

Dynamics of Land and Property Law 2024: Responding to New Policies for Legal Certainty and Investment

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Abstract

Background - Land and property law plays a pivotal role in fostering economic development and ensuring social equity. In Indonesia, land ownership and property rights are complex and often contentious, reflecting the interplay of traditional (adat) rights, national legal frameworks, and the demands of a rapidly evolving investment landscape. The government has introduced significant reforms in recent years, such as the Omnibus Law on Job Creation (Law No. 11 of 2020) and subsequent implementing regulations, to streamline procedures, resolve disputes, and attract foreign and domestic investment. However, challenges persist, including inconsistencies in land registration processes, overlapping claims, and inadequate enforcement mechanisms. These gaps undermine legal certainty, deterring potential investors and exacerbating social inequities. In 2024, addressing these issues remains critical to aligning legal frameworks with Indonesia's ambitious economic and social development goals. Despite ongoing reforms, Indonesia continues to face a critical gap between policy formulation and implementation in land and property law. Legal certainty—a cornerstone for investment—remains elusive due to fragmented governance, overlapping jurisdictions, and a lack of harmonization between national and regional laws. Existing literature often focuses on either theoretical frameworks or individual policy changes, leaving a void in comprehensive analyses that evaluate how current and upcoming policies impact land rights, dispute resolution, and investment attractiveness holistically.

Purpose - This study aims to analyze the dynamics of land and property law in 2024 by (1) Evaluating the effectiveness of recent legal reforms in addressing land-related challenges. (2) Predicting the potential impact of proposed policies on legal certainty and investment. (3) Proposing actionable recommendations to bridge implementation gaps and enhance the alignment of laws with national and international best practices.

methodology - The research employs a normative legal approach, analyzing current laws, regulations, and judicial decisions to assess their alignment with the principles of legal certainty and investment facilitation. Key legislations examined include: (1) Basic Agrarian Law (Law No. 5 of 1960), the foundation of Indonesia's land law system; (2) Omnibus Law on Job Creation, which introduced significant reforms in land acquisition and property rights; and (3) Government Regulation No. 18 of 2021 on Land Procurement for Development and other implementing regulations. Additionally, case studies of land disputes and their resolutions are reviewed to provide practical insights into the effectiveness of existing mechanisms. Comparative legal analysis with regional neighbors, such as Malaysia and Vietnam, highlights potential areas for policy improvement.

Findings - The study finds that recent reforms have made notable progress in streamlining land registration and acquisition processes, especially through the introduction of integrated online systems and simplified procedures. However, significant challenges remain: (1). Legal Certainty: The implementation of policies often varies across regions, creating inconsistencies that undermine confidence among investors and landowners. (2). Dispute Resolution: While alternative dispute resolution (ADR) mechanisms have gained traction, their accessibility and effectiveness are hindered by limited public awareness and institutional capacity. (3). Investment Dynamics: Simplified land procurement processes have increased investor interest in infrastructure and real estate, but social resistance and adat claims continue to pose obstacles. Predicted developments for 2024 include enhanced regulatory harmonization and the adoption of digital technologies to improve transparency and efficiency in land administration. Emerging policies are expected to focus on addressing overlapping claims, strengthening adat-community engagement, and ensuring equitable access to land for marginalized groups.

Originality - This research offers a novel contribution by bridging theoretical and practical perspectives on land and property law in Indonesia. Unlike prior studies that focus on isolated issues, it provides a holistic analysis of the interplay between legal certainty, land governance, and investment dynamics. By integrating doctrinal analysis with comparative insights, the study not only evaluates the current state of land laws but also anticipates future trends and challenges. The findings and recommendations serve as a valuable resource for policymakers, legal practitioners, and investors seeking to navigate the complexities of Indonesia's land and property landscape in 2024 and beyond.

Keywords: Investment, Land, Legal Certainty, New Policies, Property Law
