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The Role of Minimum Holding Regulations in Agrarian Reform:  
A Case Study of Indonesia

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Thinking about rural livelihoods in Indonesia, particularly in Java to me, is emotional. This is because most of my family members, from my mother side, live in rural areas and are small farmers. Therefore, the “rural bias” is obvious. One purpose of this paper is to show that Indonesian land policy on minimum landholding at this time seems to repeat the same mistake imposed by the government during colonial time. This paper, therefore, is against such a policy, since if it is implemented it will implicate farmers, including members of my family who have less than 2 hectares of land.

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## Abstract

One of the basic principles of the Indonesian Basic Agrarian Law of 1960 (BAL) is that land has a social function. The BAL has established both a minimum and a maximum limit on landholdings. As of December 1960, under the government regulation in lieu of Law No. 56, the maximum permitted farm size for agricultural activity is 5.0 hectares and minimum 2.0 hectares like in Java.

Many questions may be raised about both the feasibility and the purpose of minimum-holdings regulations in Java which is characterised by high rates of landlessness and near-landlessness. Therefore, this study seeks to : to explore the role of minimum-holdings regulations in theory and practice of agrarian reform through literature study, and analyse through documentary research and interviews, the logic and justification underlying the inclusion of a minimum-holdings clause in the drafting and adoption of Indonesia's Basic Agrarian Law in the late 1950s. In addition, to estimate the impact of implementation of the current minimum-holdings regulations on landlessness and land distribution under conditions of high rural population density (using data from the Indonesian Agricultural censuses 1963 – 2003 and taking as a case-study of the densely-populated island of Java). Finally, to draw insights regarding the relevance and appropriateness of minimum-holding regulations in Indonesia's agrarian law.

This study concludes that the instrument to implement land reform program in Indonesia, particularly in Java both under the BAL and the government regulation in lieu of Law No. 56 of 1961 will not work well since it is not based on proper estimation and due to unclear rationale behind it. Attempts to abolish or to compel land ownership of less than two hectares are not feasible. This will also displace millions small farmers and landless peasants in Java. There is a need to amend this policy since it is no longer applicable in practice.



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## Glossary/Abbreviation

BAL	: Basic Agrarian Law
BTI	: Barisan Tani Indonesia
MPR	: Majelis Permusyawaratan Rakyat
Murba	: Musyawarah Rakyat Banyak
NASAKOM	: Nasional, Agama Komunis
NGO	: Non-Governmental Organization
NTB	: Nusa Tenggara Barat
PERTANU	: Persatuan Tani Nahdlatul Ulama
PETANI	: Persatuan Tani Nasional Indonesia
Petani Gurem	: Marginal farmer
PKI	: Partai Komunis Indonesia
PNI	: Partai Nasional Indonesia
Undang-undang	: Act/Law



# **Chapter I**

## **Introduction**

### **Background**

One of the basic principles of the Indonesian Basic Agrarian Law of 1960 (BAL) is that land have a social function. The BAL also has several provisions to prevent excessive ownership and control of land which could harm the public interest. The State has the right to control and define rights concerning the surface of earth, which is called land. In so doing, the BAL has established both a minimum and a maximum limit on landholdings. Under the BAL regulations, excessive ownership and control is not permitted and anything beyond this maximum will be taken away by the State. As of December 1960, under the government regulation in lieu of law No. 56, the maximum permitted farm size for agricultural activity is 5.0 hectares and minimum 2.0 hectares in densely populated areas.

Many questions may be raised about both the feasibility and the purpose of minimum-holdings regulations in densely populated areas characterized by high rates of landlessness and near-landlessness.

Although, the government wants to ensure that all farm households control a minimum of 2 hectares or those who own less than 2.0 hectares are entitled to become beneficiaries of land reform, this is difficult to attain as land scarcity is prevalent in more densely populated areas particularly the island of Java. The average farm size in Java is less than one hectare.

Secondly, minimum farm size does not guarantee high yield. Agricultural output depends on a variety of factors and farm-holding size is only one of them. In general (and Indonesia is no exception) there is a negative relationship between farm size and yields in irrigated land.. Many issues other than farm size such as socio-cultural, geographical and political factors need to be

considered alongside the role of farm size in agricultural development and these vary between countries and between regions in countries.

Agronomic approaches which estimate the amount of land needed to provide a minimum or 'decent' income level often ignore the realities of rural livelihoods which tend to be characterized by a diversity of land- and non land-based income sources. The reason for this diversity in rural livelihoods is that on-farm activity is not a sufficient means of survival. A diverse portfolio of activities and income sources amongst which crop and livestock production feature alongside many other contributions to family well being are seen as the alternatives in most rural areas. By engaging in a diverse portfolio of activities, their social networks of kin and community, that enable such diversity to be secured and sustained, are nurtured (Gordon and Craig, 2001).

In fact, in comparison with other countries, rice productivity per hectare in Indonesia, particularly in Java, is much higher than other exporting nations such as Thailand and Vietnam (Ikhsan, 2001). Agricultural statistics showed that farm productivity always increase since 1965. If minimum farm-holding legislation is intended to change farm size owned, it does not automatically lead to reduction in rural poverty which is very common in Indonesia. Poverty reduction can only be achieved by implementing massive, all-inclusive and rapid land reform.

In short, minimum farm-holding does not always help to achieve intended goals of land reform or other public policies.

## **Justification**

Since its inception 45 years ago, the BAL has neither been fully implemented nor has it been revoked. One of the objectives of the BAL is to limit excessive ownership of land as well as to prevent the monopolization of land by private institutions. At the same time, the BAL intended to support peasant incomes by setting a minimum farm size.

If minimum land holdings regulations were to be enforced, this would require persuading or compelling large numbers of those with marginal holdings to surrender their land in order to allow consolidation of holdings for other households. The existence of such a policy in agrarian law, even if not currently enforced, immediately raises questions of peasant rights and security of tenure. What basis does the state have for alienating land rights from households because their holding is too small?

The issue of minimum permitted holdings in agrarian reform, whether generally or in Indonesia, has been given little if any attention in the land reform literature. This study thus intends to contribute towards filling this gap.

### **Research Objectives and Possible Research Questions:**

The main objective of the research is to review the policy on minimum irrigated agricultural farm-holding policy in Indonesia as a government intervention to reduce rural landlessness. The specific objectives of this research are the following:

1. To explore the role of minimum-holdings regulations in the theory and practice of agrarian reform, through literature study
2. To analyse, through documentary research and interviews, the logic and justification underlying the inclusion of a minimum-holdings clause in the drafting and adoption of Indonesia's Basic Agrarian Law in the late 1950s.
3. To estimate the impact of implementation of the current minimum-holdings regulations on landlessness and land distribution under conditions of high rural population density (using data from the Indonesian Agricultural censuses 1963 – 2003 and taking as case-study the densely-populated island of Java)
4. On that basis to draw conclusions regarding the relevance and appropriateness of minimum-holdings regulations in Indonesia's agrarian law.

### **General Research Question:**

What is the function of minimum holding regulation in an agrarian reform program?

### **Sub-questions:**

1. Where would the ideas on minimum holding policy come from in the theory and practice of agrarian reform?
2. On what basis are the desired minimum holding limits estimated?
3. What attempts have been made to implement minimum holdings policies in Indonesia, and with what results?
4. What would be the impact on land distribution and landlessness if Indonesia's current minimum holding regulations were implemented in the island of Java?
5. What place is there (if any) for minimum holdings regulations in Indonesian agrarian reform

### **Possible Practical Problems**

Since this research tries to evaluate an umbrella of land policy on minimum farm-holding in Indonesia which was promulgated in 1960, it may be difficult to collect the data from sources that reveal what the drafters of the Indonesian land policy intended. The possible practical problems in carrying out this research could be the inability to collect important data from various sources in the Netherlands. However, this research is potentially very useful and something new.

### **Research Method**

This research requires

- (a) a review of general and comparative agrarian reform literature in order to explore basis and function (if any) of minimum-holdings proposals in agrarian reform discourse;

(b) Information from various resources regarding land distribution and minimum agricultural farm-holding policy in Indonesia.

The secondary data used in this research almost entirely comes from Government of Indonesia departments such as Ministry of Agriculture, Central Bureau of Statistics, National Land Bureau, and also research centers both in Indonesia and the Netherlands. In addition, various papers written for the Indonesian government while they prepared the Basic Agrarian Law have also been consulted.

This research also requires data and information regarding the recent development of the distribution of land tenure and ownership in Indonesia. The main source of such information is Indonesia's Agricultural Census (Sensus Pertanian), conducted every 10 years since 1963.

In order to reach the goal of this research, the arguments proposed in the process of land law policy formulation are also taken into account. These data might be important as the rationale for the Government of Indonesia to formulate the Basic Agrarian Law.





## **Chapter II**

### **Land Reform and Attempts to Create a Healthy Peasantry**

Government attempts to correct unequal land ownership and to reform institutional arrangements under different land tenure systems are common particularly in countries where agrarian structures are skewed. Land reform to reverse unequal distribution of land ownership is said to be “a panacea” for rural development. Most countries both in developed and developing have adopted policies aimed at improving rural development, including land reform. Such efforts, however, are not easy to implement. The success of land reform depends on how governments formulate practical and realistic policies and negotiate them with various social groups in society. This chapter attempts to describe the idea behind maximum and minimum holding regulation under the rubric of land reform initiative and possible difficulties facing governments in the contemporary context.

#### **Attempt to Solve Unequal Land Distribution**

In countries where rural poverty is widespread and related to control over agricultural resources, the dominance of a landowning class over rural production, markets and local politics, often becomes an important political issue. In such cases, governments seeking popular support may place land reform high on their agenda (Barracclough, 1991: 250-252).

In recent years, as Ghimire (2001) points out, the necessity and the importance of land reform are widely recognized among many scholars and civil society organizations as well as in the international development arena. Land reform is intended to change land tenure systems and social relations particularly in developing countries' rural areas in order to reduce poverty and hunger in developing countries (Ghimire, 2001:1-3).

Land reform, for many, is also one of the important strategies to achieve equity and livelihood, and promote development in countries with prevalent and pervasive rural poverty. Land reform

promises the redistribution of land from big landowners to individuals or collectives (Lipton, 1974:270). Riad El-Ghonemy asserts that

Agrarian reform usually refers to: land settlement schemes in publicly owned land, land registration, rental control, lending institutional credit to tenants to purchase land in the open market, consolidation of fragmented holdings, regulation of tenancy arrangements, etc. If existing government intervention leaves existing skewed distribution of land rural power unchanged, these institutional measures cannot be considered land reform under our definition (El-Ghonemy, 1990:89).

One objective of governments in land reform is to create viable and prosperous “middle peasants” (Ghose, 1983:6). In most countries where there is extreme gap between the rich and the poor, it is argued that the purpose of implementing agrarian reform is to avoid social upheaval by promoting social justice and equity. One of the primary reasons for agrarian reform is the idea that access to land is a basic human right (Ghimire, 2001:2). However, drawing from El-Ghonemy (1990), the form of land reform undertaken varies from one country to another, as influenced by the political circumstances, land redistribution legislation, state capability to implement and evaluate land reform program, complementary of other public actions and institutional arrangements, as well as predictable stage of implementation (El-Ghonemy, 1990: 88). In case of Indonesia, it is not easy to say that Indonesian land reform falls into this category, at least in terms of stage of implementation. The following sections try to explain some of the basic dimensions of agrarian reform program and its dimensions which might be useful to understand land reform in the case of Indonesia.

### **Land Redistribution and Ceiling Policy**

According to Ellis (1992), land reform program in its legislation must set down criteria and instruments for post-reform land allocation. This includes establishing maximum size of holdings (Ellis, 1992:207).

Restrictions on maximum holding, as Kuhnen (1973) observes, are a common feature in the land laws governing land distribution in a majority of Asian countries (Kuhnen, 1973:167). Indonesia is not exception. Theoretically, this mechanism is often used by the governments to prevent a small number of large landholders from achieving more rural resource-based power. As Ellis (1992) states

A failure to set maximum farm size has the reverse effect of reducing the total number of holdings available, and permitting fewer, larger, farmers a relatively a high standard of living while other rural inhabitants may remain landless and extremely poor (Ellis, 1992:207).

Land ceiling legislation can also be used to prevent land absenteeism. According to Kuhnen (1973), in some countries, land expropriation was higher for the absentee landlords than for the resident landowners. For countries like Japan, Taiwan and Indonesia, all land belonging to absentee landlords was totally expropriated. This is because land is important to everyone due to its scarcity (Kuhnen, 1973:176).

Implementation of maximum holding size regulations, however, always encounters difficulties. In some cases there is evidence that the ceilings have been raised in favour of a few landowners. Orchards, seed farms and mechanized farms are sometimes exempted. Before the application of the laws enforcing the land ceilings, the landlords are usually allowed to distribute their land to members of their family or engage into co-operative farming as a measure to avoid losing land. In addition the landowners have a choice to identify the part of their land that they would wish to be expropriated. In such cases, the most unproductive land such as wasteland or cemeteries is given away (Kuhnen, 1973:167).

Furthermore, large landowners or those who have land above limit can register their lands in countless different names to evade land reform legislation (Ellis, 1992:208). The implementation of ceiling laws was also largely hampered by the vested interests of the landlords. In most cases, they took the advantage of being close to political power, weaknesses in the administrative process and lack of land records to derail the process. This explains why the implementation of

land ceilings has not been so successful in parts of South and South East Asia where only a small amount of land has been expropriated and redistributed to the landless. Where expropriation has been achieved, tenants belonging to the privileged class ended becoming the landowners; a situation that demonstrates that land was distributed mainly to those who already possessed rights on the land (Kuhnen, 1973:167).

The ceiling laws did not adequately address the unequal distribution of land at the village level. Except for the absentee landlords or in situations of very big landlords, much of the land was still retained by the rural upper class. The peasant landlords managed to retain their land and power to use the land. However, the land reforms rarely benefited the sharecroppers. Majority of them did not acquire land and remained landless labourers. This situation was largely supported by the rural upper class whose interests were to have access to cheap labour. Consequently, the ceiling laws did not have a great impact on production. In some cases, the former occupancy tenants may have invested more after becoming owners and landlords may have developed more interest in agriculture after changing to self-cultivation, but these cases are few and far between. The most significant results were the frustrations on the part of the rural poor, whose hopes had been raised but their expectations were not met (Kuhnen, 1973:168).

In conclusion, although government already set maximum holding regulation, problems associated with land redistribution still exist. This implies the need to enforce agrarian reform law and amend the existing loopholes in its implementation provisions. The government has to pay attention to its land law weaknesses.

### **Where Do Policies on Minimum Farm-holding in Agrarian Reform Come From?**

Another instrument for reform is setting up minimum landholding regulation. Countries usually stipulated minimum ownership in order to ensure that arable lands under land reform program be distributed in economically viable operating units. As Ellis (1992) notes

A failure to set minimum farm sizes could mean the advent of a large number of holdings that are below family subsistence in output, and with fragmentation in later years these might become uneconomic to operate (Ellis, 1992:207).

Some people believe that the increasing number of small farming plots in agrarian countries is a product of inheritance systems and population growth, which can result in agricultural lands becoming so uneconomic that farmers cannot provide a minimum level of subsistence for their families. The fragmentation of arable lands, combined with the peasants' low level of technical training, can worsen poverty. Inefficient size of holdings may hinder the hoped-for gains in agricultural production and productivity. Therefore, it is argued, the regulation for the minimum size of agricultural plots is necessary to reverse this situation. As El-Ghonemy (1990) observes, rationalising minimum farm holding as a means of avoiding "land fragmentation" and of strengthening households' landholdings by the governments, it is said quite common (El-Ghonemy, 1990:89). Unfortunately, the origins of regulations on minimum holding for agricultural lands are not well documented.

It is argued that providing a given size of land to the landless and small peasants will help them achieve a decent standard of living. There are limitations, on the other hand, to the concept of a minimum farm holding. According to Lipton (1974), minimum holding as embodied in land reform programs does not lead to its expected outcome and the bases for estimating the size of a minimum holding was put under question (Lipton, 1974:283). Setting up small (and large) farm size limits is often arbitrary, without any sound economic or social basis (Ellis, 1988:219).

Specifically with regards the concern for the size of the minimum, three major points were made by Lipton. First, concerns for viability i.e. a farm size that will enable an average peasant family to achieve a "decent minimum level of income" may be negated by the practice of equally dividing a limited amount of land amongst a given number of landless and small peasants which could render the individual partitioned land inadequate for generating decent livelihood for its beneficiaries. Second, labor-intensive practices, which increase the efficiency of land and capital use, are not observed in small land holdings because in terms of output incentives, small farm holders may "concentrate increasingly on obtaining non-agricultural earnings." Third, evidence

shows that output to household declines as market surplus depletes, which compel them to buy extra food (Lipton, 1974:283).

The critiques on the large farm can be further elaborated. Rosset (1999), states that modern agrarian economics views the small family farm as a unit that is bound to disappear, due to the “backward, unproductive and inefficient” nature of the enterprise, and this had been a dominant prediction, if economic development is to occur in many countries. Efficiency (which is required for sufficient food production), is best seen in large-scale, highly mechanized agriculture that caters to the corporate system of production such as in America (Rosset, 1999: 1). In this regards, he asserts:

“Small farmers—or “peasants”—have been expected to go the way of the dinosaurs, and rightly so, according to conventional wisdom”, (Rosset, 1999:1).

The economic farm size argument however, is based on the assumption that the larger the farm size, the lower its productivity per unit of land because larger farms face different relative factor price as compared with small farms. So larger farms use extensive cultivation methods (because land is ‘relatively abundant’), or use machines instead of labour (as labour for a large enterprise is expensive and investment in machines is possible). Therefore, the small farm enterprise is a much more efficient producer in terms of resource use as well as social equity (employment and therefore more equitable income distribution) and agricultural development would benefit from many small farms rather than a few large farms (Ellis, 1988:218).

In the rural areas of most developing countries however, inequalities exist and the conditions for this theory to function are sometimes not present. Many conditions required for high productivity of small farms are not accessible to small farmers, such as good quality land, new technologies (seed, irrigation etc), credit, extension services and access to markets. Large farmers may have benefits in such situations, while smaller farmers could be more efficient in areas where they can operate more labour-intensive enterprises (ibid, 199-219 ).

Today, it is widely argued that survival and livelihood strategies of rural households in developing world need to be understood as a complex and diversified whole. The reason is on-farm activity is not a sufficient, or a sufficiently secure, means of survival. A diverse portfolio of activities and income sources amongst which crop and livestock production feature alongside many other contributions to family well-being is seen as the alternatives in most rural areas. By engaging in a diverse portfolio of activities, their social networks of kin and community, that enable such diversity to be secured and sustained, are nurtured (Gordon and Craig, 2001).

Rural Indonesian households also have developed the same livelihood strategies. Numerous authors report that non-farm activities are diverse and complex. In many rural areas, agriculture alone cannot provide sufficient livelihood opportunities, and rural non-farm employment can play a potentially significant role in reducing rural poverty. Numerous studies indicate the importance of non-farm enterprise to rural incomes, for both the poor and the better off.





## **Chapter III**

### **Contemporary Land Policy and Minimum Holdings Regulations in Indonesia**

Before discussing Indonesia's land policy and its provisions, it is necessary to go over the history of the country's land policy formulation after it was declared a sovereign country in 1945. This is to trace the logic and rationale behind the inclusion of the minimum holding regulation in Indonesia's Basic Agrarian Law (BAL) of the 1950s as well as to discuss and analyze the attempts to redistribute agricultural lands under the BAL and other regulations, including the problems or constraints of land redistribution.

#### **The Origin and Content of the BAL**

Indonesia is the most populous country in South East Asia. As an agrarian country, the development in agricultural sector is the focus of the new government since Indonesia gained independence in 1945. Today together with industrialization, the country's islands are inhabited by more than 200 million people<sup>1</sup>, mostly in the island of Java where the majority of Indonesian farmers live (Badan Pusat Statistik, 2003).

The complexity of Indonesian land tenure system and arrangements is well known among the agrarian scholars who were interested in the country's pre- and post- independence agrarian issues. That is, Indonesia's land tenure system and arrangements is based on both traditional (*adat*) and western (modern) land laws, which have co-existed for many decades including the Dutch colonial times. Western law, brought by the Dutch in Indonesia, was a focus of new government and was perceived by the Indonesian founding fathers as discriminating. Hence, after its independence and when its constitution was promulgated, revisiting and reforming land

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<sup>1</sup> Per June 2000, according to Central Statistical Agency, Indonesian population is 206.264. 595. See Berita Resmi Statistik No. 26 / V / 3 Juni 2002, Badan Pusat Statistik 2002.

law became one of the government's agenda to ensure equal benefits for all its citizens. Matters such as land distribution, illegal settlements, sharecropping arrangements, liquidation of estates, landlord-tenants relationships, and other types of user-tenant activities were covered in the reform agenda vis-à-vis land law. (MacAndrews, 1986:19-20). It should be noted, however, that there were also groups of mostly religious leaders and political parties who favored the continuation of the colonial system of land tenure and arrangements; who were against the maximum holding regulation and who were in favor of a return to total *adat* system (Mortimer, 1972:14; MacAndrews, 1986:21).

The basic drive behind this state's intervention is the desire of the state to control natural endowments based on Article 33 (3) of Indonesian constitution. With this legal basis, the state plays a key role in determining rights to land. As a consequence, the soil, water and aerospace, including natural resources contained therein are controlled by the state (Wright, 1999:44).

In 1959, President Soekarno announced to the Indonesian people that land reform legislation is under way (Barracclough, 1991:120). A year after, in 1960, amidst broad support from political parties at that time President Sukarno announced that Indonesia's agrarian reform law is already legislated (Mortimer, 1972:14). This law intended to abolish colonial-type land tenure (MacAndrews, 1986: 21), however, it turned out to be a compromise form that accommodated the different interests of various groups and parties.

According to Mortimer (1972), the president in principle accepted the radical position of political parties such as PNI, Murba, and PKI who demanded radical land redistribution based on the belief that those who actually worked the land should own it.<sup>2</sup> But, Soekarno managed to propose that land reform be made gradual i.e. he gained substantial support from PKI for the idea that the first pace of reform is the setting up of maximum and minimum landholding ownership. It is not surprising that PKI supported the idea of maximum and minimum landholding

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<sup>2</sup> There were also "conservative" and "compromise" groups who were influential at that time. The former comprised largely of representatives of the Muslim bodies and parties, the latter comprised the President and Agrarian Minister. This political context is a consequence of 1955 general election Indonesian multi-parties democracy when every bodies and parties were trying to get political influence in the parliament.

regulation. After Soekarno formulated NASAKOM, PKI gained presidential support<sup>3</sup>. As consequence, its documents reveal that they supported such idea.<sup>4</sup> It should be noted that although PKI supported the Government in Lieu of Law No. 56, in the Supreme Advisory Council and in the parliament, it did not agree to several provisions in the draft. For example PKI wanted to eliminate the minimum landholding limit because it seems it impractical and would just provoke fears among small land owing peasants (Mortimer, 1972:14-17). However, PKI did not push radical reform at any stage as Mortimer (1974) asserts :

It is significant, however, that the Communist did not press at any stage for radical reform land reform as an immediate government program; they proclaimed their support for the ultimate goal of "land only for those who work it" but lower their sights for the moment to measures aimed at reducing the intensity of village exploitation. They specifically stated during parliamentary debates that their criticisms were not ones of principles, and they joined in the unanimous vote in favor of the amended bill that was finally adopted. Once again, the Communist were playing consensus politics, guarding their alliance with the president and demonstrating the elite groups that they were men of moderation and responsibility. This did not prevent them from stressing afterwards, however, that the agrarian law embodied only moderate reforms and fell far short of the PKI's objective of abolishing landlordism and elements of exploitation in the countryside. (Mortimer, 1974:288).

Furthermore, in the midst of Cold War between the West and the East, the United States and its allies, and the Soviet Union also influenced Indonesian land reform implementation. After the World War II the former promoted land reform as counter-revolutionary measures in their client countries while the latter promoted land reform for its revolutionary ends in their ideological allies.<sup>5</sup> The US sent one of his experts in agrarian reform who has was experienced in land

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<sup>3</sup> NASAKOM stands for Nasionalisme, Agama, dan Komunisme (Nationalism, Religion, and Communism).

<sup>4</sup> See, for example, Asmu (1964), MASALAH-MASALAH LANDREFORM Djilid I, „Jajasan Pembaruan” Djakarta. See also report on Konfernas Tani ke-II PKI, „Jajasan Pembaruan” Djakarta 1962.

<sup>5</sup> In 1961, a New York based development agency, the American Agricultural Development Council, had asked Wolff Ladejinsky to visit Indonesia and offer his experience in agrarian reform field. Wolf Ladejinsky is an expert

reform in Japan, Taiwan, and South Vietnam to advise the minister of agrarian reform on what Indonesia can do to implement land reform<sup>6</sup>. It is obvious that the United States was also interested in preventing communism in Indonesia by implementing anti-communist inspired land reform.

On the 24th of September 1960, Indonesia's Basic Agrarian Law was promulgated. This is the result of political struggle among political factions at that time which pursued their own political interests (Ibid, 15).

The Basic Agrarian Law (BAL) includes land reform in its provisions<sup>7</sup>. However, it lacked concrete guidelines as a basis to do so. As a consequence, government promulgated more practical laws and regulations on the matter. The BAL is still under effect now and used by the government, business community, and NGO for their own interests, except for some provisions which are not implemented or were revoked after the New Order came into force, for unknown reasons such as the case of maximum and minimum landholding.<sup>8</sup>

Most of agrarian scholars found Indonesia interesting since it has complex land tenure system. According to the Basic Agrarian Law 1960 there are eight forms of tenure in Indonesia: the right of ownership, the right of exploitation/cultivation, the right to use buildings, the right of use, the right of lease, the right to clear land, the right to collect forest produce.

The BAL is based on Article 33 of the 1945 Constitution of the Republic of Indonesia. All principles and provisions concerning land issues are contained in the BAL. The basic principles of the BAL that are related to land issues are as follows :

- that Indonesia's natural resources - including earth, water and air - are regarded as the wealth of the nation;

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in agriculture and was based in Tokyo after the World War II as Agricultural Attache. From 1955 to 1961, he was attached in Vietnam as part of the US campaign to prevent communism.

<sup>6</sup> See Walinsky, Louis J. (1977), *Agrarian Reform as Unfinished Business: The Selected Papers of Wolf Ladejinsky*, New York: Published for the World Bank by Oxford University Press.

<sup>7</sup> See Article 17 of the Indonesian Basic Agrarian Law (Peraturan Dasar Pokok-pokok Agraria) of 1960.

<sup>8</sup> In 1983, Agricultural Census revealed that there were still farmers who have lands more than 5 hectares in Java which were prohibited by the BAL under Article and Government in Lieu of Law No.56 of 1961.

- that the State, through its entities, is responsible for the “control and regulation” of these wealth or natural resources;
- that land-related national laws, regulations and interests shall prevail over the traditional system of property rights (*adat*) and that it is the latter which will be made consistent with the former;
- that ownership and rights to land by individuals and corporations shall be directed and controlled by the State;
- that “excessive ownership and control of land” shall not allowed by the State;
- that only Indonesian citizens/nationals shall be granted ownership of/rights to land and other natural resources;
- that individuals and corporations owning land are, in principle, obliged to cultivate or use it in a reasonable way;
- that the amount/size of land that can be owned by families and corporations is subject to State regulation;
- that lands exceeding the maximum size set by law shall be sequestered by the State and redistributed;
- that lands below minimum size shall be regulated by considering the right of the state to control and regulate Indonesia’s natural resources;
- that the use of land by a non-owner shall be subject to State (legislative) regulation;

- that transactions transferring rights of ownership to foreigners, Indonesians with dual citizenships and corporations (unless State-sanctioned) shall be “cancelled for the sake of law” with the property confiscated by the State but with the “rights of another party incumbent thereon remain valid and that all payments which have been received by the owner may not be reclaimed”.

To support administrative structure, land reform committees were formed by the president under Presidential Decree No.131 of 1961. They were arranged in hierarchical order. The president was the guide. Down the ladder, we find the provincial committees under the chair of the governors, the district committees under their respective district heads, the subdistrict under subdistrict heads, and the village committees under the village administration. The district committees were the most important committees since they had to do the actual works such as surveying and measuring land surplus, determining compensation to be paid to the landowners, composing lists of persons eligible for allotments, and settling disputes. These committees’ main duties are to assess and distribute surplus land. The land reform committees started their work on September 1, 1961 (Huizer, 1972:38-39; MacAndrews, 1986:42).

More interestingly, there are land reform committees at the district level which comprise the four largest peasant organizations. PETANI, PERTANU, and BTI were among them and included in annexes and regulations following the decree (Huizer, 1972:39). It seemed that these organisations had political bargain since they were affiliated to the four largest political parties during 1955 general election<sup>9</sup>.

One year after the BAL came into force, the government put in place several procedures for redistributing land, assessing and paying the indemnifications. These were contained in the Government Regulation (Peraturan Pemerintah) No. 224 of 1961. This law also regulates landownership in excess of the maximum limit, absentee lands, lands of principalities and ex-principalities, as well as other lands directly administered by the government (Huizer, 1972:40;

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<sup>9</sup> PNI, Masyumi, NU, PKI, and PSII were the major political parties in the first ever Indonesian general election in 1955.

MacAndrews, 1986:42). In the same year, the government announced Government in Lieu of Law No.56 regarding maximum and minimum regulation.<sup>10</sup>

Java, Madura, Bali, and NTB (the Lesser Sunda Islands) were the first stage for redistribution of land where the distribution of surplus land together with the distribution of land of former native kingdom (tanah swapraja) was to be finished by the end of 1963 or early in 1964. Sumatera, Kalimantan, Sulawesi, and the rest of the country were parts of stage two. In addition, the whole process of redistribution was to be finished within 3 to 5 years as mandated in the National Eight Year Program endorsed by People's Consultative Assembly (MPR) (Huizer, 1972:41; Mortimer, 1972:19; MacAndrews, 1986:43).

### **Some Major Problems Associated with Land Reform Implementation under Soekarno Regime**

Problems facing by the governments in implementing land reform are not new. Almost land reform program everywhere has some weaknesses. The problem facing governments in land reforms initiatives is that land reform requires a major change in social relations, and this is not an easy goal to achieve. The ability of governments to implement land reforms depends heavily on dominant social forces. These dominant social forces are usually well organized and almost always include landlords. Peasants are almost always excluded or unorganized. It is difficult for governments to adopt policies benefiting fragmented and unorganized peasants without including landlords and other dominant groups in the plans (Barracough, 1991:130). This section tries to describe problems and constraints associated with land reform during the Soekarno years.

According to Mortimer (1972), one of the major barriers to implementation of land reform in Indonesia was the use of demographical data to organize the land reform. Land registration and recording instruments were weak and incomplete. Untrained and poorly trained officials were also part of the problems for many (Mortimer, 1972:18). The ability of government officials to collect data from society is a classical issue in Indonesia<sup>11</sup>.

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<sup>10</sup> See Government in Lieu of Law No. 56 of 1961.

<sup>11</sup> Even today, collecting data from lower government officials is rather frustrating since the data is incorrect, insufficient, and superficial.

Some authors have written on Indonesian land policy and its defects. MacAndrews (1986), for instance, notes that there were also many loopholes both in the BAL and in its more practical laws for absentee landowners to elude the absenteeism regulations and for keeping lands outside the range of the land reform. Most large landowners had subdivided their lands to their relatives in order to hinder land reform (MacAndrews, 1986:43). These loopholes in the BAL may well have been due to its unclear provision including the definition of absenteeism which was open to interpretation (Ibid, 45). The failure to pay compensation to landowner also contributed to strengthen to opposition programme implementation (Mortimer, 1986:19). This phenomenon, however, is not new in land reform literatures.

At policy level, the complicated land reform legislation is the major problem. It is widely known that Indonesian land policy is both complex, vague and needs to be amended. MacAndrews (1986) asserts

...An Additional problem in introducing land reform in Indonesia was the rather complicated legislation. This became fully articulated by a considerable number of laws, decrees, and regulations, all promulgated between 1960-1964 and each dealing with specific issues. Thus, the initial Law No.2 of 1960 dealt only with sharecropping problem. During 1960 laws implementing the basic{sic!}BAL principles and also the limits on the maximum holdings of agricultural land were issued. These were followed by Law No. 1 of 1961 that addressed the serious problem of land owned by very small land holders but controlled through indebtedness by moneylenders or wealthy farmers. This law stipulated that after paying interest for 7 years the official owner of land could get back his or her land. Then there were regulations about the implementation of the reform program that started to come out in 1961. These regulation covered the setting up of land reform committees under Presidential Decree No.131 of 1961 and were followed by the regulations covering various aspects of implementation. These included regulation No. 224 of September 1961, which covered redistribution of land in excess of the minimum limit, of the land of absentee owners, and of the land of principalities and absent



principalities. At the same time there were a number of problems with the legislation, particularly in relation to absentee landholders and shareholdings.(MacAndrews, 1986:44-45).

According to Regulation No. 224 of 1961, lands belong to absentee landowners had to be transferred to inhabitants of that district/subdistrict or would be taken by the government. The number of absentee landholders, however, was not large. In total, only 60,000 hectares in the area of Java, Madura, and Bali covered by stage one. Leniently, only 8,600 hectares absentee land of a total 22,000 hectares belonging to 18,000 absentee landowners distributed (Huizer, 1972:41; Mac Andrews, 1986:45).

### **Land Reform, Its Implementation and Results**

Indonesian land reform might probably be the shortest land reform campaign in the world. Unstable political atmosphere, lack of accurate data on landownership, and law uncertainty might probably be the factors that were major obstacles to implementation of the land reform. After 1969, land redistribution was totally abolished (Tjondronegoro, 1972:1-8).

The land reform provided tenancy reform and increased sharecroppers' rights to keep from one-third to one-half of their total output. Under these reforms, expropriation and redistribution of landholdings bigger than 5 irrigated hectares was also required. The army however feared a takeover of the country by Communists and saw land-reforms, incorrectly, as Communist-inspired in principle. These fears led to a bloody massacre of several hundred thousand PKI and BTI cadres and a military coup in 1965 (Barracclough, 1991:121).

During 1960 – 1965, Sukarno regime made some progress to implement land reform. However, this initiative did not redistribute much agricultural land as expected and therefore did not affect many agricultural families, either in Java or outside Java. Less than 10 % of agricultural land was distributed on Java and the number of beneficiaries was small (Prosterman, 2002:2-3). Java's being put in high priority for land reform might have probably been because of the fact that this island was (and still is) densely populated.

The land reform program in Indonesia under the Sukarno regime has redistributed land to relatively few families estimated at 1,292,851. This includes 816,849 families on Java. Because of slow redistribution and land scarcity, the average recipient received 0.66 ha throughout Indonesia and 0.42 ha on Java.<sup>12</sup> According to Agricultural Census of 1963, three years after the Basic Agrarian Reform that promulgated the land reform, the program affected approximately 11% of farming families in Indonesia and approximately 10% of farming families on Java (Prosterman, 2002:3).

Based on the statistics of land reform during 1960-1969, one may see how a little land redistribution was achieved. Overall, land distributed under land reform up to 1969 totaled some 1.3 million hectares; benefiting approximately 1.7 million farmers (see table shows 3.1 below).

Table 3.1: Size of Land Distributed during 1960-69 and Number of Beneficiaries

Area	Land Distributed (ha)	Number of Beneficiaries	Average Plot (Ha)	Land Category (%)
Java	294.000	592.958	0.5	25 percent excess and absentee land
Outer Island	388.198	274.025	1.4	11 percent excess and absentee land
Indonesia	682.000	867.000	0.8	- 17 percent excess and absentee land - 83 percent ex-state controlled land including principalities
Total	1.364.198	1.733.983		

Source: Tjondronegoro, 1972.

Under the Suharto regime, transmigration was the only government program to redistribute land to farmer households in Sumatra, Irian Jaya, Kalimantan, and Sulawesi. The reason behind this program is the lack of land in Java, and in order to give Javanese-farmer households 2

<sup>12</sup> Note that this contradicts with the Government in Lieu of Law No. 56 of 1961 on minimum holding provision.

hectares of land, transmigration seemed to be an ideal solution to resolve land question and to accomplish land reform.

It should be noted, however, that transmigration is not solely Soeharto's campaign to redistribute agricultural land to farmers from Inner Islands (Java, Bali, and Lombok) to Outer Islands (Sumatra, Kalimantan, Sulawesi, Irian Jaya) but also Soekarno regime plan for land reform<sup>13</sup>. It seemed that all Indonesian political regimes already realized that providing two hectares of land for Javanese farmers was impossible.

The land reform in Indonesia has not been very successful. Only some 55 to 60 percent of excess land was redistributed up to 1969, and much of the land redistributed in the early years from 1965 to 1969 was to be reclaimed by the landlords in years that followed. This was particularly evident in the post-1965 coup period when the land which had earlier been redistributed was repossessed. Further redistribution of land nearly stopped in 1966 and 1967, and an estimated 150,000 hectares reverted back to original owners (Tjondronegoro, 1972:7; Huizer, 1972:53; MacAndrews, 1986:46).

Excess holdings, state-controlled, and formal principalities lands were subject to land redistribution in the early stages of land reform. State-controlled lands were the largest areas consisting of 1.4 million hectares with excess landholdings, according to 1963 agricultural census, totaling some 720,000 hectares (Tjondronegoro, 1972:7). Due to, probably, under registration, this figure is higher than that submitted to the government through the village and district level committees. By 1965 the total of state-controlled land redistribution, consisting of some 455,000 hectares was allocated to 568,892 people. The sizeable portion of this type of land, consisting of some 165,000 hectares mostly in North Sumatera, remained undistributed (Tjondronegoro, 1972:7; MacAndrews, 1986:46).

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<sup>13</sup> See Government in Lieu of Law no. 56 of 1961 and Singgih Praptodihardjo (1951), *Sendi-sendi Hukum Tanah Di Masa Depan*, Penerbit Jajasan Pembangunan.

## Policy on Minimum Farm-holding in Indonesia

The Indonesian Basic Agrarian Law (BAL) that was enacted in 1960 meant to address and put an end to the dualism between formal law ("colonial western law") and customary law ("traditional unwritten laws"). The BAL, which embodies notions of a social function for land (*adat*) and a common good (*ulayat*), is the overarching guide or framework for land reform in Indonesia (Thorburn, 2004:5).

The BAL also sets a minimum floor size for agricultural lands. The idea behind this policy is attacking poverty of the small and landless (Soetiknyo, 1981:6). As well, this law was intended to prevent an increase in the number of uneconomic land holdings and being provided that holdings of a minimum size should not be further reduced by partition due to inheritance.

In this regard, Indonesia seems to be adopting developed countries agricultural policy which is in favor of large-scale agricultural production by fixing up minimum farm-holding. Agricultural production in the developed economies is highly mechanized and capital intensive. Thus, massive land ownership is encouraged. At the same time, land hunger and landlessness to cultivable land became more pressing issues due to increasing population growth.

It is obvious that the ideas for including minimum holding for agricultural lands in Indonesian land policy were a part of land reform plans from the very beginning, as may be seen in available documents after Indonesia independence either during The Republik Indonesia Serikat (Republic of the United States of Indonesia), which existed from 27 Dec 1949 to 17 Aug 1950 or onward Negara Republik Indonesia (State of the Republic of Indonesia).<sup>14</sup> The first Agrarian Commission was formed after the State of the Republic Indonesia proclaimed its independence.<sup>15</sup>

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<sup>14</sup> I am very much indebted to Ben White for the material on which this paragraph is based.

<sup>15</sup> In the late 1940s, the government already set up an agrarian commission in an attempt to draft Indonesian agrarian law. In 1951, under Presidential Decree No. 36 of 1951, the President appointed new Agrarian Commission which is comprised of government officials from Ministry of Internal Affairs, Ministry of Justice, Public Works Office, Ministry of Social Welfare, Ministry of Agriculture and representatives of farmer organizations. This new commission's task is to coordinate each other and preparing agrarian law legislation process. This commission was the continuation team beforehand. The new Agrarian Commission was instructed to include and consider "working paper" and note from previous commission. For the details see PENYELESAIAN MASALAH AGRARIA SERTA PERKEMBANGAN PERUNDANG-UNDANGAN AGRARIA DEWASA INI, page 4 paragraph 4, Bagian Umum/Planning; Pegawai Tinggi untuk Urusan Agraria, 15 September 1952.

It is also easily found that most documents under Sukarno regime mentioned the need to establish minimum landholding regulation for preventing land fragmentation and partition. Such documents clearly stated that there is a need to regulate both maximum and minimum landholding on private lands. Furthermore, they also stated that the objective for minimum private ownership regulation is to avoid pauperism among small farmers. It was expected that small farmer should have enough land to till to attain decent minimum living, however small it is.

These documents, however, did not show the ideas or rationales behind minimum holding policies<sup>16</sup>. Such documents, both written in Indonesian national language or in Dutch, say little about the reasons why minimum landholding regulation is included in the making of both the BAL and other government regulation.

The difficulties in setting maximum and minimum landholdings are easily understood. The drafters or the author of the documents realized that. One of the government officials who wrote a book in 1950s gives little clue as to what minimum (and maximum) holding limit is. Praptodihardjo (1951) asserts :

Maximum regulation is important, because it is in the interest of Indonesian government which is stipulated in Article 27 of the first Constitution (now Article 28 Contemporary Constitution), that all citizens have the right to access land in order to construct their livelihoods. It does not mean that some individuals should possess large portions of land; but every citizen has right to own adequate land that can produce enough yields to sustain a livelihood. For farmers, there should be a minimum farm size that he/she should own...Regulations on maximum and minimum landownership can generally be agreed; the difficulty is in setting the optimal land size....It should be kept in mind that land is not only different in its fertility but also in productivity (author's emphasis)...Commodity price fluctuations at the world market for the different crops contributed to the difficulty

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<sup>16</sup> See Singgih Praptodihardjo (1951), *Sendi-sendi Hukum Tanah Di Masa Depan*, Penerbit Jajasan Pembangunan. Singgih (1951) stated that in order to attain decent minimum level, farmers must be guaranteed to have certain amount of land. See also the elucidations of Article 17 the Basic Agrarian Law and government regulation in lieu of Law No.56 of 1961.

in determining the optimal land size ...It is not easy to set same land sizes in all regions of the country since productivity in different parts vary, although this was the main objective of land redistribution law...At the moment it is probably better to set up maximum and minimum landholdings which can be regulated at the lower levels of government. The Central government should merely give the guidelines so as to facilitate smooth land redistribution to the needy people (author's emphasis).<sup>17</sup> (Praptodihardjo, 1951:86-87).

It seems quite clear that both the government and its officials do not have any idea of how to set minimum and maximum landholding. According to Tjondronegoro (1972), one of the problems in Indonesian land reform act is the unclear of minimum and maximum landholding regulation (Tjondronegoro, 1972:5).

Other documents from 1950s also reveal the same peculiarities. In September 1952, a government official from Agrarian Office issued a document that focused on the basic agrarian law. This document stated that there is a need to regulate maximum and minimum private landownership.<sup>18</sup> In addition, one of the recommendations stated that there is a need to increase private landownership through the issuance of land title deeds which can be used as a guarantee to obtain loans from commercial banks. This would financially improve the farmers' position since they can be able to obtain funds to develop the land and increase productivity. The minimum landholding is 2 hectares. This limit has to be regulated in the appropriate plan.

Furthermore, the document also proposed a draft for new basic agrarian law in Indonesia to revise agrarian law which was still based on colonial system.<sup>19</sup> One of the paragraphs states :

The most important agricultural problem on Java and Madura, and maybe also at the Outer Regions of Bali and Lombok, is that of the dwarf-farm. The commission wants to

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<sup>17</sup> Translated into English. The original was in Indonesian language.

<sup>18</sup> See PENYELESAIAN MASALAH AGRARIA SERTA PERKEMBANGAN PERUNDANG-UNDANGAN AGRARIA DEWASA INI, page 4 paragraph 4, Bagian Umum/Planning; Pegawai Tinggi untuk Urusan Agraria, 15 September 1952.

<sup>19</sup> The original title of this proposal is NIEUWE GRONSLAGEN VAN HET AGRARISCHE RECHT.

fight this shortcoming by decreeing a minimum ownership of agricultural land of 2 hectares for Java. This will thereby be an agricultural regulation of socio-economic dimensions, through which the farmer shall be protected from himself. The implementation of this objective, or rather ideal I should say, seems to be the most problematic of all. The intended shall only be reached after a long time and in the first place through measures of socio-economic nature, like information, trans-migration and industrialization. Laws can only have a secondary character. It is expected that the implementation of this objective will require 5 million people on Java and Madura alone, to find another means of life, be it in industry, trade or transportation or otherwise in agriculture and forestry in the Outer Regions. The first years will probably not go beyond taking measures to prevent the further fragmentation of agricultural land.<sup>20</sup>

Interestingly, some attempts to get rid of small landholdings had been made in Cirebon, West Java by the Dutch colonial government in 1920s. A study carried out by Breman (1983), stated that the colonial government at that time intended to consolidate small landholding in attempt to halt diminishing welfare of the peasantry. However, one of such reform results was the peasants' eviction from communal lands by the government when *sikep* (communal land shareholders) relied their livelihood heavily on such land. It was reported that when land reform completed almost 20% of 24000 *sikep* were dismissed from their lands without compensation.<sup>21</sup> Attempts to create a viable peasantry had failed (Breman, 1983). In his research on land consolidation in Cirebon, Breman (1983) states :

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<sup>20</sup> The original language is in Dutch. It says "Het belangrijkste agrarische probleem op Java en Madura, en misschien in de Buitengewesten op Bali en Lombok, is dat van het dwergbedrijf. De commissie wild it euvel bestrijden door een minimumbezit aan landbouw gronden van op Java van 2 ha voor te schrijven. Dit zou dus een agrarische regeling van social-economische strekking worden, waarbij de tani tegen zich zelf wordt beschermd. De verwezenlijking van dit oogmerk, van dit ideal zou ik bijna zeggen, lijkt het lastigste van alles. Het beoogde doel zal slechts na een lang tijdsverloop bereikt kunnen worden en in de eerste plaats door maatregelen van social-economische aard als voorlichting, transmigratie en industrialisatie. Wetten zullen slechts een scundair karakter kunnen hebben. Men bedenkt dat bij verwezenlijking van het doel op Java en Madura alleen voor rond 5 miljoen personen een ander middle van bestaan moet worden gevonden, hetjiz in de industrie, handel en verkeer, hetjiz in de land-en bosbouw in Buitegewesten. De eerste jaren zal waarschijnlijk niet verder kunnen worden gegaan dan het dan het nemen van het maatregelen ter voorkoming van verdure versnippering van de landbouwgrond".

<sup>21</sup> Fifteen percent in some villages and more or less in others.

... where the reforms had been first introduced and where they were reported to have been successful, the land was allotted in plots which were scarcely larger than a half *bahu*<sup>22</sup>, a size which had once been considered too small for the needs of a self-supporting peasant household. The new reasoning, however, was that some of the new *sikep* would in any case be unable to meet the stringent regulations covering land leasing and the repayment of debts by installments. It was now thought advisable to await the almost inevitable natural process of selection that would occur, rather than immediately to enforce a harsh reorganization. Nevertheless, when the reform operation was completed in East Cirebon, it was reported that 5000 of the 24.000 who had held shares in the communal ground had been dismissed, i.e. almost one-fifth of the total. (Bremen, 1983:67).

### **Minimum Holding Regulation in Indonesian Land Reform**

The BAL established a minimum limit of ownership of agricultural land for either rice fields or dry land. The primary goal here was to prevent land fragmentation of agricultural land by rural households. Additionally, the BAL prohibits absenteeism where landowner could not own, pledge, or lease agricultural land outside the subdistrict or adjoining subdistrict in which he or she control more than ceiling limit (MacAndrews, 1986:24). This policy, however, can lead to compulsion or removal of small farmers' lands held by the government. On the contrary, this regulation can create problems of landlessness as land redistribution cannot provide the desired agricultural land based on current policy.

Article 17 of the BAL deals with the issue of minimum holding and demonstrate the state's will to give small farmer enough land to cultivate. This policy is stipulated in Article 8 and Article 9 of Indonesian land reform act<sup>23</sup>. Article 8 of Government Decree in lieu of law No. 56 1961 states, "The government attempts to provide each farmer household agricultural land at least 2 hectares after this regulation came in effect". Furthermore, Article 9 Section 1 of the same regulation states, "Except for inheritance, agricultural land right transfer is prohibited if this

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<sup>22</sup> 1 *bahu* equivalent to 0.7 hectare.

<sup>23</sup> Some Indonesian activists call it Undang-undang Land Reform (Land Reform Act). It refers to Government in Lieu of Law No.56 of 1961.



transfer will result or generate landownership less than 2 hectares. This prohibition is not valid if the seller owns less than 2 hectares and intends to sell it”.

More interesting are on the sections that follow. Article 9 Section 2 states that if two or more landholders after this regulation come into effect own agricultural landless than 2 hectares, within one year they must appoint one of them to own the land, or transfer it to another party by considering Section 1. In addition Section 3 states, if this cannot be done, by considering their will, Minister of Agrarian Affairs or its own behalf appoints one of them, to own the land or to sell.

According to General Elucidation of Government Decree in Lieu of Law No. 56 1961 the rationale for 2 hectares as floor size is an objective itself. The government will do this in a number of steps. The first step is to prohibit land fragmentation which contradicts with the objective of this regulation. It is therefore, minimum ownership is needed in agricultural land Article 9). Without minimum ownership, not only attempt to formulate minimum landholding regulation cannot be attained but also the objective itself cannot be achieved.

The prospect to redistribute agricultural land to farmer households seemed without proper estimation. The government originally estimated that there is enough land that would be come up to redistribute. In 1963, the surplus of land in Java, Madura, Bali, Lombok and Sumbawa was ready to redistribute (MacAndrews, 1986:42-43). One must bear in mind, however, that it was impossible to provide a minimum of 2 hectares of land per peasant family in most densely populated island like Java. This is because there is not enough arable land available to till. Transmigration to outer islands for Javanese farmers is always the answer for this dilemma both during Sukarno and Suharto regimes. But this program was not the best solution due to increasing population while agricultural land is not. Since the land reform was introduced from 1960-1965, the results were limited for various reasons. The lack of up-to-date cadastral registration data on number of minimum and maximum landholdings and on the number of landless farmers and labourers are among many.

One example is Java and Madura (part of East Java Province). These are rice-producing islands of Indonesia but with crowded density. The majority of farmers cultivated small plots as the figure shows. The average land above 2 hectares are less than 7 percent.

Table 3.2: Size of farms in Java and Madura in 1963

Area of Farm by Size (ha)	Farms in Java-Madura	
	Number	Percentage
0.10 - 0.49	4.152.434	52.2
0.50 - 0.99	2.147.708	27.1
1.00 - 1.49	858.477	10.8
1.50 - 1.99	350.889	4.4
2.00 - 2.99	273.914	3.4
3.00 - 3.99	88.636	1.2
4.00 - 4.99	35.983	0.5
5.00 - ~	33.867	0.4
Total	7.941.906	100

Source : Huizer, 1972(based 1963 Agricultural Census)<sup>24</sup>

To capture the current trend, the Central Statistical Bureau holds agricultural census every ten years. Unfortunately, all censuses provided some but not all the necessary database that would be required to implement either the BAL or land reform. These weaknesses were caused by, among many other factors, the unwillingness of the owners to report their full landholdings. Moreover, all agricultural censuses provide no prospect figures for providing farmer households 2 hectares of arable land. In short, attempts to establish minimum holding policy is almost impossible for various reasons already mentioned.

It is widely known among observers, scholars, government officials, and political parties that land reform in Indonesia was hampered by groups who aimed at halting land reform since it runs

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<sup>24</sup> See Gerrit Huizer, Peasant mobilisation and land reform in Indonesia, 1972, ISS, The Hague.

counter to their interests<sup>25</sup>. The costs of land reform then were not only financial and managerial but also political. The hindrances to land reform implementation included the sourcing of funds; the ability (or political will) of the Indonesian government to ensure implementation in all its stages; and the various social groups like religious organizations and military factions who resisted such reform.

## **Land Rights in Indonesia**

Many believed that government attempts to improve rural farmers' livelihoods is good. By setting up minimum farm-holding in agrarian reform policy the state would provide small farmers and landless peasant lands they need as shown in the case of Indonesian agrarian reform policy. No one can disagree with its objectives. One should bear in mind, however, that the state can remove small farmers from their lands under the rubric of development since there is no guarantee that those who own less than minimum amounts of lands permitted will not be compelled to transfer their lands. Land conflicts in Indonesian history post 1965 are often full of violence involving peasants or small farmers seeking justice as their lands under threat by government projects without adequate compensation.

In Indonesia, land affairs are forms of state intervention<sup>26</sup>. The provision concerning the minimum ownership of agricultural land can result in the state not only having the right to allocate land and its rights but also being able to withdraw those rights. More importantly, this provision can increase expropriation of land by the state<sup>27</sup>. As Wright (1999) notes, the state has the potential powers to annul land rights extensively and discretionarily (Wright, 1999:43). This also applies in the extinguishment of the rights of the small farmer.

This regulation is also unacceptable from a human rights perspective. Ownership of small amounts of land is not necessarily infeasible or uneconomic. Technology and rural development schemes can help to achieve desirable social and economic purposes. The state has no right to remove or to compel small farmers from their lands in the name of development.

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<sup>25</sup> See for example Huizer (1972), Mortimer (1976), and MacAndrews (1986) on this issue.

<sup>26</sup> See Indonesian Constitution of 1945 and the Basic Agrarian Law's Basic Principles, Article 2.

<sup>27</sup> See Article 9 Government in lieu of law No. 56 of 1961.

In short, the ideas on minimum farm-holding are highly debatable since it is no longer relevant due to some circumstances. It is difficult to attain and tends to marginalize small agricultural cultivators. Furthermore, rural non-farm activities play an important role for rural dwellers, poor and better off. Most international non-governmental organizations and international development institutions as well as the work of Chamber and Conway (1992) recognise the importance such activities for rural villagers. Any attempts to set minimum farm-holding seem to be less important since the number of rural villagers have coping strategies to survive. Where the idea of minimum land holdings comes from in Indonesia is what this paper tries to explore in the following chapters. If the empirical data collected will show that the minimum farm-holding policy did not help much to give a decent minimum living for rural farmers then the policy is not valid anymore.

## **Chapter IV**

### **The Potential Impact of Minimum Holdings Regulations in Densely Populated Region**

Agrarian reform policy on minimum agricultural landholding in Indonesian is still in effect. If it is consistently implemented, there will be some implications on current agrarian structure. This chapter describes the current trends of agrarian structure of Java, and the potential impact may happen if minimum landholding limit is implemented in most densely populated island of Java where most of Indonesian small farmers and the country's major rice producers live.

#### **Land Tenure System and the Importance of Land in Java**

Indonesia is now the fourth most populous country in the world. By 1961, Indonesian population is 97 million people living on only less than 1.000 of the archipelago's 13,677 islands. But about two-thirds or sixty-three millions of the total population was crowded on the island of Java, one of the planet's most densely settled areas (Geertz, 1969:12). By 2000, the Indonesian population had grown to more than 206 million, with 59% in rural areas (Badan Pusat Statistik, Population Census 2000).

As part of essential attributes, the importance of land in Indonesia and particularly in Java is not only as a fixed asset for investment but also for as a livelihood security. Not surprisingly, land conflicts often occur among those who have interests in land whether between state and its citizen or between citizens.

Although land reform took place in 1960s as Prosterman (2002) notes, the beneficiaries were limited. Land to the tiller program, therefore, is inevitable since the poorest agricultural households live in this island despite this island is the main rice producer (Prosterman, 2002:3).

In 1963, according to first ever Indonesian agricultural census there were at least 12 millions farming households. That census did not include agricultural labourers or farmers holding less than 0.1 ha (Prosterman, 2002:4). This figure also did not include islands such Irian Jaya, and East Timor which were not part of Indonesia at that time. Ten years later, the number of farmer households<sup>28</sup> in Indonesia who operate land increased to 14.373.542 and 8.643.752 in Java (Biro Pusat Statistik, 1983). For the last one decade (1993-2003), the number of farmer households increased from 21.758.00 to 24.868.675 (Badan Pusat Statistik, 2003).

The more interesting figure is those who own less than 2 ha as Table 4.1 shows. Although there is a slight decrease in size of holdings, 1.00 to 1.99 ha from 1983 to 1993, the land for farming households who own 0.10 to 0.49 ha and 0.50 to 0.99 ha has moderately increased. This suggests that uneconomic holdings removal and land consolidation efforts based on the current land policy needs to consider these phenomena or it will result in undesirable outcomes as the following section will explain.

Table 4.1: Number of Farming Households (foodcrops) by Size of Holdings in Indonesia 1983-1993

Size of Holdings (ha)	1983			1993		
	No. of Farming Household	No. of Area (ha)	Average Size (ha)	No. of Farming Household	No. of Area (ha)	Average Size (ha)
0,10-0,49	6,495,065	1,710,350.37	0.26	8,726,434	2,099,420.53	0.24
0,50-0,99	3,986,876	2,646,812.62	0.66	4,130,271	2,749,942.97	0.67
1,00-1,99	3,166,465	4,070,805.07	1.29	2,991,747	3,859,118.65	1.29
Total	13,648,406	8,427,968.06	0.63	17,978,451	15,440,620.70	0.86

Source: Derived from Sensus Pertanian 1993, Seri-B1. Jakarta, hal. 5-6, Tabel 03

<sup>28</sup> Farmer households here means households that control some cropland.

As already mentioned in previous chapters, attempts by the government in 1960s to attain a desirable land distribution within the land reform program help little and unequal land distribution remains a serious problem in rural areas and have resulted in land-based conflicts.

## Agrarian Structure in Densely Populated Regions

Java gives interesting figures for discussing minimum landholding regulation since this island has a lot of farmers than other Indonesian islands. Most studies on agrarian structure in Indonesia, particularly Java, confirm that from 1960s to 1980s rural farmers of less than 2 ha, which were considered subject to consolidation under the BAL, comprised majority. Hüsken and White (1989) have summarised data from 1963-1983 on the distribution of farm size (holdings less 0.1 ha were excluded), which are presented below in Table 4.2.<sup>29</sup> Their report supports the fact that Sukarno's land reform program did not change the size of holdings 0.1 to 2 ha. The number of farming households was stable. This means that as subject to land consolidation under Indonesian land reform legislation, the government seems to ignore to enforce such legislation by leaving lands below 2 hectares untouched.

Table 4.2: Distribution of Farm Size in Java :1963-1983

	1963			1973			1983	
	% of farm	% of area	Average Size	% of farms	% of area	Average Size (ha)	% of farms	% of area
Operated Farm Size (ha)								
0.1-0.49	52	25	0.3	55	22	0.3	54	21
0.5-0.99	27	27	0.7	26	27	0.7	27	27
1.0-1.99	15	23	1.1	14	27	1.3	14	27
2.0 and above	5	25	3.3	5	24	3.2	5	25

Source :Derived from Hüsken and White , 1989

<sup>29</sup> See Hüsken, Fran and White, Ben (1989) , Java: Social Differentiation, Food Production, Agrarian Control in Agrarian transformations : local processes and the state in Southeast Asia, ed. by Gillian Hart, Andrew Turton and Benjamin White with Brian Fegan and Lim Teck Ghee, Berkeley, CA : University of California Press, 1989 for more details.

More interestingly, as Table 4.3 shows, is the number of those who have less than 0.5 ha. Average farm size among small farmers, who have land less than 0.5 hectares or *petani gurem* (“marginal farmers”), so the Central Bureau of Statistic defines, is always increasing considerably in Java. One assumption can be noted for this phenomenon, there is increasing peasantisation process among Javanese farmers. Each National Agricultural Census reveals the same phenomenon. The numbers of rural households who have lands less than 0.5 ha are the majority in Java.

It is clear that any attempt to redistribute lands based on the Basic Agrarian Law and Government in Lieu of Law no. 56 of 1961 (Indonesian Agrarian Reform Law) is almost impossible. The relevance of this, both the situation in the 1960sand to present-day agrarian questions, is questionable.

Table 4.3: Distribution of Land Controlled Less Than 0.5 Ha Among Rural Households:Java 1973-2003

Period	No. of Rural Households	
	Indonesia	Java
1973	6.560.758	4.965.141
1983	9.532.000	7.403.000
1993	10.937.000	8.097.000
2003	13.253.310	13.582.578

Source : Badan Pusat Statistik, Sensus Pertanian 1983, 1993, 2003.

Given the fact that land reform is no longer a government program, it is not surprising that agrarian structure was not radically changed towards equality. As Mac Andrews (1986) notes, the government’s focus on land policy since Soeharto’s New Order regime came into power has shifted from land to the tiller programme to development issues that was considered a barrier on economic development (MacAndrews, 1986:52).

Indonesian economic development during Soeharto was full of violence and land conflicts between government and the villagers. However, this does not mean that post-Soeharto regimes have been peaceful. Land-based conflicts are still a major issue in rural Indonesian.



Furthermore, Indonesian government's reputation in both international community and its people's eyes are not so good. As Thorburn (2004) notes, it is widely known that Indonesian agrarian affairs office had a reputation as one of the most corrupt agencies in a government. Contradictory regulations and instructions, graft, manipulation, excessive fees, deception, fraud and confusion are prevalent (Thorburn, 2004: 2). Thorburn asserts:

“Whereas land is of singular importance to rural and peri-urban households in populous areas, everyone knows that without special government mass-titling programs, certification of ownership or other rights is probably not available to them, unless they are ready to pay official and unofficial fees that often equal or exceed the market value of the land itself. Even then, victims and observers tell tales of multiple certificates for single parcels of land, certificates being issued to the wrong people, and of land being expropriated without proper confiscation even after certificates had been issued”. (Thorburn, 2004:2).

### **Minimum Landholding Regulation and Its Potential Impact**

It is extremely difficult to find, both in the literatures, in reports from Land Reform Commissions and from the government documents, any information pertaining to the potential impacts of minimum land holding regulation if it is implemented in Java and Indonesia in general based on the current statistics.

The growing number of small peasants and landless or agricultural labourers for many decades is the signal that conveys the impossibility to apply such regulations in theory or in practice. If we look at the current statistics of both Java and Indonesia, it is apparent that attempts to abolish or to compel land ownership of less than two hectares are not feasible. The 2003 agricultural statistics reveal significant number of small peasants and agricultural labourers in Java as Table 4.4 shows.

Table 4.4: Area of Farm and the Number of Farm Households in Java in 2003

Area of Farm by Size (ha)	Farm Households	
	Number	Percentage
< 0.1	3.001.267	22
0.1-0.49	7.159.176	53
0.5-0.9	2.313.303	17
1.0-1.9	844.881	6.2
2.0 and above	263.951	1.9
Total	13.582.578	100
Total Area Controlled <sup>30</sup> :	5.507.784 hectares	
Average size : 0.4 ha		

Source : Badan Pusat Statistik, Sensus Pertanian, Tabel 12.c. 2003.

13.318.627 small farmers, or 98 percent of the total farmer population in Java, hold less than 2 hectares of land in Java. The majority of them are small farmers or *petani gurem* (marginal farmers) who have lands less than 0.5 ha. This comprises 12.473.746 farmers or 92 percent of the total marginal farmer population. It should be noted that the number of *petani gurem* is increasing as Table 4.3 in earlier section shows.

Although, minimum holding regulations are implemented, not all farmers owning less than 2 hectares would be subject to consolidation. For example a farmer who has 1.9 hectares, this will raise a justice issue since other farmers below 2 hectares may demand the same treatment. They will demand benefit from land reform. The impossibility can also be said if 2-hectares holding are seen as the minimum size since the average land ownership in Java is 0.4 hectares.

<sup>30</sup> The total area controlled is area owned added by area originating from other parties subtracted by area held by other parties.

<sup>32</sup> The government intention on reducing small farm to less than half a hectare was widely publicized by Indonesian press [See KOMPAS August 20, 24 and 30, 1984; Merdeka August 23 and 24, 1984]. Merdeka, for instance writes, 'The abolition of farms-however small-means the abolition of land ownership rights. According to our Basic Agrarian law, landless peasants and those whose land is too small must be given more land...and according to the same law, those who own land in excess of the law defined as appropriate must have part of their land taken away. Now, exactly the opposite is to happen: large landowner are to be left untouched, and those who own too little are to be done away with and their land disposed. Is this just and progressive?

It is clear, however, that by implementing a minimum land holding policy the government must abolish or compel more than 13 millions small farmers in Java. These comprise of 844.881 with 1.0-1.9 hectares landholding, 2.313.303 with 0.5-0.9 hectares landholding, 7.159.176 with 0.1-0.49 hectares landholding which are majority in rural Java, and 3.001.267 with less than 0.1 hectares landholding as the data in 4.4 shows. Not to mention the whole small farmers in Indonesia. This number will continue to grow if the population increases and farm area decreases.

Such land compulsion will trigger serious potential land conflicts and social unrests in rural areas between villagers and the government. The reasons are not only the rationale for land compulsion based on the BAL and Government in Lieu of Law No. 56 of 1961, but also how government can deal with compensation, resettlement and job creation for rural farmers not to mention how government can finance this land compulsion program.

There could be a ripple effect of socio-economic problems from the small farmers losing their livelihood as a result of being expelled from their land. If new jobs are not found in the urban sector, where this group will most likely go, problems such as malnutrition, homelessness and crime may arise. Providing employment opportunities for this group of unemployed, landless, ex-small farmers is a major issue that the government would have to tackle.

Other problems that might rise are how small farmers can survive after their lands were taken from their hands and what kind of jobs they can perform. The governments will face difficulties to provide employment opportunities for millions new unemployed from agricultural sector. This will create new problems in urban sector where new jobs are not available

Information from agrarian experts in Indonesia support this view. The feasibility to apply minimum landholding policy is not bright. This is because not only the rationale behind it is weak, but also the difficulty to provide 2 ha to every farming households as the land-man ratio in the statistical reports confirm. The rationale stated both in the BAL and in the Indonesian land reform act (Government in Lieu of Law No.56 of 1961) is to avoid land partition and fragmented

holdings. This view did not receive much criticism when it was promulgated in the early 1960s. However, the claimants for land redistribution are far too many. Whatever reasons or rationales the government may have, land availability, among many, is important. By imposing minimum holding regulation to solve poverty Problem without considering other factors such job creation for those who lost their lands, such efforts are meaningless.

MacAndrews (1986), reported the issue of minimum farm-holding policy during Soeharto regime. In the mid 80's government said that the small plot lands are not economical and thus impoverish rural farmers. (MacAndrews, 1986:69). The government intended to abolish many small farmers. At that time, according to the Minister of Agriculture this was too large a number. It is believed that one hectare is the minimum land holding size<sup>32</sup>. Therefore, the government may encourage farmers to sell or to amalgamate lands of less than one hectare with other farmers. The first step is to reduce farmers' land to less than half a hectare. The next step is for those who have lands less than 1 hectare. The abolition, however, according to the Minister, will be implemented without compulsion. Farmers can do whatever they want, whether to sell their lands or to amalgamate it with their brothers so he can join government program, for examples Transmigrations or Smallholder Nucleus Estate programs. One of leading newspaper, KOMPAS (1982) gives comments on Transmigration program by the government and reminds us

In Java at present there are about 6 million peasants with half a hectare, 5 million with a quarter hectare and 8 million landless labourers (the numbers are slightly inaccurate, cf. Table 1-red.). But a peasant household requires at least half a hectare for a minimal subsistence livelihood. For this reason, 13 million households (the labourer households) must be moved away from Java. The President gave the figure of 65 million people waiting their turn to be moved away from Java, while in Third Five-year Development Plan (1979-1984-red.) our target was only half a million per year. Even if we could move one million people per year in future, It's too late, and it would take 65 years to move all those people...(KOMPAS, August 8, 1982)

However, there is no guarantee that the government will do it without evicting farmers' lands. It is widely known that the Indonesian government can do almost everything they want to its

people including land eviction which was common during the Soeharto regime. The colonial style is (was) the government reputations. The threat of land eviction is a real possibility under the banner of development projects or other reason.

The same view on small farms below 2 hectares is still supported by academics. They believe that in order to secure the livelihood of small peasants, amalgamation of lands is highly encouraged. The major causes of increasing landlessness and small farms unit is land conversion and inheritance system (Surabaya Post, 19 March 2005).

There is ample evidence from various studies on agrarian structure in Indonesia to reveal that the number of small farmers (have less than 0.5 ha) is increasing year to year as Table 4.3 shows. Although, the government would not compel small farmers to sell their lands as MacAndrews (1986) observes, this implies that in the name of development the government can take away small plot lands.

More recently and surprisingly, the government has issued the controversial Government Regulation No.36 of 2005. This regulation permits the compulsory acquisition of land for the public good by the government. Protests against the regulation are widespread throughout the country (KOMPAS, 29 Juni 2005). The government, however, tries to convince the public that the government wants to invite foreign investors for accelerating infrastructure projects which is important for economic development post-1997 monetary crisis. The government would also guarantee that the state can not evict lands for infrastructure projects except the lands have been stipulated in the city plan by the local government unit and order its ministers not to use this regulation for private business purpose (The Jakarta Post, 1 July 2005). No one, however, can guarantee that after regime changes eviction will not occur. The recent development seems supporting assumption that the government can take away the land in the name of development.



## **Chapter V**

### **Discussion**

It is obvious that land reform in Indonesia ends up in stagnant situation. The government seemed was not ready to estimate the feasibility of land reform. There are some loopholes in the land reform-related policies as well as socio-political circumstances. This chapter discusses land reform in Indonesia based on discussions from previous chapters. Historically, the Indonesian government announced land reform to create healthy peasantry by eradicating poverty, providing land for cultivation, and reforming tenure arrangements. In doing so, the instrument to implement land reform program was established by imposing the land reform policy, including the establishment of minimum landholding. However, this instrument did not work well since it was not based on proper estimation and unclear rationale behind it. As a consequence, this regulation cannot be enforced and therefore defective. Political atmosphere, which is not the focus in this paper, also played a major role in halting land reform program. There is a need to amend this policy since it is no longer applicable both in theory and in practice.

#### **Is Land Reform Still Feasible to Create Healthy Peasantry?**

For many decades, governments in developing country have introduced land reform initiatives. However, effective access to land by the rural poor remains a serious problem (Borras, 2002:33). This is true in Indonesia where access to productive resource in rural areas is still limited due to various reasons although its agrarian reform policy still in effect. These include land availability, unclear regulations, and complicated land tenure systems.

The Indonesian land reform initiative in 1960s seemed to produce limited results since social relations in society need to be changed. The persistence of large landowners, political interests, and the ability of the state apparatuses to implement such reform led to difficulty to resolve unequal ownership distribution. However, land reform experience in Indonesia is not new. As

well, most countries have almost similarities in their implementation although to some extent unique. This has already been written by Barraclough (1991) who asserts :

...land reform implies a major change in social relations. It cannot normally be a policy option for governments. The state is never a consistently rational, unified and benevolent entity. It depends on the support of dominant social forces. These are often contradictory, but the organized interest groups supporting the state in the Third World and the broader class interests that sanction them almost invariably include the landlords. They seldom include landless peasants. The state cannot be expected to adopt policies benefiting fragmented and unorganized peasantry at the expense of landlords and other groups on whom it depends on supports. (Barraclough, 1991:130).

### **Is Minimum Landholding Regulation Relevant in Agrarian Reform?**

For some, Indonesian regime from the early 1960s to the late 1960s was seen as populist. It does not, however, mean that the government could guarantee that its policy benefiting the large population as we can see in the minimum landholding regulation.

For more than three decades, landlessness continues to grow particularly in Javanese rural areas as several agricultural censuses show. The agrarian structure is dominated by large farms, which along with large agro-industrial firms receive special privileges that enable low competition in output, input, land or credit markets. Additionally, lack of data and scientific supporting arguments, and political circumstances facing the government made it difficult to implement such a reform. Further, the development in rural areas seemed to be ignored. Its minimum holding regulation in land reform aims at the consolidation of fragmented landholdings and the partition cannot provide small farmers or the landless sufficient land for cultivation. Although the aim of agrarian reform is to redistribute land or improve tenure relations, in reality, these objectives are difficult to achieve. Instead, landowners have even resorted to eviction, land dispossession and privatization of common lands.



In theory, establishing minimum holding criteria is somewhat ambiguous in land reform legislation since the aim of such reform is to prevent increasing number of families with holdings below the subsistence level. However, in practice, this does not always happen as Ellis (1992) points out :

Both minimum and maximum criteria are in practice rather insensitive instruments given the variability in soils, climate, topography, crop choices, and other features of agricultural zones (Ellis, 1992:207).

The desired minimum holding limits estimation is also arbitrary. Although countries have estimated minimum holding limits, in reality, the outcomes are different. Further, the ability of governments to implement minimum holding regulation also depends heavily on farmers' capability and skills, as well as geographical locations. These justify the farmed landholding size. Lipton (1974) states :

The extent of desirable equality may be limited by some managerial considerations. In theory, if all farmers had equal natural gifts, there would indeed be a single optimum size of farm; but differences in managerial skills, innovativeness and spatial position do justify some actual difference in the operated holding size, as measured not in even acres per family but in 'efficiency acres' or productivity equivalents of land per consumption unit. Of course, it would in principle be possible to go for wholly egalitarian redistribution, allowing renting-out to establish economically desirable divergences among operated holdings; but it is a time-wasting (and out-wasting) procedure, and contrary in spirit to the 'usufruct-to-the-tiller' motivation underlying reform. (Lipton, 1974: 285).

The development of land reform in Indonesia indicates that such reform does not address the fundamental constraint in implementing government program as most studies on Indonesian land reform have indicated. After Soekarno was toppled, and 32 years experienced a great economic development under Soeharto regime, land reform has almost completely been removed from the current government agenda. Land reform is just on paper or in land legislation.

Due to the political circumstances, it is not surprising land reform in Java was nearly stopped, whereas agricultural lands in Outer Islands remained untouched. Former owners in Java took back their lands, beneficiaries were arrested and assassinated (Huizer, 1972:53).

The objective of land reform in Indonesia is not clearly stipulated both in the Basic Agrarian Law and the Government in Lieu of Law. Both of the aforementioned laws have social implications but have not stated the actual objectives other than prosperity of all citizens. It is not surprising that such reform program is difficult to evaluate.

Moreover, the BAL does not provide clear direction implement on implementation procedures. What the Indonesian government did was to promulgate more practical land laws or regulations. This definitely contributed to the slow process of such reform itself. Indeed, attempts to revise or amend the BAL itself have never been considered. If so, the relevance of minimum land holding regulations is a must.

The relevance of minimum holding regulation in Indonesian land reform was already raised by expert and academics. In his comment to the Government in Lieu of Law No. 56 of 1961, Breman (1983) reminds us :

The legislation was unmistakably intended to maintain farms of viable size. To accomplish this, a minimum size for landholding was introduced in addition to a ceiling. As far as I know, the establishment is such a floor of not less than 2 ha, is unique in the history of land reform. It was undoubtedly never the intention to dispossess owners of less than this amount, in an effort to repeat the Cirebon reform four decades later and on a much large scale. Even the thought of this would have been absurd given the fact that only a tiny majority of large landowners had holdings which exceeded the prescribed minimum...(Breman, 1983:123).

Furthermore, the well known American agrarian reform expert who visited Indonesia in 1961, Wolf Ladejinsky, wrote a report to his American fellow on the peculiarity of Indonesian minimum holding regulation. He asserts :

The agrarian reform is intended for Java above all, where allegedly 60 percent of the farmers have virtually no land at all. The stated of the reform is to provide them with land. It was my unpleasant duty to tell the minister that this was not in the cards, not only because land is scarce in Java and people are many but more specifically because the legislation is so drawn up as to prevent the release of a sizeable acreage for distribution. The principal joker in the legislation is the amount of land a landowner can retain on the one hand and minimum guaranteed on the other. The latter is a fiction because in Java there simply no arable land, actual or potential, to insure for the landless a minimum of 2 hectares per family (Walinsky, 1977: 297).

Commenting on land reform in Java during the Soekarno regime, Mortimer (1972), says :

...providing guaranteed plots in the outer Islands to transmigrants from Java but, granted the fact that transmigration schemes had never involved more than a tiny fraction of Java's annual population increase, it was inconceivable that these schemes could be so accelerated as to realize the 2 hectares minimum for all or even a major proportion of Indonesia's peasants. The minimum land stipulation was clearly included as symbolic display of goodwill rather than as something to be given practical effect.(Mortimer, 1972:17).

Surprisingly, in 2001, Peoples' Consultative Assembly passed Decree No. IX/MPR/2001 on Agrarian Reform and Natural Resources and is regarded as a progress in bringing about fundamental changes in land issues and the management of natural resources in the country. It is expected that this decree has the potential to revive land reform which almost a dead issue for the last 35 years. This decree, however, is still unable to respond to how minimum landholding policy can be implemented.

The same thing is done by the government in the midst of 2005. The government issued Presidential Regulation No. 36 of 2005 on Land Procurement for Public Development. Although it is based on the Basic Agrarian Law 1960, its consideration, according to some critics, has

substantially been contrary to the BAL itself. Several NGO groups, academics, even parliament protested and criticised the regulation. They argue that this regulation neglects the people's rights for the land. The power of this regulation is more repressive than the edict issued during Suharto regime.

This phenomenon supports the argument that Indonesia is nearly alone in regard to the issue of regulating minimum agricultural landholding in its land reform act. Unfortunately, as already mentioned in the previous chapters, the justification behind minimum landholding regulation is vague and the prevailing explanation is to prevent land fragmentation and partition. In addition, the government seems to ignore the potential social impact of minimum landholding regulation if it is implemented.

By applying the Basic Agrarian Law and Government in Lieu of Law No. 56 of 1961, the state can easily evict farmers from their land should their holding be below 2 hectares, the rational being that these small-farms are uneconomical for agribusiness. Certainly, the government will say, the current land laws does not mean that people will be thrown off their land if they are too small. The question is why Indonesia has a minimum landholding policy. There is need to review the current legislation affecting the livelihoods of small farmers for the reasons stated and it is increasingly imperative that this be done since misuse of power and regulation in Indonesia is widespread. The possibility that powerful interests would abuse the existing minimum holdings regulations to alienate small farmers en masse from their small holdings, however remote, is still a real possibility and will remain so until the laws are changed to protect peasant rights of own a plot of land, no matter how small.

## Bibliography

Asmu (1964), MASALAH-MASALAH LANDREFORM Djilid I, „Jajasan Pembaruan” Djakarta. See also report on Konfernas Tani ke-II PKI, „Jajasan Pembaruan” Djakarta 1962.

Barraclough, Solon L. (1991), *An End To Hunger: The Origins of Food Strategies*, UNRISD, Geneva.

Barraclough, S. L. and K. B Ghimire. 1994, *Forests and Livelihoods: The Social Dynamics of Deforestation in Developing Countries* UNRISD. Geneva.

BPS, Sensus Pertanian 1983, Hasil Sensus Sampel, Sensus Pertanian 1983, Seri-B, Tabel 2.2.

BPS, Sensus Pertanian 1993, Laporan Hasil Pendaftaran Rumah Tangga.

BPS, Berita Resmi Statistik No. 26 / V / 3 Juni 2002. Available from:  
<<http://www.bps.go.id/releases/files/hasilsp2000-03jun02.pdf>> [Accessed October 25<sup>th</sup>, 2005]

BPS, Sensus Pertanian 2003, Angka Nasional Hasil Pendaftaran Rumah Tangga.

Borras, S.M Jr, (2002), Towards a better understanding of the market-led agrarian reform in theory and practice: focusing on the Brazilian case. land reform / réforme agraire / reforma agraria, Food and Agriculture Organization.  
<<ftp://ftp.fao.org/docrep/fao/004/y3568T/y3568t.pdf>> [Accessed October 25<sup>th</sup>, 2005].

Breman, Jan (1983), *Control of land and labour in colonial Java : a case study of agrarian crisis and reforms in the region of Cirebon during the first decades of the 20th century*. Verhandelingen van het Koninklijk Instituut voor Taal-, Land- en Volkenkunde; 101. Dordrecht : Foris.

El-Ghonemy, Riad, (1990), The political economy of rural poverty: the case for land reform, London : Routledge.

Gandasoebrata, Mr.S.(1950), *Panitya Agraria; Sekretaris, pasar-dasar/pokok-pokok hukum Agraria*.

Ghimire, Khrisna M. (2001), *Land reform and peasant livelihoods : the social dynamics of rural poverty and agrarian reforms in developing countries*, London : ITDG.

Ellis, Frank (1992), *Peasant Economics: Farm Households in Agrarian Development*, Cambridge University Press.

Ellis, Frank (1988), *Agricultural Policies in Developing Countries*, Cambridge University Press.

Geertz, Clifford (1968), *Agricultural Involution : The Processes of Ecological Change in Indonesia*, University of California Press.

Ghose, Ajit Kumar (1983), *Agrarian reform in contemporary developing countries*, ed. by Ajit Kumar Ghose . -London; New York, NY : Croom Helm; St. Martin's Press.

Gordon, Ann, and Craig, Catherine (2001), *RURAL NON-FARM ACTIVITIES AND POVERTY ALLEVIATION IN SUB-SAHARAN AFRICA*, Policy Series, Natural Resources Institute University of Greenwich.  
<<http://www.nri.org/publications/policyseries/PolicySeriesNo14.pdf>> [Accessed November 15<sup>th</sup>, 2005].

Huizer, Gerrit, (1972), *Peasant mobilisation and land reform in Indonesia*, ISS, The Hague.

Hüsken, Fran and White, Ben, (1989), *Java: Social Differentiation, Food Production, Agrarian Control in Agrarian transformations : local processes and the state in Southeast Asia*, ed. by Gillian Hart, Andrew Turton and Benjamin White with Brian Fegan and Lim Teck Ghee, Berkeley, CA : University of California Press.

Ikhsan, Mohamad (2003), *The Dilema of Rice Price*, Smeru Newsletter, No. 05 : Jan-Mar/2003. <<http://www.smeru.or.id/newslet/2003/ed05/200305frame.htm>> [Accessed November 15<sup>th</sup>, 2005]

Indonesian Basic Agrarian Law 1960 (Undang-undang Peraturan Dasar Pokok-pokok Agraria).

Indonesian government regulation in lieu of Law No.56 1960 (Peraturan Pemerintah Pengganti Undang-undang).

KOMPAS, 4 Oktober 2005, Menakertrans:Transmigrasi Untuk Kesejahteraan Rakyat.

KOMPAS, 29 Juni 2005, Unjuk Rasa Menolak Perpres 36 Meluas.

KOMPAS, 30 Juni, Presiden: Perpres 36 Bukan untuk Menggusur Rakyat.

Kuhnen, Frithof, (1973), *Land Tenure and Agrarian Reform in Asia*. A Re-Appraisal of Priorities in Agrarian Reorganization for Rural Development. Zeitschrift für Ausländische Landwirtschaft. <<http://www.professor-frithjof-kuhnen.de/publications/land-tenure-asia/0.htm>> [Accessed November 1<sup>st</sup>, 2005].

Lipton (1974), *Agrarian reform and agrarian reformism : studies of Peru, Chile, China and India* / ed. by David Lehmann, Faber and Faber Ltd.

MacANDREWS, Colin, (1986), *Land policy in modern Indonesia : a study of land in the new order period*, Boston, MA : Oelgeschlager, Gunn & Hain.

Mortimer, Rex (1972), *The Indonesian Communist party and Land Reform, 1959-1965*, Monash University Press, Melbourne.s

Mortimer, Rex (1974), *Indonesian communism under Sukarno : ideology and politics, 1959-1965*, Cornell University Press, Ithaca, NY.

Peluso, Nancy Lee, 1992, *Rich Forests, Poor People: Resource Control and Resistance in Java*, University of California Press, Berkeley, California, USA.

Praptodihardjo, Singgih (1951), *Sendi-sendiri Hukum Tanah Di Masa Depan*, Penerbit Jajasan Pembangunan. Singgih

Prosterman ,Roy, Mitchell, Robert, (2002), *Concept for Land Reform on Java*, Rural Development Institute. Paper prepared under the Land Law Initiative funded by the United States Agency for International Development, grant no. 497-G-00-01-00031-00. <[http://www.rdiland.org/PDF/RDI\\_LandReformOnJava.pdf](http://www.rdiland.org/PDF/RDI_LandReformOnJava.pdf)>[Accessed August 29<sup>th</sup>, 2005]

Rosset, Peter (1999), *Small Is Bountiful*, *The Ecologist*, v.29, i.8. <<http://www.mindfully.org/Farm/Small-Farm-Benefits-Rosset.htm>> [Accessed November 5<sup>th</sup>, 2005].

Rosset, Peter (1999) *The Multiple Functions and Benefits of Small Farm Agriculture In the Context of Global Trade Negotiations*, POLICY BRIEF No 4, Food First. <http://www.foodfirst.org/pubs/policybs/pb4.pdf> [Accessed November 5<sup>th</sup>, 2005].

Singgih Praptodihardjo (1951), *Sendi-sendiri Hukum Tanah Di Masa Depan*, Penerbit Jajasan Pembangunan.

Slaats, Herman (1999), *Property rights and economic development : land and natural resources in Southeast Asia and Oceania / ed. by Toon van Meijl and Franz von Benda-Beckmann . - London : Kegan Paul International, 1999.*

Soetiknyo, Iman (1981), *Brief notes on Indonesian land reform law : background and problems of implementation*, ISS , The Hague & Agro-Economic Survey, Bogor.

Themans, B.I (1951), *Penyelesaian Masaalah Agrarua Serta Perkembangan Perundangan-undangan Agraria Dewasa Ini*, Bagian Politik/Planning Kementrian Pertanian, Djakarta 15 September 1951.

The Jakarta Post, 1 July 2005, Govt promises not to evict people for profit.

The Jakarta Post, 30 June 2005, Thousands of farmers protest new land decree.

Tjondronegoro,S.M.P., (1972), *Land Reform or Land Settlement: Shift in Indonesian Land Policy 1960-1970*". Land Tenure Center, Occasional Paper No. 81 Madison: University of Madison.

Tjondronegoro, S.M.P., (1981), A short introduction to Indonesia's land reform : past experiences and its present state: Agro-Economic Survey, Bogor; ISS, The Hague.

Thorburn, Craig C. (2004), A Long Row to Hoe: Decentralization, *Reformasi*, and Land Management Policy in Indonesia, earlier version of this paper has been published in Asia Pacific Viewpoints 45(1): 33-49, April 2004. <  
[http://www.iascp2004.org.mx/downloads/paper\\_069a.pdf](http://www.iascp2004.org.mx/downloads/paper_069a.pdf)> [Accessed December 29<sup>th</sup>, 2004].

Walinsky, Louis J. (1977), Agrarian Reform as Unfinished Business: The Selected Papers of Wolf Ladejinsky, New York: Published for the World Bank by Oxford University Press.

Wright, Warren (1999), Final Report on the Review of the Basic Agrarian Law. <[http://www.landpolicy.org/special\\_topics/roball.pdf](http://www.landpolicy.org/special_topics/roball.pdf)> [Accessed December 29<sup>th</sup>, 2004].