



Groundless Land Claims: Systemic Failures in Land Tenure Rights Protection in Indonesia

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Abstract.

Background. The phenomenon of baseless land claims in Indonesia is an the rise and can no longer be treated as an ordinary civil dispute. This practice often involves manipulating documents, pseudo-physical possession, and the use of legal loopholes to legitimize unauthorized claims.

Aims. This study aims to analyze the practice of baseless land claims from a positive legal perspective, identify systemic failure factors in land law, and formulate an ideal legal protection model for legitimate landowners.

Methods. The method used is normative juridical, with a legislative, conceptual, and case-based approach, supported by studies of primary and secondary legal materials.

Result. The results of the study show that the practice of baseless land claims is a form of abuse of legal instruments supported by weaknesses in the institutional structure, gaps in the substance of the law, and a legal culture that has not supported integrity. On the other hand, legal protection for legitimate landowners has not been effective, either preventively through the land registration system or repressively through judicial mechanisms.

Conclusion. Therefore, systemic reform is needed through the digitization and integration of land data, the strengthening of supervision and law enforcement, and the expansion of access to justice for the community.

Implementation. This study emphasizes that groundless land claims are an indicator of the state's failure to ensure legal certainty regarding ownership rights, making comprehensive reform in land governance in Indonesia an urgent need.

Keywords: land mafia, legal certainty, ownership rights, land disputes, legal protection.



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INTRODUCTION

The phenomenon of baseless land claims in recent years has escalated an the point that it cannot be treated as an ordinary civil dispute. In various regions of Indonesia, a practice has emerged in which certain parties suddenly make claims to land that has long been controlled or even certified in favor of other parties. This practice not only creates legal uncertainty but also disrupts the community's social and economic stability, especially for groups that depend

on land ownership for their livelihoods. In this context, the land issue no longer stands as a purely horizontal conflict but has developed into an indicator of a systemic pattern involving the structured manipulation of legal instruments (Harsono, 2019).

Normatively, Indonesia's land law system has actually laid a strong foundation through the Basic Agrarian Law, which affirms the importance of legal certainty over land rights. This principle is strengthened through the land registration system, which aims to provide certainty and legal protection for rights holders. However, in practice, these guarantees are often ineffective. Land certificates, which are supposed to be strong evidence, can actually be questioned again through various administrative and procedural loopholes, thus opening up space for the emergence of claims that do not have an adequate basis in legitimacy (Santoso, 2020).

This condition indicates a deeper problem, namely systemic failures in land governance. The failure is not only related to the weak substance of the law, but also concerns the institutional aspects and legal culture that are developing in society. Within the framework of legal system theory, the effectiveness of law is largely determined by the synergy among its structure, substance, and culture (Lawrence M. Friedman, 1975). When one of these elements does not function optimally, the law loses its effectiveness as a regulatory and protective instrument. In the context of land, weak institutional supervision, regulatory disharmony, and collusive practices increase the likelihood of abuse of the law.

Furthermore, the practice of baseless land claims also shows a shift in the legal function from a means of protection to an instrument that can actually be manipulated for certain interests. Formal mechanisms such as civil lawsuits or land administration applications are often used to legitimize claims that lack any legitimate basis. This phenomenon shows that the main problem is not only the absence of rules but also the way the rules are implemented and supervised in practice (Sumardjono, 2021).

On the other hand, the position of the legitimate landowner is often vulnerable. The complex burden of proof, lengthy judicial processes, and high costs often make it difficult to defend their rights. This condition shows that the available legal protections are still formalistic and do not fully guarantee substantive justice. In fact, from a legal perspective, the state has an obligation to ensure that there is a mechanism that not only provides certainty but also ensures fair access for every citizen (Hadjon, 1987).

Departing from these problems, this study seeks to examine the practice of baseless land claims as part of the systemic failure to protect land ownership rights in Indonesia. The main

focus of the research is to analyze the *modus operandi* used, the weaknesses of the legal system that allow such practices to occur, and to formulate a more responsive and effective legal protection model. Thus, this research is expected not only to make a theoretical contribution to the development of agrarian law studies but also to offer practical recommendations for improving land governance in Indonesia.

Current scholarship in agrarian law has established that legal certainty in land ownership is primarily achieved through formal land registration systems and administrative procedures. These mechanisms are designed to provide strong evidentiary protection for landowners and maintain stability in land governance. However, recent developments show that land disputes increasingly involve structured manipulation of legal instruments, indicating weaknesses in the practical implementation of legal norms. Previous research has therefore emphasized the role of legal institutions, regulatory frameworks, and procedural safeguards in maintaining land tenure security

This study offers a novel contribution by conceptualizing baseless land claims not merely as civil disputes but as manifestations of systemic failures in land governance. It integrates legal structure, substance, and culture into a comprehensive analytical framework and proposes an integrated legal protection model based on digitization, transparency, and institutional accountability to strengthen land tenure security in Indonesia.

LITERATURE REVIEW

The study of the protection of land rights cannot be separated from the concept of legal certainty as the main foundation of the modern legal system. Legal certainty requires clear, consistent, and enforceable rules so that every legal subject can predict the consequences of their actions. In a classical perspective, legal certainty is one of the fundamental values that the law must maintain, alongside justice and utility. When legal certainty weakens, the law loses its function as a regulatory tool that provides societal security (Radbruch, 1946). In the context of land, legal certainty is crucial because it is directly related to property rights that are both economic and social.

Within the framework of Indonesian agrarian law, legal certainty over land is achieved through a land registration system that aims to protect rights holders. Land certificates are considered strong evidence of ownership, but in practice, they remain subject to being sued or canceled through certain legal mechanisms. This shows that the land registration system in Indonesia adheres to a negative principle with a positive tendency, in which the state does not

fully guarantee the material accuracy of the registered data (Harsono, 2019). This condition indirectly opens up space for conflicts and unfounded claims, especially when administrative data is not managed accurately and transparently.

To understand why the practice of baseless land claims can continue, a legal system approach is relevant. The legal system does not consist only of written rules but also involves the society's institutional structure and legal culture. These three elements must run in harmony so that the law can function effectively. When there is an imbalance, for example, the weak integrity of the apparatus or the low legal awareness of the community, the law becomes vulnerable to abuse (Lawrence M. Friedman, 1975). In the context of land, weaknesses in structural and cultural aspects often serve as gateways to the manipulation and abuse of authority.

In addition, the phenomenon of baseless land claims can also be analyzed through the concept of abuse of rights, which is the formal use of legal rights but contrary to the goals and principles of justice. In practice, certain parties exploit legal loopholes to file procedurally valid claims or lawsuits that are substantially detrimental to other parties with stronger rights. This concept emphasizes that not all actions that comply with legal procedures can be morally or judicially justified, especially when carried out in bad faith (Sumardjono, 2021).

On the other hand, legal protection theory provides a framework for assessing the extent to which the state can protect citizens' rights against adverse actions. Legal protection is not only repressive through dispute resolution mechanisms in court, but must also be preventive through a transparent and accountable administrative system. In the context of land, preventive protection is very important to prevent conflicts from the beginning, for example, through strict data validation and integrated information systems (Hadjon, 1987). When preventive protection does not operate optimally, the burden of settlement shifts to repressive mechanisms, which are often inefficient and time-consuming.

Furthermore, the development of agrarian law studies shows that land issues can no longer be seen solely as formal legal issues, but also as governance issues. Poor land governance, characterized by a lack of transparency, weak inter-agency coordination, and accountability, contributes significantly to the emergence of illegal practices, including baseless land claims. From this perspective, the land mafia is not just an individual actor but part of an ecosystem that exploits the system's weaknesses as a whole (Santoso, 2020).

Thus, this literature review shows that the practice of baseless land claims is a complex and multidimensional phenomenon. It is not only related to the weaknesses of legal norms, but

also to the aspects of institutions, legal culture, and governance. Therefore, the approach used in this study needs to be comprehensive, integrating relevant theories, to provide a more complete understanding while offering applicable solutions to the problems being studied.

Despite these advances, existing studies largely conceptualize land disputes as isolated legal conflicts rather than manifestations of systemic governance failures. Limited attention has been paid to the interaction among institutional weaknesses, regulatory loopholes, and legal culture in enabling persistent, baseless land claims. Moreover, the effectiveness of preventive and repressive legal protection mechanisms remains underexplored, particularly in the context of digital transformation and integrated land governance systems.

RESEARCH METHODS

This study adopts a normative juridical approach, treating law as a norm that is systematically analyzed in relation to the practice of baseless land claims. This approach was chosen to examine the consistency between the applicable legal norms and the reality of their application, especially in the land system in Indonesia. In addition, this research is enriched by a case-based approach to understand how legal norms are implemented in practice, through analysis of court decisions and relevant land disputes.

The data sources used consist of primary and secondary legal materials. Primary legal materials include laws and regulations on agrarian affairs, official state documents, and court decisions on land ownership disputes. Meanwhile, secondary legal materials include scientific literature such as books, legal journals, and the results of previous research relevant to the issue of land mafia and the protection of property rights. Data collection is carried out through in-depth literature reviews, tracing credible, up-to-date sources.

Data analysis was carried out qualitatively using legal interpretation techniques and deductive reasoning. The data collected is analyzed to identify patterns, identify loopholes in the legal system, and formulate logical, structured arguments. Through this method, the research is expected to provide a comprehensive understanding of systemic failures in the protection of land rights while offering relevant, applicable solutions.

DISCUSSION

The Practice of Baseless Land Claims in a Positive Legal Perspective

The practice of baseless land claims in the context of positive Indonesian law is essentially a deviation from the basic principles of the protection of land rights formulated in

the agrarian law system. Normatively, any possession and ownership of land must be based on a legitimate basis of rights and supported by accountable administrative evidence. However, in practice, unilateral claims are often submitted without a clear basis, either based solely on physical control or on the fabrication of documents that appear to provide legal legitimacy. This condition indicates a discrepancy between the applicable legal norms and the reality of their implementation in practice (Harsono, 2019).

One pattern that often arises is the use of legally flawed administrative documents to support ownership claims. Documents such as land certificates, land histories, or even certificates can be used through the manipulation of procedures or the abuse of authority by certain individuals. In some cases, the claim is strengthened through sudden physical possession, thus creating the impression of a factual relationship between the claimant and the disputed land object. This kind of practice not only harms the rightful owners but also damages the credibility of the land administration system as an instrument of legal certainty (Santoso, 2020).

In addition, the judicial mechanism is often used to legitimize claims that lack a strong basis. Civil lawsuits are filed with a particular legal construction that exploits the evidentiary gap, so that parties who lack standing actually have the opportunity to obtain a favorable verdict. In this situation, the law no longer serves as a tool of protection but rather turns into an instrument that can be manipulated for a specific benefit. This phenomenon reflects the practice of abuse of process in the judicial system, which ultimately weakens public trust in legal institutions (Sumardjono, 2021).

Furthermore, the practice of baseless claims often involves organized networks, which, in public discourse, are known as land mafias. This network operates by exploiting administrative weaknesses, the lack of land data integration, and weak institutional oversight. From a legal perspective, such actions can be considered unlawful acts in both the civil and criminal realms. However, law enforcement against this practice is often ineffective due to the complexity of the proof and the involvement of various parties with access to the land administration system (Sutedi, 2020).

Thus, it can be understood that the practice of baseless land claims is not just a matter of disputed individuals but reflects distortions in the application of the law itself. When legal instruments intended to provide certainty can be manipulated, what happens is an erosion of the principles of justice and legal protection. In this context, it is necessary not only to enforce

the law firmly but also to improve systemic practices so that similar practices do not continue to recur in the dynamics of land in Indonesia.

Systemic Failures in Land Law

The phenomenon of baseless land claims cannot be separated from a more fundamental problem, namely, the systemic failure in the governance of land law in Indonesia. This failure is not only reflected in weak law enforcement but also in the system's overall dysfunction in ensuring certainty and protecting land rights. In many cases, the law cannot prevent illegal claims, and in certain situations, it is also used to legitimize such actions. This shows a gap between the law's normative design and its practice of implementation in the field (Santoso, 2020).

If analyzed through the lens of the legal system, the failure can be seen as stemming from weaknesses in the institutional structure. Institutions with authority over land management often face problems of integrity, coordination, and suboptimal supervision. The absence of an effective control system opens opportunities for abuse of authority, both in the issuance of documents and in the resolution of disputes. In this context, the weak legal structure is a key factor enabling the development of the land mafia (Lawrence M. Friedman, 1975).

In addition, weaknesses are evident in the legal substance, which has not fully anticipated the dynamics of practice in the field. Although regulations in the land sector have been quite comprehensive, there are still normative gaps that can be exploited, especially regarding data validity, proof mechanisms, and administrative procedures that have not been integrated nationally. The land registration system, which still has weaknesses in data verification, leaves the possibility of overlapping ownership open. This condition shows that the law has not been fully designed to deal with the complexity of contemporary land issues (Harsono, 2019).

On the other hand, aspects of legal culture also play a significant role in strengthening these systemic failures. The low public legal awareness, coupled with tolerance of illegal practices, creates an environment conducive to the development of baseless claims. In some situations, the practice of collusion and money laundering is part of the dynamics considered "normal", thereby weakening the power of law as a norm to be obeyed. Such a legal culture ultimately not only makes law enforcement more difficult, but also increases the chances of repeated violations (Sumardjono, 2021).

Furthermore, this systemic failure is also influenced by the lack of optimal integration of technology in land data management. Uneven digitization and the lack of inter-agency databases make land status information non-transparent and vulnerable to manipulation. In fact, in modern systems, data transparency and accuracy are the main prerequisites for preventing ownership conflicts. When data cannot be accessed or verified openly, the space for illegal claims becomes wider (Sutedi, 2020).

Thus, systemic failures in land law are the result of the interaction of various interrelated factors, ranging from structural weaknesses and substance to legal culture. This problem cannot be solved with a partial approach alone, but requires a comprehensive overhaul of the existing system. Without comprehensive reform, baseless land claims will continue and further erode public trust in the law as an instrument for the protection of rights.

Legal Protection of Legal Landowners

Legal protection of legitimate landowners is the state's primary mandate in ensuring certainty and justice in the agrarian sector. In a positive legal framework, protection is realized through two main approaches: preventive and repressive. Preventive protection aims to prevent disputes through an orderly administrative system, while repressive protection functions to resolve disputes that have occurred through judicial mechanisms. However, in practice, these two forms of protection have not worked optimally, leaving legitimate landowners in a vulnerable position when faced with baseless claims (Hadjon, 1987).

Preventively, the land registration system is expected to be the main instrument in providing legal certainty over ownership. Land certificates have strong evidentiary value and should protect rights holders from other parties' claims. However, weak data validation and the possibility of dual certificates emerging indicate that this system is not yet fully reliable. Imperfections in the administrative process and the lack of integration of land data reduce the effectiveness of preventive protection (Harsono, 2019).

On the other hand, repressive protection through judicial mechanisms also faces various challenges. The evidentiary process in land disputes is often complex and time-consuming, while the burden of proof tends to be placed on the party defending its rights. In this situation, the legal landowner has to struggle to prove his ownership, despite having strong administrative documents. This condition reflects an imbalance in the legal protection mechanism, which could harm the party intended to be protected (Santoso, 2020).

Furthermore, the effectiveness of legal protection is also influenced by the state's ability to provide adequate access to justice. The relatively high cost of cases, protracted processes, and the complexity of legal procedures are obstacles for the community, especially vulnerable groups. From this perspective, legal protection is not measured only by the availability of formal mechanisms, but also by the extent to which they can be accessed and used fairly by society. When access to justice is limited, legal protection becomes pseudo-(Sumardjono, 2021).

Therefore, it is necessary to reform the legal protection system, which is not only reactive but also proactive and adaptive to the times. Strengthening the land digitization system, increasing data transparency, and simplifying dispute-resolution procedures are important steps to take. In addition, the role of state institutions in providing protection guarantees must be strengthened through strict supervision and consistent law enforcement. Thus, legal protection for legitimate landowners is not only a normative concept but also an effective mechanism for safeguarding community rights (Sutedi, 2020).

State of the Art	Research Gap	Novelty (Contribution of This Study)
<p>Previous studies in agrarian law emphasize the importance of legal certainty and land registration systems as the primary mechanisms for protecting ownership rights (Harsono, 2019).</p> <p>Research on land disputes often conceptualizes conflicts as civil disputes between individuals, resolved through administrative or judicial mechanisms.</p> <p>Studies on land mafia practices identify document manipulation and procedural abuse as common modus operandi.</p> <p>Legal protection theory distinguishes preventive and repressive mechanisms to safeguard citizens' rights (Hadjon, 1987).</p>	<p>Most prior research focuses on normative legal certainty without sufficiently examining how systemic governance failures enable persistent baseless land claims.</p> <p>There is limited analysis of baseless land claims as a systemic governance problem, rather than isolated legal conflicts.</p> <p>Existing literature rarely provides a comprehensive legal protection model combining preventive and repressive mechanisms in an integrated system.</p> <p>Empirical evaluation of the effectiveness of these mechanisms in protecting legitimate landowners remains limited.</p>	<p>This study introduces a systemic failure framework that integrates legal structure, substance, and legal culture as interrelated factors driving land tenure insecurity.</p> <p>The study reframes baseless land claims as an indicator of institutional failure, highlighting structural weaknesses and governance dysfunctions in land administration.</p> <p>The study proposes an integrated legal protection model emphasizing digitization, transparency, and strengthened supervision of land governance systems.</p> <p>The research demonstrates that current protection mechanisms are formalistic and ineffective, requiring systemic reform to ensure substantive justice.</p>

State of the Art	Research Gap	Novelty (Contribution of This Study)
<p>Governance studies recognize transparency and accountability as key elements of land administration.</p>	<p>Few studies analyze the role of data integration and digital governance as central solutions to land tenure disputes.</p>	<p>This study highlights digitization and data integration as strategic institutional reforms to prevent baseless land claims and improve legal certainty.</p>

This study contributes to the literature by introducing a systemic perspective that links structural, substantive, and cultural dimensions of the legal system to the persistence of baseless land claims. It proposes an integrated legal protection model that emphasizes digitization, transparency, and strengthened institutional supervision as key strategies to enhance legal certainty and protect legitimate landowners. By framing baseless land claims as indicators of systemic failure rather than isolated disputes, the study provides a new conceptual foundation for reforming land governance in Indonesia.

CONCLUSIONS

Based on the results and discussions, it can be affirmed that the practice of baseless land claims is a form of serious deviation in the land law system that can no longer be viewed as an ordinary civil dispute. This phenomenon shows the use of formal legal instruments to legitimize claims lacking a legitimate basis, either through document manipulation, pseudo-physical possession, or the exploitation of loopholes in the judicial system. In this context, the law has shifted from a tool of protection to an instrument susceptible to abuse.

Furthermore, the practice does not stand alone but rather reflects systemic failures in land governance. These failures include weak institutional structures, insufficient legal substance to close gaps in deviations, and a legal culture that has not supported upholding integrity and compliance. These three aspects are intertwined and create conditions that allow land mafia practices to develop repeatedly and in a structured manner.

On the other hand, legal protection for legitimate landowners is still ineffective. Preventive mechanisms through the land registration system have not fully guaranteed legal certainty, while repressive mechanisms through the judiciary still face obstacles to accessibility, efficiency, and substantive justice. As a result, legitimate rights owners are often

in a weak position when faced with baseless claims, so the legal goal of providing certainty and protection is not optimally achieved.

Recommendations

As a step toward improvement, a comprehensive reform of the land system is needed that focuses not only on regulatory reform but also on institutional strengthening and changing the legal culture. The government needs to encourage the integration and digitization of land data across the country to minimize potential manipulation and ensure the transparency of land ownership information. An integrated system will narrow the space for unfounded claims.

Furthermore, strengthening the supervisory and law enforcement functions is urgent. Officials involved in land management must be closely supervised with a clear accountability mechanism and be subject to strict sanctions for any abuse of authority. In this case, law enforcement should not only be directed at the perpetrators at the lower levels, but must also touch the actors involved in the wider network.

In addition, it is necessary to simplify and improve the mechanism for resolving land disputes to make it faster, more affordable, and fairer. The state must ensure that legitimate landowners are not unduly burdened in the evidentiary process and have adequate access to justice. This approach is important for restoring the law's function as a real instrument of protection for society.

Finally, the development of a legal culture with integrity is the long-term key in preventing the recurrence of the practice of baseless land claims. This effort can be carried out through legal education to the public, improving the professionalism of the apparatus, and enforcing ethics in every administrative and judicial process. With a comprehensive approach, it is hoped that Indonesia's land legal system can be transformed to be more responsive, fair, and capable of providing real legal certainty.

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