building and loss of income from the monthly house rental price, amounting to Rp. 500 thousand \times 6 months = Rp. 3 million (Indrawati et al., 2022: p. 3). Based on these legal facts, the Plaintiff chooses to resolve this land dispute through a legal process. At the cassation level, the Supreme Court is of the opinion that the object of the dispute is customary land belonging to the parents of the cassation applicant/defendant, which was given to the cassation respondent/plaintiff, as a grant without any traditional ceremony (Indrawati et al., 2022: p. 12). Based on the evidence of the cassation respondent/plaintiff in the form of the Customary Court Conciliation Decree December 9, 2009, the Customary Court decided that the customary land was divided into 2, namely the south side was handed over to Thonce Bonay Upuya, and the north side was handed over to Darius Tanawani (defendant II) (Indrawati et al., 2022: p. 12). Apart from that, the land was only leased and the land certificate was stated to have been engineered, because based on the evidence, the certificate of waiver of land rights dated August 1, 1989 submitted by the cassation respondent/plaintiff was wrong. The content of the customary waiver letter is legally flawed because the signature of the cassation applicant II was falsified by the cassation respondent/plaintiff. The relinquishment of rights must be canceled because of the absolute rights of the Tanawani family (Indrawati et al., 2022: p. 12).

c) Horizontal ethnic conflict arose, so based on local wisdom, the Peaceful Decision of the Customary Court of December 9, 2009 should be implemented (Indrawati et al., 2022: p. 12). Thus, the Supreme Court granted the cassation request from the Cassation Petitioners, and upheld the Conciliation Decision of the Customary Court Number: 85/KDPA/DAP-WTC/DY/XII/2009, in order to maintain stability, balance and harmony among ethnic groups in Serui (Indrawati et al., 2022: p. 13).

3) The Cases of inherited land disputes and their resolution, namely the Supreme Court Decision Number 1989 K/PDT/2001

a) The object of the dispute is land belonging to the plaintiff/respondent on cassation which was obtained from his mother named Sitti binti Bitte. His mother loaned Hadda some land to work on temporarily. Then, Hadda died in 1990, and in 1991 Sitti binti Bitte also died (Indrawati et al., 2022: p. 1). Thus, the object of the dispute is then controlled and worked on by the defendant/applicant for cassation. However, the defendant's actions were not notified/permitted by the plaintiff, so the defendant's actions were against the law (Indrawati et al., 2022: p. 1). Based on these legal facts, the plaintiff chose to resolve this dispute to the Watampone District Court by submitting a request stating that the object of the dispute is legally owned by the plaintiff which was obtained from his mother named Sitti binti Bitte as inherited land and stated that the object of the dispute has the status of a Hadda loan from Sitti binti Bitte (Indrawati et al., 2022: pp. 1-2).

b) In its decision, the Supreme Court is of the opinion that based on all the letters and witnesses submitted by the plaintiff when linked to one another, there is sufficient evidence to state that the land object in dispute belongs to Sitti binti Bitte which later falls into the inheritance of the plaintiff (Indrawati et al., 2022: p. 4). Thus, the court rejected the cassation request from the cassation applicant/defendant (Indrawati et al., 2022: p. 6).

4) Matoa Land Dispute Case in 2021

a) This dispute stems from the cooperation agreement period which expires on March 18 2021 and the lawsuit regarding violations of cooperation that was filed by PT Saranagraha Adisentosa to the South Jakarta District Court in March 2021. Referring to the Decree of the Minister of Finance Number 470/KMK.01/1994 dated September 20, 1994 which regulates cooperation using the build, operate and hand over format or BOT. In the amendment, it is stated that the cooperation will take place from 18 March 1996 to 18 March 2021 and will be extended for 5 years after the end of the agreement in question (Tim Editorial Rumah.com, 2022). The cooperation agreement is considered to have expired and the lack of permission from the Minister of Finance, according to the Department of Agriculture, is the reason for PT Saranagraha to stop utilizing Matoa's land. In addition, this land is also said to be used for national defense purposes.

b) Until now, controlling the assets of State Property (BMN) is a follow-up step from this dispute case that has been carried out by the Indonesian Air Force (TNI AU) (Tim Editorial Rumah.com, 2022).

5) The 2021 Salve Veritate Land Dispute Case.

a) The case in the land mafia case involved mal-administration of the issuance of Certificate of Ownership (SHM) Number 4931/West Cakung in the name of Abdul Halim, in Cakung, East Jakarta, with a land area of 7.78 hectares. Initially, PT Salve Veritate, which is the land owner was shocked and did not accept it when his land became the object of a dispute because it was recognized by another person. The land owned by PT Salve Veritate totaling 38 plots with a total area of 77,582 square meters located in Cakung Barat Subdistrict, East Jakarta, has the status of Building Use Rights (HGB) (Tim Editorial Rumah.com, 2022).

b) Following up on the attorney's report, finally the Ministry of ATR/BPN checked the completeness of the land documents which were originally in the name of PT Salve Veritate. After checking, PT Salve Veritate's HGB Certificate did not find anything that made the examining team believe that the certificate issuance process as mentioned above was not in accordance with procedures (Tim Editorial Rumah.com, 2022).

6) The 2020 Alam Sutera Land Dispute Case.

a) Starting with the suspect with the initials D pretending to be in conflict with suspect M over a 45 hectare land in Alam Sutera. In April 2020, D filed a civil lawsuit against M regarding ownership of the land. Even though the land already has residents and companies occupying it. In May 2020, M and D then conspired to reconcile and mediate the land dispute case. After a peace agreement was reached, in July 2020 the land mafia gang submitted a request for land execution to the Court (Tim Editorial Rumah.com, 2022).

b) This immediately met resistance from residents and companies who reported it to the Tangerang City Metro Police. From the results of the investigation, the files claiming ownership of the 45 hectares of land turned out to be fake. The two of them even submitted the file to the Court to sue each other. The suspects are currently being charged under Articles 263 and 266 of the Criminal Code concerning forgery of documents with the threat of 7 years in prison (Tim Editorial Rumah.com, 2022).

Source: Examples of Land Dispute Cases and their Resolution by Auli (2022) and various other sources (processed).

1) Mediation Was Unsuccessful/Cannot Be Implemented According to Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court (hereinafter referred to as PERMA No. 1/2016) which is a substitute for Supreme Court Regulation Number 1 of 2008. In this condition, the Mediator must declare that the Mediation has failed to reach an agreement and notify it in writing to the Examining Judge of the Case, in the event that: a) The Parties do not reach an agreement by the maximum deadline of 30 (thirty) days following

its extension or b) The Parties are declared not having good faith.

2) Place for Organizing the Mediation; Mediation can be held in one of the rooms of the Court of First Instance (District Court) or in another place agreed upon by the parties. Judge mediators may not hold mediation outside the court. There is no charge for holding mediation in one of the Court of First Instance rooms. If the parties choose to hold mediation elsewhere, the financing will be borne by the parties based on the agreement.

3) Peace at the Appeals, Cassation and Reconsideration Levels. The parties, on the basis of their agreement, can seek reconciliation on cases that are currently in the process of appeal, cassation or review or cases that are being examined at the level of appeal, cassation and review as long as the case has not been decided. This reconciliation effort lasts no later than 14 (fourteen) working days after the submission of the written will of the parties is received by the Chairman of the Court of First Instance. The agreement of the parties to reach peace must be submitted in writing to the Chairman of the Court of First Instance who is trying. Furthermore, the Chairperson of the Court of First Instance who is trying will immediately notify the Chairperson of the competent Court of Appeal or the Chief Justice of the Supreme Court regarding the intention of the parties to seek reconciliation. If the case in question is being examined at the level of appeal, cassation and review, the panel of examining judges must postpone the examination of the case in question for 14 (fourteen) working days after receiving notification regarding the parties' intention to seek reconciliation. If the files or memorandum of appeal, cassation and review have not been sent, the Chairman of the Court of First Instance concerned must postpone the sending of files or memorandum of appeal, cassation and review to give the parties an opportunity to seek reconciliation.

4) Voluntary Conciliation at the Level of Appeal, Cassation, or Judicial Review. As long as the case has not been decided at the level of appeal, cassation or judicial review, the Parties on the basis of an agreement can seek peace. If desired, the Parties through the head of the Court submit a written Settlement Agreement to the Examining Judge of the case at the cassation level, or a review to be decided with a Settlement Deed. The Settlement Deed is signed by the Examining Judge at the level of appeal, cassation, or review within a maximum period of 30 (thirty) days from the receipt of the Settlement Agreement. If the files for appeal, cassation or review have not been sent, the case files and the Settlement Agreement are sent together to the High Court or the Supreme Court.

5) The Lawsuit Procedure Process is regulated in the *Herzien Indonesia Reglement* (HIR)/New Indonesia Regulation (Stbl 1984: No. 16 which was renewed with Stbl 1941 No. 44). The lawsuit must be filed with a lawsuit signed by the plaintiff or his legal proxy and addressed to the Chief Justice of the District Court. The lawsuit is submitted to the District Court; then it will be numbered and registered in the Register book after the plaintiff pays the down payment of the court fee, the amount of which is determined by the District Court (article 121

HIR). For plaintiffs who really cannot afford to pay court fees, which must be proven by a statement from the village head concerned, they can file a lawsuit free of charge. A plaintiff who cannot write can submit his claim orally before the Head of the District Court, who will order the lawsuit to be recorded (Article 120 HIR). Relative Competence (article 118 (1) HIR): In general, for civil lawsuits, lawsuit filings are based on the Actor Sequitur Forum Rei principle. This principle is regulated in Article 118 paragraph (1) *Herzien Inlandsch Reglement* (“HIR”) which stipulates that the district court where the defendant resides is authorized to try a case. The District Court has the authority to examine claims whose jurisdiction includes: 1) Where the defendant resides; 2) Where the defendant actually resides (if the defendant’s residence is not known); 3) One of the defendants domiciled, if there are many defendants whose residence is not in the same jurisdiction of the District Court; 4) The main defendant resides, if the relationship between the defendants is as the debtor and the guarantor; 5) The plaintiff or one of the plaintiffs resides in the event that: the defendant does not have a residence and it is not known where he is; the defendant is unknown; 6) In the case mentioned above and the object of the lawsuit is an immovable object (land), then where the immovable object is located; and 7) The provisions of the *Herzien Indonesia Reglement* (HIR) in this case are different from the *Regulation voor de Buitengewesten* (Rbg), or Regulations for Overseas Areas (Stbl. 1927 No. 227) which apply to areas outside Java and Madura (Kusumasari, 2012). According to article 142 RBg, if the object of the lawsuit is land, then a lawsuit can always be filed with the District Court where the land is located.

In the event that there is a choice of domicile in writing in the deed, if the plaintiff wishes, at the chosen domicile. If the defendant on the first day of trial does not file a counterclaim (exception) regarding this relative authority to try, the District Court may not declare itself incompetent. This is in accordance with the provisions of Article 133 HIR, which states that exceptions regarding authority. In addition to non-litigation methods, in general land dispute resolution can also be carried out by means of litigation or through court institutions. The process of resolving land ownership disputes by means of litigation is considered to be able to provide legal certainty in resolving disputes (Indrawati et al., 2022).

Furthermore, there are some tips to avoid land disputes so you don’t fall into this problem, consider the following tips: Check the accuracy of the certificate. Regarding land certificates, don’t just make sure that the letter is there. But you also have to make sure that the letter or certificate is genuine. If you want to be more certain, you can check through the local National Land Agency (BPN). Confirm land ownership status. Apart from the authenticity of the certificate, what you should check next is the ownership status of the land being sold. Whether the land is privately owned or not. Our advice is to choose land that has an SHM (Certificate of Property Rights) because it is guaranteed to be safer and legally guaranteed.

Pay attention to the credibility of the seller. The process of buying and selling land is usually used by illegal elements to make a profit. Therefore, you need to ensure the credibility of the seller, whether it's an individual or a development company. The Ministry of Agrarian Spatial Planning/National Land Agency (ATR/BPN) reminded the community to carry out preventive aspects to avoid land mafia. Among them the need for care and vigilance of the landowners. It is indeed not easy for BPN to anticipate if it is filed for reversal. It is also necessary for the land owner to take preventive measures, for example by giving power of attorney, first study the documents of the power of attorney that were made, and not easily hand over the certificate to other people, because it did not go through the procedure. That is what is called an administrative defect. If there is an administrative defect, the process of returning the name can also be cancelled.

When there is an administrative defect, even though the stages of administrative procedures have been passed, it turns out that the transfer of rights was based on the required documents. However, the document turns out to be illegal or invalid so that the legal action of buying and selling is also invalid. If in the process of buying and selling it is carried out by people who do not have this authority then it can be called legally flawed. We can cancel the sale and purchase so that it is called a legal or juridical defect. However, in order for us to return to its original state, the ATR/BPN Ministry Office will examine whether there is really a defect in the administration, the PPAT must ensure that the parties who will carry out the transaction when making the deed of sale and purchase, whether they are indeed the party entitled and authorized to carry out the transaction. buy and sell. The parties carrying out the sale and purchase must be together before the PPAT when making the deed, the deed is read out.

According to [Thea DA \(2023\)](#), the approach taken in dealing with cases of land disputes and agrarian conflicts in 2022 in Indonesia will still use a business as usual approach. In this context, the government tends to approach it in old ways that are inhumane and prioritize violence and normative law. Therefore, the state must be present to resolve land issues in Indonesia in the right way as mandated by the constitution, the 1945 Constitution of the Republic of Indonesia (1945 Constitution). According to Article 1 paragraph (2) of the 1945 Constitution it states that sovereignty is in the hands of the people, carried out according to the Constitution (the third amendment to the 1945 Constitution). This gives the sense that the state, including the government and other institutions, in carrying out any action must be based on legal certainty ([von Schmid, 1988: p. 7](#)).

Then, all citizens must receive equal protection in law; there must be no discrimination in legal protection, which includes private law and public law (Article 27 paragraph 1 of the 1945 Constitution). Furthermore, the state is willing to accept taxes and fees from the public as stipulated in:

- 1) Law of the Republic of Indonesia Number 28 of 2009 concerning Regional

Taxes and Regional Levies (*Undang-Undang Republik Indonesia Nomor 28 Tahun 2009 Tentang Pajak Daerah Dan Retribusi Daerah* or UU No. 28/2009) as follows: 1) Rural and Urban Land and Building Tax is a tax on land and/or buildings owned, controlled and/or utilized by private persons or entities, except for areas used for plantation, forestry and mining business activities. (Article 1 paragraph 37); 2) Sales Value of Tax Objects (*Nilai Jual Objek Pajak* or NJOP), is the average price obtained from sale and purchase transactions that occur fairly, and if there is no sale and purchase transaction, the NJOP is determined through price comparisons with other similar objects, or the new acquisition value, or NJOP replacement (Article 1 paragraph 40); and 3) Land and Building Rights Acquisition Fee is a tax on the acquisition of land and/or building rights (Article 1 paragraph 41).

2) Regulation of the Minister of Finance Number 03/PMK.07/2007 concerning Stipulation of Estimated Allocation of Revenue Sharing Funds for Land and Building Use and Fees for Acquisition of Land and Building Rights for Regional Parts for Fiscal Year 2007 (*Peraturan Menteri Keuangan Nomor 03/PMK.07/2007 Tentang Penetapan Perkiraan Alokasi Dana Bagi Hasil Pakal Bumi dan Bangunan Dan Bea Perolehan Hak Atas Tanah Dan Bangunan Bagian Daerah Tahun Anggaran 2007*) as follows: 1) Land and Building Tax (*Pajak Bumi dan Bangunan* or PBB) is a tax imposed on land and buildings (Article 1 paragraph 2 of the Minister of Finance Regulation Number 03/PMK.07/2007), and 2) Land and Building Rights Acquisition Fee (BPHTB) is a tax imposed on the acquisition of rights to land and buildings (Article 1 paragraph 3 Regulation of the Minister of Finance Number 03/PMK.07/2007). Thus, it is hoped that the findings of this study can be used by the government as a reference material for resolving land issues in Indonesia.

According to Pujiningrum (2020), cases of land disputes and land conflicts in Indonesia have entered the realm of law, namely they concern the realms of criminal and civil law, and state administrative law as follows: 1) in the general court there is the authority to adjudicate land disputes related to property rights disputes due to criminal and civil justice, 2) the state administrative court has the authority to adjudicate the legality of land certificates as a decision of a state administrative official for reasons of state administrative law. Therefore, these courts have their respective competencies which have their respective scopes, but all of these decisions are intended to end at a settlement point where the value of justice, legal certainty and its benefits for justice seekers can be felt (Pujiningrum, 2020). In this context, there are indications of overlapping land regulations. The implication in resolving land disputes is that there is overlapping implementation of regulations. In its journey, land regulations in Indonesia became dysfunctional and substantially contradicted by the issuance of various sectoral laws and regulations such as the Forestry Law, Mining Law, Transmigration Law and others. Even though it still refers to UUPA No. 5/1960 as the main regulation in the field of other agrarian resources.

The presence of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation Number 2 of 2019 Concerning Guidelines for Dispute Resolution on Government Actions and Authority to Adjudicate Unlawful Acts by Government Agencies and/or Officials (*Onrechtmatige Overheids daad*) or PERMA No. 2/2019 has actually caused confusion for some judges in the district court environment, especially with regard to Article 11 PERMA Number 2 of 2019 which states that cases violating the law by government bodies and/or officials (*Onrechtmatige Overheids daad*) which are being examined by the district court, the district court must declare that it has no authority to try. This has implications for land disputes to become one of the complex cases to reach a settlement point quickly.

Referring to these laws and regulations, logically, the presence of the state in resolving cases of land disputes and land conflicts in Indonesia is in an innovative way, the government buys disputed land from the community at a reasonable price. The purchase price made by the government is the price of land that is equivalent to the obligations paid by the community as regulated and stipulated in the laws and regulations. Then, the government settles it with the party that controls the land, the land mafia through the applicable legal mechanism. The presence of the state in resolving land disputes in this way is a manifestation that the state upholds a sense of justice in society, because every citizen has the same position before the law. This is also a form of the state's partiality towards the people because the people have fulfilled their obligations to pay taxes and fees as stipulated in Law No. 28/2009. Therefore, when land problems arise, the state can solve them instead of clashing over land disputes between the community as victims and the land mafia.

Based on various previous descriptions, the problem of land crimes, the existence of land mafia practices is an important agenda that must be resolved by the government as soon as possible based on regulations and legislation, especially dealing with land issues. Land cases are conflicts of interest in the field of land between parties, both between individuals and individuals, individuals and legal entities, legal entities and legal entities and so on. The collision occurs because there are parties who want to control the land, and on the other hand there are parties who have rights and interests in land which are also influenced by laws and policies (*Istijab, 2018*).

Thus, there is a need for legal certainty and innovative policies to address the problems of land disputes and land conflicts in Indonesia. At this time, the government is considered weak and slow in carrying out preventive actions, before agrarian conflicts or violence emerged and spread (*Thea DA, 2023*). This has increased the number of people being criminalized compared to 2021 where there were 150 cases. Therefore, the government is expected to be able to resolve agrarian conflicts or violence in Indonesia by providing legal certainty regarding land ownership so that it will provide benefits to the people of Indonesia. The settlement in question is that the government uses a legal instrument approach and

adopts the mechanism as implemented by professional parking managers. For example, if a motorbike or car is lost in the parking area, the parking manager will compensate the owner of the lost vehicle for reasonable losses. This is a form of fulfilling the rights and responsibilities of both parties.

5. Conclusion

Land disputes in Indonesia are essential issues as one of the complex cases to reach a point of resolution quickly. Settlement of land cases through the courts can even involve more than one court, including the General Courts (Criminal and Civil), State Administrative Courts and Religious Courts. This is because the three judicial institutions have different absolute competencies in resolving land disputes but can lead to one point of settlement of intersecting cases. Land conflicts often cause clashes between community groups and the Bahjan land mafia as well as between the community and the state. The essential issues of land disputes in Indonesia are cases of tenure and ownership, stipulation and registration, land parcel boundaries, compensation for former private land, ulayat land, land reform objects, land acquisition, and implementation of court decisions. Therefore, the government must be present to resolve land dispute problems consequently. It is hoped that this can be done through agrarian reform as stipulated by the constitution, the 1945 Constitution of the Republic of Indonesia (1945 Constitution) and referring to the Law on Basic Agrarian Regulations Number 5 of 1960 (UUPA No. 5/1960), and Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX of 2001 concerning Agrarian Reform and Management of Natural Resources ([MPR Decree Number IX/MPR/2001](#)).

Then, the government is expected to be able to revise the provisions in the regulation on land acquisition for development so that it is more pro-community without neglecting aspects of legal certainty in the development process so that it is expected to minimize and resolve land conflicts so that they do not have the potential to spread. The government is expected to carry out intensive and comprehensive studies related to sociological, anthropological and economic, political and juridical aspects. Furthermore, it is hoped that the results of this study can serve as a guideline for the government to properly resolve various land dispute issues in Indonesia, using humanist and legal settlement methods that live in society ([Black, 1976](#)). According to [Black \(1976\)](#), the role of law in shaping the normative life of a country and its citizens is through the laws that live in society. There are laws that establish and reinforce central values and beliefs in society. Therefore, the mechanism that is expected to be carried out by the government related to land dispute resolution in Indonesia is that the government can adopt a settlement mechanism as exists in the professional parking business sector. If a motorbike or car is lost, the parking authority will compensate the owner of the lost motorbike or car at the real price. This logical consequence is a manifestation of the rights and responsibilities of both parties. The parking man-

ager receives a fee, and the motorbike or car owner pays a fee according to the conditions set by the parking authority. For the axiom, people pay Land and Building Tax (PBB), and Land and Building Rights Acquisition Fees (BPHTB) as stipulated in the Law of the Republic of Indonesia Number 28 of 2009 concerning Regional Taxes and Regional Retribution (UU No. 28/2009), and Regulation of the Minister of Finance Number 03/PMK.07/2007 concerning Stipulation of Estimated Allocation of Revenue Sharing Funds for Land and Building Use and Fees for Acquisition of Land and Building Rights in Regional Parts for Fiscal Year 2007. Thus, the selling value of tax objects (NJOP) is the average price obtained from a sale and purchase transaction that occurs fairly is the government's guideline for providing compensation to people who are victims of the land mafia.

State of the Art

The state must be present to resolve land issues in Indonesia in the right way as mandated by the constitution, the 1945 Constitution of the Republic of Indonesia.

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Conflicts of Interest

The author declares that they have no conflicts of interest, financial or otherwise, regarding the publication of this article.

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