

## LAND RIGHTS DISPUTES: CULTIVANT SUITS AGAINST STATE LAND IN URBAN AREAS (THE IDEA OF AN AGRARIAN COURT)

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### Abstract

The existence of state land cultivators in urban areas is growing rapidly and cultivators form a social system on their cultivated land, cultivated land as a livelihood, a place to socialize and a place to have children and grandchildren and a place to live for decades. Cultivators in urban areas use state land without ownership of land rights, but also cannot apply for land rights, so that the existence of these cultivators for years has not received legal certainty. Legal regulations in the laws of the Republic of Indonesia that regulate state land cultivators in Indonesia are still under debate and require further legal study, one of the problems of state land cultivators in urban areas such as DKI Jakarta, namely the existence of problems in regulations with the issuance of the Decree of the Governor of the Special Capital Region of Jakarta No. 353 of 1977 concerning the Revocation of State Land Cultivation so that the ranks of the sub-district and district will not provide land certificates or land history as a requirement for applying for land certificates, so that for years cultivators have not easily obtained land rights, therefore it is necessary to have legal certainty in an effective, efficient and targeted manner, namely through the mechanism of land rights lawsuits by cultivators through the agrarian court, which is expected that the judicial institution will provide justice through the decision of the agrarian judge that the cultivator is the party authorized to have land rights and the judge's decision can be used as jurisprudence in similar cases, so there needs to be a legal reformulation of the use of state land by cultivators in Indonesia with the mechanism of judge's decisions through the agrarian court which provides legal certainty of land rights with the ruling of the agrarian court which can order related state institutions such as local governments and the National Land Agency to provide land rights to cultivators of state land in urban areas.

**Keywords:** Cultivators, State Land, Agrarian Court

### INTRODUCTION

The Basic Agrarian Law No. 5 of 1960 (UUPA) and its various implementing regulations have actually created two classifications of land status in Indonesia, namely land rights and state land. A number of land law literatures try to link cultivated land with the use of land without the permission of the owner or his attorney and illegal land occupation. (illegal occupation) (Sihombing 2005:80-81; Supriadi 2007:23; Ilyas 2005). Although not regulated in the UUPA, a number of its organic laws have actually tried to regulate cultivated land. Among them are regulations regarding cultivation permits issued in the context of land reform. Previously, cultivated land was regulated in PP 224/1961 concerning the Implementation of Land Distribution and Provision of Compensation. However, the definition of cultivated land was only carried out later by using an evolutionary method. Initially, cultivated land was only interpreted as the illegal exploitation or processing of state land by individuals or groups (Decree of the Regent of Kutai District No. 083/1993 on the Basic Price of Land and Plant Compensation within the Region of Kutai District, n.d.). Cultivated land in this sense is no different from illegal occupation. The issuance of the Letter of the Head of BPN concerning the Decree of the Head of BPN No. 2 of 2003, dated August 28, 2003, defines cultivated land as a piece of land that has or has not been attached to any rights that is worked or utilized by

another party either with or without the consent of the entitled party with or without a certain period. This definition is different from the previous definition for the following reasons: (i) cultivation can be carried out on state land or on land rights; (ii) cultivation can be carried out with or without permission; (and iii) cultivation can be with or without a period of time (Simarmata, 2017).

In practice, the definition of cultivated land that has developed among cultivators, government officials, and legal actors is not entirely in line with the understanding stipulated in laws and regulations, especially as stipulated in the Decree of the Head of the National Land Agency. In fact, instead of being categorized as illegal occupation, cultivated land is often equated with land that has ownership status. This happens because cultivators can show documents or letters that prove the existence of a basis or evidence of rights to the land. The consequence of this view is the recognition of four types of rights inherent in cultivators, namely: (i) the right to cultivate and use; (ii) the right to transfer (sell, inherit, endow); (iv) the right to rent, and (iii) the right to receive compensation.

This article is intended, with the phenomenon of state land control by cultivators in urban areas where the problem highlighted by the author is in DKI Jakarta which has not yet been resolved, so many government programs regarding land registration, the four-order land program, land programs and presidential decrees issued, land programs in urban areas that are not on target and provide justice for the community, one of which is for cultivators of state land in urban areas who have lived for decades who still cannot apply for land rights, and there is no government system or program that provides them with the opportunity to apply for land rights such as the certification program that the government has launched (National Agrarian Operations Project (PRONA) or Complete Systematic Land Registration (PTSL).

With various projects made by the government and one of them is a land bank, it has not been able to provide full justice in land allocation for farmers and the formation of an agrarian project in the form of a land bank has not been able to side with the lower classes of society as criticized by academics regarding land banks. The forms of land problems in Indonesia are diverse and are carried out systematically, planned and organized as utilized by land mafias who enter the vortex of state officials related to land. However, the most widely used mode is document falsification. In addition, there are wasteful actions with the formation of the Land Bank, because the government already has the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency which is given the authority to ensure the balance and justice of land allocation (Permadi, 2023).

Legal problems that can arise due to the use of state land by cultivators in urban areas, namely one of the main problems is land conflicts that arise due to the use of state land without official permission (Moreda, 2023; Richetta &Wegenast, 2024). However, in the view of the cultivators, they are the parties entitled to the land, because they have lived and managed the land for years or even decades as managers of state land, as a place to have children and grandchildren and a place of livelihood, cultivators who control the land without a clear process often have the potential to cause disputes with the authorities, conflicts between the community and the state, which have given state land to developers by granting Land Management Rights (HPL) without resolving compensation to cultivators, problems of eviction of cultivators on state land both in urban and rural areas, this kind of conflict issue not only creates legal uncertainty, but can also create prolonged social tension among the local community. As a result, resolving this problem often takes a lot of time and resources, and has detrimental social and economic impacts for all parties involved.

The confusion and no resolution until now requires a judicial institution that understands land issues, understands the legal vacuum in the land sector, so that cultivators can file a lawsuit mechanism which is an effective, efficient and time-consuming method, the judge's decision as jurisprudence is needed to fill the legal vacuum regarding the problem of state cultivated land, which has not been resolved until now, in the midst of the problem of normative mechanisms for submitting laws and regulations is very long and requires a study process or the creation of academic

manuscripts in order to create state cultivated land regulations to provide legal certainty to state land cultivators who can apply for land rights, a long process to determine the law by making regulations, technical implementation that requires a process in the House of Representatives (legislative) or in the government (executive).

The problem is that there is no agrarian court institution in Indonesia as a means for farmers to file lawsuits regarding their land rights, where the obstacle in general courts is that not all judges master land issues and master intergovernmental regulations if the law does not exist, the law is unclear or there is a legal vacuum in land cases. Understanding the importance of jurisprudence in relation to the role of judges in processing a case in court, this all indicates that jurisprudence is an inseparable part when judges process a case to make a decision when the written legal rules are not stated textually. This is also the principle of freedom of action for judges, when the legal text does not regulate it concretely, this is all done to fill the legal vacuum (Junaedi, 2023).

## RESEARCH METHODOLOGY

This study uses socio-legal research. This is because the issues to be studied concern legal issues as well as the workings of law in the daily lives of citizens (Bernaerts, 2022; Yong, 2021), providing empirical insight into legal practice (Byrne, 2013). Socio-legal research goes beyond theoretical or doctrinal analysis, incorporating empirical data to understand the interaction between law and society (Broadhurst et al., 2021). This socio-legal research will begin by looking at the legal features that correspond to the actions of citizens and officials, and testing the meaning/features of the law in the understanding and actions taken by citizens and officials. Socio-legal studies conduct studies of legal sources (Walby, 2014). It consisted of primary legal materials, secondary legal materials, and tertiary legal materials (Mega Jaya et al., 2023; Mucharom et al., 2024; Rahman et al., 2024). Primarily sources of legal research are obtained from statutory documents and literary documents (books, journals, reports and internet sources) (Danial et al., 2024). Secondary legal materials are literature in the form of books and articles, journals, papers, and related data, while tertiary legal materials are accessing the internet related to research (Irawan et al., 2024).

Then the legal sources are analyzed critically and the explanation of the meaning and implications or consequences for legal issues (including marginalized groups). In this case, it can explain how the meaning contained in the articles is detrimental or beneficial to certain community groups. In this study, a concrete case approach is also used, which highlights cultivators in DKI Jakarta, namely legal events that occur in the field, which are dissected cases of state land utilization by cultivators in urban areas.

## Literature Review

### *State Land*

State land is "lands or land types which governments claim as their own and/or as their rightfully disposed of" (Alden Wily, 2012; Kelly & Peluso, 2015). State land refers to land that is owned and managed by the government (Sudheesh, 2023; Vargas & Uribe, 2017), which includes public land with aesthetic, historic, or social significance, and government land, which consists of assets in the form of real estate and serving as a strategic national resource (Mant, 1987; Zhou, 2022). In glasses PP No. 8 of 1953 concerning Control of State Lands, state land in the narrow sense is divided again into non-free state land, while state land in the broad sense is called free state land, in the context of this writing focuses on free state land that has not been attached to land rights, and state land in urban areas has been utilized by land cultivators, state land cultivators in urban areas who have lived there for decades, have children and grandchildren and formed a social system on the land they cultivate, who still cannot apply for land rights, and there is no government system or program that provides them with the opportunity to apply for land rights.

### ***Justice theory***

Rawls argues that justice is a fundamental aspect in the sustainability of social institutions. However, he emphasizes that collective welfare should not sacrifice the rights of justice that have been obtained by individuals, especially those in vulnerable groups. This perspective is often categorized as a liberal-egalitarian approach in social justice theory. In his efforts to formulate principles of justice, Rawls developed the concept of the "original position" and the "veil of ignorance". As part of contractual theory, his ideas are based on the assumption that individuals in society should be in equal conditions without any superiority based on status, intelligence, strength, or other factors. With these conditions, each individual can make fair agreements without bias of personal interests. The condition referred to as the "original position" is based on the principle of reflective equilibrium which emphasizes aspects of rationality, freedom, and equality as key elements in building the basic structure of society. Rawls' hypothesis, which does not refer to historical records, has similarities with the concept of "the view from nowhere" put forward by Thomas Nagel, although Rawls places more emphasis on the contractual aspect in determining social justice (Faiz 2009).

Rawls' view of justice understood as Justice as Fairness tries to offer how we organize a pluralistic society fairly. The concept of fairness is understood as the ability to behave and act in a way that is mutually acceptable and supported. In Rawls' view, the existence of mutual acceptance and support from free and equal subjects, without intimidation and pressure is a sign that the agreement is fair. He calls this kind of attitude public sanity (reasonableness). To build a pluralistic society that is fair, groups in society must be able to act sanely (reasonable). With this capacity they will be able to agree on the Principles of Justice which will be the basis of their social unity (Sunaryo 2022).

## **RESULT AND DISCUSSION**

### **Problems caused by the use of state land by cultivators in urban areas**

That legally state land can be applied for a land right, but it turns out that it is not that easy for cultivators to apply for land rights registration for the first time, the biggest difficulty is that the government does not provide accommodation and access to be able to carry out the management of cultivated land controlled by the state to cultivators, there are no regulations in the law and technically regulate the "nature" of land cultivators in Indonesia, including from a non-meclature perspective, the definition of "cultivator" needs to be expanded.

Legal issues related to the use of state land, both the use of state land without permission, are quite fundamental issues. Control of land without rights from a legal perspective is a criminal act, if a person has controlled a plot of land without/does not have proof of ownership of land rights if referring to Government Regulation instead of Law Number 51 of 1960 concerning the Prohibition of Use of Land Without Permission from the Authorized Power of Attorney in Article 2 which states that it is prohibited to use land without permission from the authorized power of attorney or his/her authorized power of attorney. The reality as the location of the research conducted by the author, the problem of control of state land by cultivators, concretely exists in urban areas, one of which is located in the East Jakarta City area, namely in Neighborhood Association (RT) 009 and Citizens Association (RW) 005, Balekambang Village, Kramat Jati District, East Jakarta City and the cultivated land area in Neighborhood Association (RT) 006 and Citizens Association (RW) 008, Cililitan Village, Kramat Jati District, East Jakarta City, Special Region of Jakarta where cultivators live on state land without rights and form social communities and state land as a place to give birth to become an agrarian problem that until now has not been touched and realized in agrarian reform.

One example of an agrarian problem in urban areas is in June 1977, the Governor of DKI Jakarta issued the Decree of the Governor of the Special Capital Region of Jakarta No. 353 of 1977

concerning the Revocation of State Land Cultivation which stated that, first, cultivation is not a land right recognized in Law No. 5 of 1960 (Basic Agrarian Law); second, the reality in practice shows that many cultivated lands on state land are bought and sold and often cause disputes due to errors by officials in legalizing evidence of cultivation on the state land; third, to avoid disputes as a result of the above problems, it is deemed necessary to revoke and declare all evidence of cultivation on state land in the Special Capital Region of Jakarta no longer valid, without closing or reducing the opportunity for former cultivators to submit an application for land rights in accordance with the provisions of applicable regulations. This regulation then became one of the causes of the absence of Land Certificates for cultivators in urban areas, namely DKI Jakarta, and in the end, the cultivators only had PPB (land and building tax) and occupied state land without any proof of land rights at all, so that it was difficult to apply for land rights and this problem arose for years in the field without a solution provided by the state.

Another problem is that the rights of cultivators to directly apply for land registration for their cultivated land in the Job Creation Law have been limited, where land registration for cultivated land is given to business actors (developers) with prior land acquisition. Meanwhile, regarding the object of land registration in Indonesia, it has been explained in Article 9 Paragraph (1) letter f in Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration, one of the objects of registration is state land. Likewise, the Government Regulation also does not explain the subject "Cultivator" who can apply for land registration, only explaining the object that can be registered for land, namely in letter f is state land, while the existence of "cultivators" does exist and is present as a subject who controls, manages and resides on land controlled by the state whose land rights have never been registered by the cultivators.

Based on the above, there is no clear legal regulation regarding cultivators in urban areas that have developed rapidly and formed a social system on their cultivated land, in land control and laws and regulations do not provide a place for cultivators to apply for registration of rights to cultivated land, where there is a hidden capitalist ideology in the Job Creation Law that the right to apply for registration of rights to cultivated land is only given to business actors. That this is stated in the Job Creation Law, Law Number 11 of 2020 concerning Job Creation, Article 107 paragraph 3, page 317, quoted as follows:

*" In the case of land that is directly controlled by the state as in paragraph (1) there is community cultivation, **Land rights are granted after the housing developer has started construction and settlements** as the applicant for land rights, complete compensation for all community land based on the agreement."*

Therefore, the state is not present to provide justice for the community and prioritizes development actors as priority land rights registration applicants. While the cultivators are the parties who manage, control and use state land that is cultivated in accordance with the social function of the land. This is a legal problem that has not received legal certainty and justice for the community and often occurs land problems in urban areas, namely regarding who is the legal owner of land rights and who has the right to apply for land rights registration, the current real condition in urban areas, cultivators do not have a legal basis for occupying state land and the state is not present either through regulations or seriousness in providing land retribution to cultivators, until now the problem of state land cultivators in urban areas has not been resolved at all.

### **The Concept of Claiming Rights to National Land by Land Cultivators Can Provide Justice**

Law is a rule that regulates the order of life of Indonesian society, so that it has legal consequences that must be obeyed and complied with without exception. In line with the development of the times, law is always faced with social changes both in the context of social



changes that occur in individual life, community life, and in national and state life. Therefore, these changes have a direct or inverse impact on changes in the legal system. So that it will form or construct the nature and character of law and its role in community life and the demands of society that are driven by various factors, this can be found in the reciprocal influence between social change and law (Dirdjosisworo, 1983).

Abstraction of an idea in the problem of farmers who do not have land rights requires a real, effective and efficient solution concept which until now for decades there has been no legal certainty, likewise in order to regulate and organize land problems there needs to be legal certainty, so that the government plays a role in making various land law regulations, one of which is the Basic Agrarian Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) which refers to the highest provisions in the 1945 Constitution in Article 33 paragraph (3) of the 1945 Constitution which states that: "The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". Since the enactment of Law Number 5 of 1960 (UUPA) in general there are 3 (three) types of land in Indonesia, one of which is State Land with the understanding: "State Land is land on which there are no or not yet burdened with certain land rights".

Based on the provisions in Article 33 paragraph (3) of the 1945 Constitution, the meaning of "controlled by the state" does not mean that the land must be owned in its entirety by the state, but the meaning of "controlled" gives authority to the state as the power organization of the Indonesian nation at the highest level.

In theory, the state has the right to control land and regulate the granting of land rights to the community with mechanisms and granting of land rights, but these rights cannot be granted to cultivators in urban areas, for example, there are still many cultivators who cultivate land controlled by the state who cannot apply for land rights so that for years, even after having children and grandchildren, the land that is cultivated still has the status of cultivated land on state land. Has the state provided justice for the community? and realized land retribution for low-income communities who have managed, controlled land and carried out the social functions of the land for generations. The values of Pancasila are universal, so they must be internalized in the life of the nation and state, including legal development. In relation to development, the law has a function as a maintainer of order and security, a means of development, an enforcer of justice and public education.

The cultivators have the right to the cultivated land that has been managed, utilized for more than 20 years and the cultivators cannot apply for land rights, the issue of unclear regulations, the issue of the state's lack of seriousness in resolving the problem of cultivators of state land where the state indirectly allows state land and neglects it, then the idea or concept of the right to sue Citizens (Citizen Lawsuit) to the state to determine that state land (free) can be utilized and owned by cultivators who have managed the state land for 20 years, by filing a lawsuit the state is obliged to fulfill the demands of the cultivators' rights including forcing state institutions related to land to carry out court demands to grant land rights to cultivators who have met the criteria. Against state administrators, it is actually not known in the Civil Law legal system as applied in Indonesia. *Citizen Lawsuit* itself was born in countries that adopt the Common Law legal system, for example in the United States, India, and Australia. And in its history, Citizen Lawsuit was first filed against environmental problems. However, in its development, Citizen Lawsuit is no longer only filed in environmental cases, but in all areas where the state is considered to have been negligent in fulfilling the rights of its citizens.

Therefore, due to its negligence, in the petition for the lawsuit, the State was ordered to issue a policy of a general regulatory nature (regeling) so that such negligence does not occur again in the future.

For example, a land dispute that arose in Semarang City to the cassation level was caused by the uncertainty of the legal relationship between the cultivators and the land object that had long been controlled and cultivated and utilized as a part of life. One of the land disputes in urban areas that occurred in Semarang City was influenced or motivated by several very fundamental things regarding the incident, including the main issue, namely First, the basis for granting or history of land acquisition and control as a source of granting.

Second, neglect of land control, there is negligence by the Panel of Judges in observing the validity of the release of rights and compensation for cultivated land based on Supreme Court Decision Number 153 PK/TUN/2013 because in every implementation of land dispute resolution, the panel of judges should consider referring to laws and regulations in the land sector so that the decisions made do not cause new problems or disputes (Mega Dewanti & Sukirno, 2019). The problem of the panel of judges who do not understand land regulations is a serious obstacle that must be anticipated from now on, because it concerns good legal considerations, must be independent and refer to land regulations, not just the judge's own opinion. So that the need for future regulations based on justice refers to the provisions of the highest hierarchy of laws, namely in the 1945 Constitution in Article 33 paragraph (3) of the 1945 Constitution which states that: "The land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people" so that the people as citizens who have not received the fulfillment of their rights by the state end up filing a lawsuit against the state as an effective legal mechanism or procedure to obtain a decision related to the problem of citizens in obtaining justice for their rights that are held hostage due to regulatory issues, problems of state institutions that do not carry out their functions to fulfill the rights of citizens or problems of the state itself to start from where to provide appropriate regulations for those cultivating state land. The lawsuit mechanism will provide legal certainty and resolve problems quickly by establishing the actual case material.

The parties that form the law, namely the government, the People's Representative Council, and the Regional Representative Council, must accommodate the conceptual model of state, regional, and village asset management. This model requires the preparation of special regulations as mandated in the state constitution which must be in accordance with the ideas and principles of Pancasila and Article 33 Paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia, namely state asset management is often ignored, the institutional concept means the formation of a special, independent, and accountable institution that manages state, regional, and village assets or objects. Furthermore, the formative concept of the judicial institution concerns the agrarian court (court) as a special court that is under the general court, becoming one of the formats for resolving agrarian cases, in line with this research as Imam Koeswahyono's thoughts conveyed in the journal *Arena Hukum*:

"Parties in law formation, such as the government, People's Representative Council, and Regional Representative Council, are to accommodate the conceptual model for the management of state, regional, and village assets. This model demands the composition of a special regulation as mandated in the state constitution that should adjust to the ideas and principles in Pancasila and Article 33 Paragraphs (3) and (4) of the 1945 Constitution of the Republic of Indonesia, which managers of state assets have often ignored. The principles that must be implemented are those of kinship or democracy and justice. The institutional concept involves the creation of a special, independent, and accountable institution that manages state, regional, and village assets or objects. Next, the formative concept of a court institution involves an agrarian tribunal (court) as a special court under general courts" (Koeswahyono, 2024).

One of the interests of capitalists (builders or developers) that shifts the rights of state land cultivators as stated in Government Regulation No. 18 of 2021 and also stated in the Job Creation

Law, Law Number 11 of 2020 concerning Job Creation, Article 107 paragraph 3, page 317, quoted as follows:

"In the case of land that is directly controlled by the state as in paragraph (1) there is community cultivation, the right to the land is given **after the housing development actors** and settlements as applicants for land rights complete compensation for all community land based on agreement."

The government as a protector of society and providing welfare to society should not side with the interests of capitalist ideology, but this is not the case in the government regulation, the function of the state should be to protect citizens who are just and carry out the state's goals for the prosperity of the people, namely providing opportunities for cultivators to register their land according to the provisions of land registration through the National Priority Program in the form of Complete Systematic Land Registration Acceleration (PTSL), where cultivators on state land are parties who manage and control the land and pay taxes to the state, who should get a fair opportunity and be prioritized to be able to apply for land rights on their cultivated land, through the process of registering cultivated land on state land, namely the process of land registration for the first time, which is carried out simultaneously and includes all land registration objects that have not been registered in a village or sub-district area or other names of the same level. Through this program, the government provides a guarantee of legal certainty or rights to land owned by the community, especially cultivators on state land in urban areas without the state losing its rights to its state land, by providing land rights in the form of Building Use Rights Certificates (HGB) to the cultivators of the state land. Agrarian reform is a breakthrough to increase ownership and access.

In essence, agrarian reform aims to create social justice, increase productivity, and people's welfare. To strengthen its implementation, nationalization of natural resource management needs to be considered. Regulation is an important element in the development of a nation, because laws and regulations are also the goal of development itself. However, in Indonesia, the regulatory formation system is still far from perfect. Legal norms, from the Constitution to lower regulations, form a hierarchy that is the basis for the legality of government actions and the formation of regulations with a long process while land law issues have long been untouched and there has been no massive resolution. So legal certainty is needed so that legal problems of state land cultivators can be resolved effectively. The role and existence of jurisprudence in the legal system in Indonesia is very clear as based on juridical law, namely in Law No. 48 of 2009 concerning Judicial Power in Article 16 paragraph 1 and Article 28 paragraph 1 as follows: "The court may not refuse to examine, try and decide a case submitted on the pretext that the law does not exist or is unclear, but is obliged to examine and try it."

(Article 16 paragraph 1). "Judges are required to explore, follow, and understand the legal values and sense of justice that live in society" (Article 28 paragraph 1). This is an opportunity that the role and existence of jurisprudence in the legal system in Indonesia has been recognized, thus giving judges the freedom to decide a case even though there is no law that regulates it, but this is all done to fill the legal vacuum and to create new laws that provide a sense of justice to all people (Junaedi, 2023). So it is hoped that the role of the agrarian court can resolve agrarian cases with judges who master the agrarian field and agrarian judges who explore, follow, and understand the legal values and sense of justice that live in society.

## CONCLUSION

Legal issues regarding the control of state land, whether carried out without permission or without legal rights, are fundamental problems in the Indonesian legal system. Ownership of land without legal rights is considered a criminal act, and in fact, many urban land cultivators, especially in Jakarta, do not have proof of legal land rights, even though they have been cultivating the land



for decades. Regulations such as the Decree of the Governor of DKI Jakarta No. 353 of 1977 and Government Regulation No. 18 of 2021 have provided opportunities to apply for land rights; however, their implementation has been hampered by a lack of coordination between institutions and unclear regulations. In addition, the rights of cultivators to register their land have become increasingly limited, especially with the existence of regulations that favor business actors (developers) under the Omnibus Law on Job Creation. Therefore, more progressive legal steps are needed, such as the concept of Citizens' Lawsuits, to provide opportunities for cultivators who have been cultivating state land for more than 20 years to obtain rights to the land.

The establishment of an agrarian court with special expertise in resolving agrarian disputes and providing justice for land cultivators is an urgent need. The existence of jurisprudence that recognizes the role of judges in creating new laws to fill legal gaps also provides hope in realizing justice for the community. In accordance with the mandate of the 1945 Constitution, the management of the earth and natural resources must be oriented towards the welfare of the people, which should be realized through justice in the agrarian sector.

### **Suggestion**

Based on the above, the author outlines the suggestions shown. **First;** to the lawmakers (legislative) and the Central Government (executive) that the idea of establishing an Agrarian Court is urgent at this time in the midst of many agrarian legal problems that have not yet been resolved massively, which is expected that agrarian judges will be able to create new laws other than written laws, as an effort to provide a sense of justice that is as fair as possible for the sake of legal certainty and the welfare of the people, the establishment of a new agrarian court institution must be included in the strategic planning of the central government as an institution that can provide a sense of justice to the community and its decisions are jurisprudence that gives judges freedom in handling an existing agrarian case in accordance with the basis of the Judicial Power Law and the judge's special expertise in the agrarian field. **Second;** the government must support the role of judges in creating or making new laws, it is hoped that the government will make a firm regulation on the rights and obligations as well as the authority and freedom of agrarian judges and the establishment of an agrarian court institution with the formation of agrarian judges and ad hoc judges who are professionals who are competent in mastering the agrarian field. **Third;** Academics and legal practitioners are expected to be able to provide a concept for the formation of an agrarian court based on justice and understand jurisprudence in the form of decisions from agrarian judges not only as a rule of legal science but furthermore jurisprudence is used as a source of law in judicial practice in Indonesia.

### **Conflict of Interest**

There are no conflicts of interest in this research

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