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Urgency of Legal Substance of Land Affair in Indonesia

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Abstract
Article 28H (4) of the Constitution of l945 (hereinafter abbreviated UUD 1945) stipulates that "each person has the right to own private property and such ownership shall not be appropriated arbitrarily by whomsoever". Referring and paying attention to the meaning and content of Article 28H, it can be understood that the right belongs to someone actually recognized and protected by law... The essence of the relationship between the land and human beings associated with two (2) major interests; firstly, the interests of human beings as a part of the elements of state; and secondly, the interests of the state as part of the benefit of human life.
Keywords: legal substance, Indonesia land.

1. Introduction

Article 28H (4) of the Constitution of l945 (hereinafter abbreviated UUD 1945) stipulates that "each person has the right to own private property and such ownership shall not be appropriated arbitrarily by whomsoever". Referring and paying attention to the meaning and content of Article 28H, it can be understood that the right belongs to someone actually recognized and protected by law. In the reform era, there are several changes that occur both within the government system in particular and improvement of the democratic system, especially on freedom of giving opinions within the law allowed. One of the problems in terms of ownerships is disputes and land conflicts over the status of the land and who is eligible or who own the land.

In this context, there is a simultaneous relationship to describe the relationship between owners and lands. It is intended that there is a close relationship both the owners and lands in order to manage land in a legal system society (traditional), called the common law system. In other words, it can be said that there is an interconnection relationship between the land, human beings and the authorities. The interconnection relationship amongst them is governed in such a way as if engaged in a very close interconnection them.

It means that it actually depicts the essence of the relationship between the land and human beings associated with two (2) major interests; firstly, the interests of human beings as a part of the elements of state; and secondly, the interests of the state as part of the benefit of human life. To bridge both interests as mentioned, therefore, it is formulated a legal system ranging from system of state constitution, laws with aimed to ensure social order, public order and social order in relation to land, as well as creating justice for the people of the right to land.

Article 33 (3) of the UUD 1945 states that "the land and the waters as well as the natural riches therein are to be controlled by the state to be exploited to the greatest benefit of the people". The formulation of the article indicates expressly the existence of the land as part of the state constitution. Therefore, since the enactment of the Law No. 5 of 1960 concerning the Basic Regulation of Agrarian (hereinafter abbreviated as BAL) on September 24, 1960, BAL replaced the colonial agrarian law and is the implementation of Article 33 (3) of the UUD 1945.

Basic thoughts of Article 33 (3) emphasize that the land and the waters as well as the natural riches are the gift of God Almighty to all Indonesian people. It is also the main points of the prosperity of the people controlled by the State and aimed to achieve prosperity of the people of Indonesia. Therefore, it can be said that all land issues must refer to Article 33 (3) UUD 1945 and BAL.[1]

Governmental efforts to provide some guarantee form of legal certainty to land for everyone is to do a registration of land rights. The statement of legal certainty substantially is clear as the formulation of Article 19 (1) of Law No. 5 of 1960 on BAL. The article stipulates that “In order to guarantee legal security die Government shall conduct land registration throughout the territory of the Republic of Indonesia according to provisions laid (sown by Government Regulation).” Therefore, for the implementation of land registration as stipulated in Article 19 (1), the Government issued the Government Decree No. 10 of 1961 on Land Registration. The existence of PP No. 10 of 1961 opened a new history in the agrarian law. This is due to for the first time Indonesia has an institution that specifically regulates the implementation of land registration.[2]

PP No. 10 of 1961 can be said to end the dualism of the rights over land and the equal treatment of efforts certification of land for Indonesian citizens. However 36 years after entry into force of the PP No. 10 of

[1] Muchsin and Toton Suprajoto, *Legal Certainty and Legal Protection of Justice and Truth Foundation*, Periodic Seminar of Agrarian Lecturer in Java, Faculty of Law – Trisakti University, Jakarta, 2002, p. 2.
[2] AP. Parlindungan, *Land Registration*, PT. Alumni, Bandung, 1990, p.1.

1961, the government's efforts in ensuring legal certainty on the land was not optimal. Thus, the government felt to complete and replace to the new regulation. Those efforts appeared when the government issued the Government Decree No. 24 of 1997 on Land Registration (PP No.24 / 1997), which replaced PP No. 10, 1961.

The existence of PP No.24 of 1997 to replace the position of PP 10 of 1961 became the basis for changing the status of the lands that have not ensured its legal certainty. It can be seen from the data collected from the KPA throughout the year 2013 related to Agrarian issues (for release dated 19 December 2003), the number of agrarian conflicts in 2012 were 198 cases and in 2013 were 369 cases. From 2004 until 2013, there were 987 cases. If compared to the year 2012, there was a trend of increasing the quantity of agrarian conflicts to reach 171 cases. It means that it increased 86.36%. In other words, the agrarian conflicts in 2013 were increased three times or 413% since 2009.

The wide-range of agrarian conflict in 2012 was 318,248.89 hectares and in 2013, it was 1.281.660.09 hectares. From 2004 to 2013, the agrarian conflicts covered 3,680,974.58 hectares. An increase of the area of conflict was 33.03% from 2012 to 2013. It means that it reached 861% from 2009. The number of agrarian conflicts in terms of plantation sectors was 180 cases to cover 527,939.27 hectares, whereas the cases of infrastructure were 105 cases to cover 35.466 hectares. Mining case itself was 38 cases to cover 197,365.90 hectares. Forestry cases were 31 cases to cover 545. 258 hectares. Coastal / marine cases were only 9 cases and others were 6 cases.

Plantation setor is the highest sector in terms of the quantity of cases. It is in line with the most extensive in agrarian conflicts. The number of families involved in agrarian conflicts in 2013 were 138.874 households. Meanwhile, the number of conflicts during 2004 to 2013 was 1.011.090 million households. If it was calculated since 2009, it means that an increase of 1,744% number of families involved in the agrarian conflicts. The number of victims killed during the conflict Agrarian were 21 people; 30 people were shot; and 130 people were prosecute; and detention by security forces was 239 people. The number of people died from the conflict Agrarian this year increased sharply by 525%. Last year, the number of dead was 3 farmers and compared to last years ago reached 21 people. From those statistics as explained, there are 55 million of lands are eligible to be registered, but only approximately 16.3 million already registered.[1]

Based on explaination as stipulated above, legal certaintyof is not only decided by the existed regulation, but also it is influenced by other factors outside the laws. Therefore, the government must take some efforts to improve the legal certainty and justice in the area of land issues. Those idea will be the focus on this paper.

2. Research Methods

2.1. Type of Research

This research is normative (legal) reserach or dogmatic law research or doctrinal research. The used method approaches in the issue of this research are Statuta Approach and Conceptual Approach. The Normative legal research is used by focusing on law interpretation and construction of law to obtain legal norms, legal concepts, legal documentation, and its legal application.

2.2. Research Sites

This research was conducted in Samarinda, Kutai Timur District, and Kutai Kartanegara District.

2.3 Type and Source of Data

Type and source of data that are used in this research consist of two types of data; *inter alia,* primary data and secondary data.

1. The primary data is data that is directly obtained from the field research which get from main resource or research object through interview.
2. The secondary data is data that is extracted from library research that sourced from text books, research reports, and other related written documents.

2.4 Data Collection Method

In accordance with types and sources of data, the methods that are used by the researcher, as follows:

1. Interview
   The interview is data collection method in debrieving form with respondence that directly involved with in the research sites. It uses also interview guidance as the instrument of the interview in order to focus on the issues.
2. Document Study

[1] Soni Harsono, *Speech of the Ministry of Agraria, the Head of National Land Councilin National Seminar on New Lad Registration*, Yogyakarta, 1997, p.11.

The document study is data collection method through library information or library materials.

2.5. Data Analysis

This research is using qualitative analysis data technique that describes data from statement, review, and response of each of subjects who will be interviewed. Afterwards, the data will be analyzed. Therefore, the phenomenons occurring and things behind which in the end will produce clear, focus, and thorough picture from the research object, can be concluded.

3. Legal Substance of Land Affairs in Indonesia

In order to control and own the land to achieve justice and the rule of law, one aspect is needed to be analyzed to show the urgency of governing in the presence of a rule of law to guarantee law as mentioned in the legal purpose.

In the field of land, the regulation of it concerning the tenure and ownership of land basically has been already set since along time ago. The concept of ownership and tenure over land in customary law has been attached to every community. The setting of ownership and tenure of land writingly has already existed and can be divided into (4) four periods, namely, the colonial period, the period of the Old Order, New Order period, and the period of reform era. Those periods have spawned a variety of rules of law on the rights of ownership to land in Indonesia. Therefore, all the provisions of the land sector is important to translate the objectives of law, particularly legal certainty on justice in society. The number of legal provisions regulates the land and has been issued by the government since the enactment of BAL 1960. Therefore, it is important to elaborate the legal substance of the land sector.

In positivism point of view, law is made to achieve the objective of the law. Establishing the law is to regulate a number of rights and obligations granted to any legal subject which the main goal is to achieve legal certainty and justice. Therefore, the law contains rules on the rights and obligations to be upheld by everyone without exception. This assumption is the basis of theory that everything in the absence of the rule of law and its enforcement in society will not be achieved, without the law exists. In latin words, it is commonly known as “ubi societes ibi ius”. This adage actually is the basis philoshopy to link between the legal objectives and determining the rights and obligations of land. It is also an indicator of the relationship between law and community in terms of regulation of land rights. Therefore, recognition of land rights needs legitimacy of the law and society. In other words, through the rule of law and the legitimacy of those land rights, they can be ensured to guarantee legal certainty based on justice.

Law as a tools for determining land rights is a manifestation of cumulative usage of the rule of law as a tools to achieve its goals. The law also legitimizes their rights to land on which to base that someone's rights would not be sued. The involvement of law as a tool for determining the rights and obligations can be reached through legal instruments in terms of the objective of the law and creating public order in the land sector. It is also to avoid land disputes as well as optimizing the legal protection for the community. The involvement of legal instruments intended to realize a function of the law as a public order, in particular legal certainty and justice in registration of rights to land. In this regard, the objective of the guarantee of legal certainty in land registration needs to be regulated in order to meet the existence of the rights and obligations of each person. In this position, those land’s laws are needed in order to avoid overlapping on land rights regulation. Until now, there are several laws in the area of land that has been issued by the government and became the legal basis for registration of rights to land. Those laws can be seen in table 1.

Table 1
Some Spesific Indonesia Laws on Land’s Rights

No.	Laws	Qualification of Ownership	Provisions
1.	The Law No. 5 of 1960.	Person/corporate	BAL
2.	The Law No. 4 of 1996.	Person/ corporate	Rights of insurer over the land and its objects related to the land.
3.	The Law No. 51 Prp. of1960.	Person/ corporate	Prohibition of using land without permission to the owner or its representative.
4.	The Law No. 20 of 1961.	Person/ corporate	Taking out the rights of the land and its existed property over.
5.	PP No. 40 of 1996.	Person/ corporate	Rights of exploitation, Rights of building, and Rights of Use – of land.
6.	Kepres No. 55 of 1993	Person/ corporate	Providing land for development purpose of public interest.
7.	Kepres.R.I No. 65 of 2006.	Person/ corporate	Providing land for development purpose.

Those laws asmentioned in table 1 are regulation of the land sector and its qualification of legal subjects

either individuals or corporate can already be stated properly. This is because those laws have been set up in detail concerning the rights of ownership of the land and assumed to be provided in order to give legal certainty and justice. In addition, there are some products of legislation relating to the area of land that is set on the land object according to its designation. For the purpose, it can be seen in table 2.

Table 2 National Laws related to Land Use in Indonesia

No.	National Laws	Qualification of the Ownership of the Land Rights	Provisions
1.	The Law No. 5 of 1967	State ownership	Forestry
2.	The law No. 11 of 1967	State ownership	Mining
3.	The law No. 3 of 1972	Person/corporate/ state ownership	Transmigration
4.	The law No. 11 of 1974	state ownership	Irrigation
5.	The law No. 4 of1982	state ownership state	Environment
6.	The law No. 20 of 1982	ownership	Defense and Security
7.	The law No. 9 of 1985	state ownership	Fishery
8.	The law No. 16 of 1985	Person/corporate	Flats
9.	The law No. 5 of 1990	state ownership	Conservation of Natural Resources and its EcosystemT
10.	The law No. 4 of 1992	state ownership	Housing and Settlements
11.	PP No. 16 of 2004	Person/corporate	Land Stewardship

Based on those laws as mentioned in table 2, the legal substances must be examined in accordance with BAL as "the umbrella of land law" in Indonesia. Nevertheless, all of the provisions either table 1 or table 2 as mentioned above have not been able to guarantee legal certainty and fairness in terms of land ownership. In the perspective of law and justice in terms of land ownership, the more you have those laws, the more you provide legal certainty and justice. However, the fact of it is contradiction. In the context of political point of land law, many legal products illustrate the government to protect strictly the ownership and stewardship of land in Indonesia. This is very important in which the land matters have been governed constitutionally and have influence to other aspects such as political, economic and socio-cultural.

Regulation on land rights according to the qualifications set out in those laws actually follow up of Constitution of Indonesia, particularly Article 33 (3). The detailed regulations on land reflect the attention and consequent of the government in realizing use system soil that is able to support the interests of the nation.

All the regulation in the form of laws still require a number of regulation in more detail according to its sphere of competence (the object), either in other forms, such as government decrees, ministerial decree, local regulation including the local goevernment in level of province and district/city. The need for those laws in the area of land intended to be adapted to local conditions. This is very important considering those laws will provide legal certainty to all stakeholders. Moreover, the objective of setting the land sector is also related to the certainty of land ownership and its uses and administration of the basis for determining the value of the tax object.

The ownership or control of land will facilitate to reach the objective the agrarian law particularly to reach land stewardship in order to achieve legal certainty in Indonesia. In addition, to several laws at the level of those laws as mentioned above, there are also products of land use planning laws in Indonesia which is a derivative of the legislation in question. It must not be separated from efforts to achieve the goal of legal certainty and justice as shown in table 3.

Table 3 National Laws outside the Laws on Land Registration in Indonesia

No.	National Laws	Enactment	Title of Provision
1.	PP No. 10 of 1961.	Alineated	Land Registration
2.	PP No. 24 of 1997	enacted	Land Registration
3.	PMNA/Kepala BPN No. 3 of1997	enacted	Implementation Guidelines of PP. No. 24 of 1997

All PP become legal instruments in the field of agraria, in particular the implementation of land registration as mentioned in Article 19 (1). The reason of the Government issued Government Decree No. 10 of 1961 on Land Registration was to open a new history in the agrarian law. For the first time, Indonesia has an institution that specifically regulates the implementation of land registration.[1] Thus, PP 10 in 1961 was also end the duality of the rights to land for Indonesian citizen.

However, 36 years after entry into force of PP No. 10 In 1961, the government's efforts in ensuring legal certainty on land matter is not optimal. Therefore, the government need to make effectively use of legal

[1] AP. Parlindungan, op.cit., p.1.

instruments either in reform land law or optimizing its implementation. Such efforts can be refined and replaced the new regulation (law reform) in accordance with the demands of society, especially the provision of legal certainty and justice to every owner of the land. Those efforts appear when the government issued Government Decree No. 24 of 1997 on Land Registration (PP No.24 / 1997) and replaced PP 10 of 1961.

The existence of PP 24/1997 which also changes the position of the PP 10 of 1961 became the basis for changing the lands that have not ensuring legal certainty. It is evidence that there are approximately 55 million of land rights are eligible to be registered, but only approximately 16.3 million of it has been registered by the BPN.[1] This shows that the problem of legal certainty over land rights does not solely rely on the laws and regulations of the government, but there are factors outside the regulations associated with the law that affect the operation of the law in ensuring the legal certainty of land rights in society.

Those of the government efforts as stipulated above, the government is already doing to share the effort in the form of regulation to improve legal certainty in order to promote justice in the land sector, in particular in the registration of rights to land. Practically, the government regulations have not completely guarantee legal certainty and justice in Indonesia. If using the logic of the law, there is 3 (three) implication of of the efforts, as follwings: first, the well-organized of land use and ownership orderly in Indonesia. Secondly, there is legal certainty and justice to land ownership in Indonesia either individually or corporate. Third, reduction in land disputes in Indonesia. However, the reality in the field of land shows that a lot of regulation does not guaranteed to resolve land issues in Indonesia. Indeed, it adds complexity, particularly with regard to ownership rights over land in Indonesia.

Not achieving of the legal objectives as mentioned in those laws is becoming a basicquestion to exersice the legal norms to govern the ownership and control of land. In the legal science especially land law politics, the fundamental problem of land is how the government as the holder of the management of the land is able to provide justice to the people. These objectives are fundamental in the light of the rights or control of land that is very in touch with the needs of government. In this context, the government should be able to provide the right answer for the purpose of law in the form of justice and legal certainty on a piece of land that can be achieved. Therefore, the responsibility of the Indonesian government to make land law is made to be capable of supporting the achievement of the objectives of law in general form of order, especially legal certainty and justice for the people.

Based on some of the descriptions of national laws relating to the area of land made by the government, there seems to be a gap amongst those laws that they failed toguarantee legal certainty and justice. In other words, the political government on land laws has not been able to create the rights of ownership and possession of the land to achieve the fundamental purpose of setting the land sector in the form of legal certainty and justice. In the context of the subject of land law to act as owner or manager of the land, then the management unit in question can be either the possession or control of an individual or legal entity (corporate). Both of them have a right to posses or own of the land. Thus, a new land can be recognized by law if the subject is owned or controlled by law. Through the legal subject, the ownership and control of land are granted rights that can be attached on it.

The subject of law as the manager of the land rights associated with the principle of ownership is indonesian citizen, no foreigners. This is in accordance with the principle of nationalization that embraced by the BAL, particularly Article 21 of BAL, which states that "only Indonesian nationals can own property." This principle is attached as well as the material properties of the soil (*zakelijk karakcter*). This principle does not allow for those who are not citizens of Indonesia's land rights. Legal consequences of the land rights shows that the characteristics of the land rights is guaranteed by the law to perform legal actions in the form of, transfer of rights to land (purchase, donation, and inheritance), the imposition of security rights and used as security for a debt, etc. Thus, the subject of law is supposed to understand and live with existing law. Therefore, for everyone is pivotal to know those agrarian laws. This situation can be seen in table 4, as follows:

Table 4
Respondents Knowledge on Legal Substance Concering Land's Matters (n=78)

No.	The Respondent's answers	Research's Location						Total	
		Kodia Samarinda		Kab. Kutai Timur		Kab. Kutai Kartanegara			
		F	%	F	%	F	%	F	(%)
1.	Know	21	26,92	14	17,94	16	20,51	51	65,38
2.	Doubt	0	0,00	2	2,56	4	5,12	6	7,69
3.	Do not know	5	6,41	10	12,82	6	7,69	21	26,92
	Total	26		26		26		78	100

Tabulation of the data in table 4 shows that the knowledge of legal subject on the regulation of land's field can be seen in the results of the figures (numbers) and the relative numbers (percentage) rates. The highest

[1] Soni Harsono, op.cit., p.1.

percentage for the questions related to respondents' knowledge of the land rules located in the city of Samarinda (26.29%) and the lowest in the East Kutai Regency (17.94%), while in Kutai Kertanegara regency reached 20.51%. The data shows that knowledge of the respondents on land registration is not only known by the people of the city, but also was known by the local community as well as outside the provincial capital. In other words, the problems of legal regulation of land after the enactment of BAL 1960 and some of its implementation such as PP No. 24 of 1997 can be declared equally known by the people of Indonesia.

The study's findings if it is associated with the principle of "everyone knows the law" that the principle can be applied in the field of land laws. In fact, in the East Kutai Regency, socialization and activities of land law is often carried out by the government (the interview with the BPN, dated March 10, 2015) both through courses and counseling to residents of the community. It can be seen from items related to the question of public knowledge about the land law in which 78 respondents can be concluded that the public's knowledge of the land law is quite high, reaching 65.38%. Therefore, the item in question can be stated that the general public in both research sites already have knowledge of the rules related to land law on all levels of society. The respondents' knowledge as stipulated can be presented vey high at above 50%. The percentage of it shows that almost all respondents in the study site in connection with the legal rules of governing land describe a good understanding of the law of the land.

The results of these studies as stated above can be understood that it applies principle of everyone knows the law. The principle can be understood that basically the legal subjects, especially the legal community outside the city (Kutai Kertanegara and East Kutai Regencies) assume all legal norms including the customary law must be known by the people. It can be seen because most of the land they controlled or managed do not have a certificate, as desired by the BAL. the Law for them is the law governing the rights to land based on customary rights. Proximity law for indigenous peoples is a greater emphasis on testimony (substantive legitimacy) rather than on the letters that are generally included normative and formal legitimacy.

Testimony by person shows that legal certainty to the community in research site is granted on the person rather than on the land of papers such as certificate. That is why the land disputes in rural communities are different with urban communities. In the urban communities with the development of the testimony in the land of papers creates controversy in terms of certainty and juctice. For people from the urban community, the legal certainty is based on certificate. Whereas in the case of recognition of the ownership of the land for indigenous people, the recogniton is very important due to the recognition of people to have the land is largely associated with their legitimacy directly from the parties. Although in reality, they does not have a certificate as proof of registration of rights as stipulated in Article 32 PP 24 of 1997 on Land Registration.

In a land registration system seems there is dualism recognition of ownership rights over the land, namely the recognition of ownership based on the recognition of the local community and the recognition by a certificate as proof of registration of land rights. Both recognition raises a dilemma, so that the problem of legal certainty and juctice is debated. The recognition of land rights based on the certificate is less get the full legitimacy of the public. This happens because in practice many certificates issued by BPN as the executor of Article 24 of 1977 On the Land Registration, sued by one of the parties that has gained the recognition of indigenous peoples. Debate on recognition (legitimacy) to land has an impact on legal certainty and juctice over land rights.

Principally, the issue of legitimacy in the law including the law of the land should be linked with the concept of the actual ownership without banging from one concept to another. The legitimacy system of land rights in Indonesia philosophically has always been associated with the key principles of ownership in society directly. People who have a traditional community structures, then the system of legitimacy is based on the customary law. It is impossible for the adat community to adopt other system that is inconsistent with the values of their customary law (living law). This is consistent to philosophical theory of Robert Siedman about the concept of "non tranferability of law". The law can not be transferred into a community. The theoretical assumption can be applied in terms of the recognition of land ownership that embraces the dualism of law, particularly in land registration practice to provide for recognition of ownership and management in Indonesia. The knowledge of respondents to the legal substance can also be seen on a number of respondents know the legal certainty under Article 19 (1) BAL. the results of respondents are shown in Table 5.

Tabel 5.

The respondents's Response to Legal Substance to Guarantee Legal Certainty dan Justice **(n=78)**

No.	Category of the respondents's response	The Research Site						Total	
		Samarinda		Kutai Timur		Kutai Kartanegara			
		F	%	F	%	F	%	F	(%)
1.	Know	2	2,56	6	7,69	2	2,56	10	12,82
2.	Doubt	18	23,07	5	6,41	13	16,66	36	46,15
3.	Do not know	6	7,69	15	19,23	11	14,10	32	41,02
	Total	26		26		26		78	100

Based on table 5, the highest percentage found in the East Kutai Regency is 7.69% out 78 people (6

person) and the lowest percentage reached at 2.56% Samarinda and Kutai regency. The respondents response reflects the poor quality of law enforcement in the land sector. This means that all the provisions of the legislation governing the land do not guarantee legal certainty and justice. This is evidenced by the high percentage of undecided (doubt) to rise 46.15%, while only 12.82% is stated "guarantee". These results indicate that the guarantee of legal certainty as stipulated in Article 19 (1) BAL received unfavorable responses within the framework of law enforcement in land sector.

Weak public response to the legal certainty as stipulated in Article 19 paragraph (1) BAL is the reality of legal knowledge and will have an impact on the degree of adherence to each person to land law in the location of the study. If the findings of the study was associated with adherence behavior of society, the legal certainty is far away from the rule of law that is internalisation as defined by Kelma. Therefore, how can the public will comply with the law in internaslisation if legal certainty has not obtained the certificate holder or assignee other uses of the land. An impossibility of enforcement of land if all products of the land law (certificates of mastery of the land) has not complied with the public.

It can be concluded that the obey of the community based on the findings of the study is merely compliance. They were forced to register their land in order to switch their land from wasteland to be land in terms of the domain of state. It seems that understanding and obedience of the people tend found in the study site and also included elsewhere in Indonesia. Kelman theoretical assumption appears to match the condition of obedience communities in research and in fact in Indonesia community. The lack of legal certainty can be found in particular certainty on the certification of land rights in Indonesia.

Land certification activities in Indonesia (Prona) by BPN have purpose to not only to pursue orderly land administration, but also to organize tax's objects to be further a source of state revenue. Nevertheless, the nature of certificate essentially contains the philosophy that ownership of the land to preserve the human relationship with the land. The land owners certifies mostly their lands as capital goods (philosophy of capital) which is then used as collateral for bank credit decision. This philosophyof Article 19 paragraph (1) BAL basically is merely compliance of the landowners. They were forced to register their lands to avoid their land categorization from wastelands to be transferred as land's state.

The shifting of land ownership philosophy today from guaranteeing relationship between man and the land became philosophy with economic motives, actually lead to a double certificate in the ownership and management of land in Indonesia. In this condition, the existence of the land law that expands legal certainty in relation to the land has failed, and this failure causes conflict land issues in society. The land has already made as capital goods and the economic value only. All those activities related to the lands have an impact on the loss of social functions from the land. Indeed, this situation is against to the article 6 of BAL which states that; "All of Land Rights has a social function". It can be said that there is a fundamental difference between the goals of the land law and the objective law of the land certificate in order to guarantee legal certainty and justice.

4. Conclusion

The urgency of the land sector regulation is essentially intended to provide legal certainty as ius constitutum. The urgency is then poured in the form of norms either in the form of laws and its implementation such as government decress, the minister decree, and/or the local gevoernment. In other words, the urgency of legal substance is firstly to put the use and owner of the land in Indonesia orderly. Secondly, the guarantee of legal certainty and justice for landowners either as individuals or corporate; and thirdly is to reduce the land disputes in Indonesia.

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