

# Land Management Policy in Indonesia Perspective of Eco-feminism

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**Abstract.** This article aims to analyze Indonesia's land management policies from the ecofeminism perspective. The method used in this article is qualitative research. This study shows that Land management in Indonesia during the Old and New Orders allowed the government to revoke land rights from communities if agreements were not reached, and the concept of public interest, which is legally ambiguous, was determined enumerative for practical reasons in Indonesian legislation. And in its development, land regulation has excluded women in social reality. Suppose the policies taken are analyzed through an eco-feminist perspective. In that case, it emphasizes the need for land management strategies that consider the environmental impact on women in communities and regards women and the environment as inextricably linked. Thus, this study concludes that land management should consider the ecological effects that can impact the lives of rural women who rely on the surrounding environment. It is essential to have a policy that involves women in the process of land management.

**Keywords:** Land Management, Public policy, ecofeminism, feminism

## 1 Introduction

Being a rural nation encompassing a vast area of 5,193,250 km<sup>2</sup>, Indonesia comprises a landmass of 1,919,440 km<sup>2</sup> and an expansive sea area of 3,273,810 km<sup>2</sup>. A regulatory framework is imperative to protect citizens' rights and prevent conflicts among regions within Indonesia. This framework serves to harness the country's resources for the betterment of its populace. The welfare of its citizens is a fundamental responsibility of the State, an entity vested with authority and power as stipulated by the Constitution. This authority is rooted in the preamble of the 1945 Constitution, which declares the duty to "protect the entire Indonesian nation, and all Indonesian bloodshed and to promote the general welfare, educate the life of the nation, and participate in carrying out world order based on independence, lasting peace and social justice..." Elaborating on this mandate, Article 33 paragraph (3) of the 1945 Constitution emphasizes utilizing resources within Indonesian territory, specifying that "The earth, water, and natural wealth contained under it are controlled by the state and used for the greatest prosperity of the people." This article underscores the state's role in managing Indonesia's abundant resources and optimizing their utilization for the overall welfare of society.[1]

The welfare of the general public can be achieved in various ways, one of which is infrastructure development. As stated in the National Development Plan (RPJMN) for 2020-2025, the development of infrastructure or public facilities is a priority for the president-elect's spouse,

Joko Widodo, and Ma'ruf Amin. The direction of development of this facility is intended to help economic mobility so that there is no gap between regions in Indonesia to realize economic equality.

Economic equality can be realized if infrastructure development is realized. Of course, one of the items needed is an island as a place to build. Constitutionally, the government can acquire land from those who own land. The federal government can acquire land based on the right to control the state, as affirmed in Article 33 paragraph (3) of the 1945 Constitution.

Land acquisition, which involves the state taking over land from its citizens, is an integral part of its authority as outlined in Article 2 paragraph (2) of Law Number 5 of 1960 on Agrarian Principles (UUPA). This authority encompasses several key aspects:

- a) Regulating and overseeing the identification, utilization, provision, and maintenance of Indonesia's land, water, and space.
- b) Establishing and governing the legal relationships between individuals and land, water, and space.
- c) Defining and managing the legal relationships between individuals and legal actions involving land, water, and space.

This authority vested in the state is the government's responsibility, which is obligated to ensure its implementation and accountability. In an ideal scenario, state involvement in land management and ownership should adhere to principles of fairness and respect for individual rights. This approach is crucial to prevent conflicts between the state and society while fostering the development of a prosperous community. [2]

Land management must reflect fairness, like development and the environmental impacts of land use. Land conversion is often a problem in acquiring land for development and infestation, which is ironic because it also impacts the surrounding environment. Of course, these problems get the attention of all circles, including women. Many in the country's history depict the proliferation of women who defend and protest against government policies that use land for the benefit of investment that impacts the environment. [3]. This action shows that in protecting their rights, there is no difference (gender) to balance the development and protection of the environment. This movement of women's attention to the domain has been made into a school they call eco-feminism.

The forerunner of the term ecofeminism began with environmental destruction and natural disasters. Three Mile Island held a conference in the United States for women to be involved in the first ecofeminism conference, Women and Life on Earth. This conference was held in March 1980 in Amherst. The conference discussed the relationship between feminism, militarisation, recovery, and ecology. Ecofeminism was first put forward by Françoise d'Eaubonne in her book *Feminism ou la Mort* (feminism or death) in 1974. [4]

The definition of ecofeminism about the environment and nature attracts researchers to see the policies carried out by the Indonesian government related to land cultivation in the process of state development, both infrastructure and economy (investment). From the problems above, according to the Researcher, several issues are interesting to be examined further: What is the form of land management by the Indonesian government from time to time? And how are land management Perspectives on ecofeminism?

## **2 Method**

This research is qualitative; there is a relationship between descriptive data with specific characteristics.[5] According to Robert C. Borg, [6]qualitative research methods are " a withdrawal procedure that produces descriptive data in the form of words from people or observable behavior." Benyamin Crabtree and Wiliam L Muller said, "The most special content of qualitative data is in the form of words -words, behavior, actions, are practical data that can be presented." [7] By using a statutory approach and conceptual approach.

In this study, data analysis was carried out using descriptive qualitative research. This analysis begins with coding activities used to conceptualize and revisit that in a new way. It is a controlled way in which theory is built from data. Conceptualization or creating a concept or idea based on this data is very special from the coding process in developing a grounded theory. [8]

This analysis begins with open coding activities followed by axial and selective coding. The Open Coding stage includes the following actions: (1) making transcripts of interviews/verbatim results, (2) condensing content and finding themes/keywords, and (3) making classifications/categories based on specific characteristics. The Axial Coding stage includes the following activities: (1) Associating between the categories and aspects found, (2) Searching for the meaning of these findings. The selective coding stage includes activities to make conclusions/abstractions on research findings.

Theories are needed to study a legal issue in more depth as a series of assumptions, concepts, definitions, and propositions to systematically explain a social phenomenon by formulating relationships between concepts. [9] In this study, the theories used are the working theory of law and the theory of ecofeminism.

## **3 Result and Discussion**

### **3.1. Management of Land by the Government from Time to Time**

In the New Order, land management was technically explained in Presidential Decree No. 55 of 1993 concerning Land Acquisition for Implementation of Development in the Public Interest, issued by President Soeharto. Presidential Decree Number 55 of 1993 is a regulation that emerged concerning Law Number 20 of 1961 concerning the Revocation of Rights to Land and Objects on it. [10]

Revocation of land rights by the government on the grounds of public interest, where this cancellation method is the reason for the "mandate" in Article 18 of the UUPA. To revoke land rights for the community, the state may not take individual land rights for granted, even if the reason is for building public facilities. However, the state must follow the ways and procedures that have been regulated, namely by deliberation. If the reviews between the state and the individual do not reach an agreement, the state will revoke the right to the land, and the holder whose land has been revoked will be compensated. [2]

The revocation of citizens' land rights in the Old Order under the pretext of public interest caused many conflicts. As a result, many argued that the cancellation was the state's arbitrariness

towards the people (domain marketing) during the New Order. Procurement and management rights are then regulated in the Basic Agrarian Law and further explained in Presidential Regulation 65 of 2006 concerning land acquisition for implementing Development for the Public Interest (from now on written Presidential Decree No. 35 of 2006).

Under the pretext of the hope of significantly renewing land rights, issuing Presidential Regulation Number 35 of 2006 created pros and cons in the community. Many think that presidential regulation is not much different from the regulations made in the old-order era. This assumption was based on the regulation on the continuation of public policy during the New Order era, which was contained in the letter of the Minister of Home Affairs on December 3, 1975, Number 12/108/12/1975, concerning Guidelines for Implementation of Land Acquisition and Minister of Home Affairs Regulation No. 2/1976 concerning the Use of Exemption Methods of Land Acquisition Methods for the Private, as well as several other regulations that reinforce the two regulations.

Changes in regulations regarding land management between the state and society from the New Order to the New Order can be concluded that there has not been an improvement in public policy regarding land for the people. The opposite is true amid this realization that there has been an increasingly systematic process of removing people from their land. [10]

The public policy regarding land acquisition and management by the state as stipulated in Presidential Decree 55 of 1993, which was issued during the Old Order and then Presidential Decree 35 of 2006, is a unified regulation that leads to the UUPA, where the aim of revoking land rights and other land acquisition using public interest purposes.

Land management regulated in the Old Order and New Order eras was coercive, where when an agreement was not reached at the deliberations, the government had the right to revoke rights to land owned by the community. Repeal is one of the steps the state takes to acquire land for development purposes in the public interest. Public interest is a legal concept whose criteria can only be determined, and its meaning cannot be formulated. Public interest is a vague legal concept, and only for practical reasons is the idea of public interest defined as enumerative, which is adhered to by positive law in Indonesia. [11]

The state's efforts to regulate the public interest, according to Michael G Kitay, stated that in the public interest doctrine (shared purpose) in various countries, it is expressed in 2 (two) ways, namely the List Provisions Method and the General Guide Method. In the General Guideline method, it is only stated that land acquisition is needed for public purposes.

The state does not explicitly include in its laws and regulations the fields of activity referred to as public interest. Furthermore, countries that use the list provisions method identify the public interest in a list. For example, the construction of schools, roads, government buildings, etc. Apart from these two interests, those not specified in the list cannot be used as the basis for land acquisition. However, the state usually combines the two methods to manage and acquire land. [11]

An explanation of the public interest was also put forward by Bruggink and Grijssel, stating that the public interest is a vague notion (vague begrip) so that the contents of the meaning cannot

be institutionalized into a legal norm. If enforced, it will become a fuzzy norm (vague norm). [12]

According to Bruggink and Grijssel, the public interest is a sign that the regulations made by the New Order government were regulations whose interests were not apparent, so they could lead to multiple interpretations conceptually and lead to conflicts when interpreted operationally.

For the nature of the public interest to look concrete to become a genuine public interest, it requires further confirmation, namely that the project that involves the revocation of rights and which contains the nature of the public interest has been included in the Development Plan and has also been announced to the community where the project will be built.

The Public Interest According to G.W Patton, the public interest has two kinds, namely "Social Interest" and "Private Interest," with the following explanation:[13]

- a) Social Interest
- b) Social Interest.
- c) The practical working of the legal order.
- d) National security.
- e) The economic prosperity of security.
- f) The protection of religious, moral, humanism and intellectual values.
- g) Health and racial integrity.
- h) Privat Interest
- i) Personal Interest.
- j) Family Interest.
- k) Economic Interest.
- l) Political Interest.

The terminology of public interest shown by the state during the Old Order and New Order eras has not led to its true concrete nature; this can be seen from the revocation or acquisition of land resulting in conflict. An example of the bias in the meaning of the public interest, which is not understood by the public, is the state's large amount of land management used for permitting corporations or building industries.

One example of public interests referred to by the state that cause conflict in the community is the management of customary forests in Papua. Where the government issues new permits for plantations and mining. For plantations, the Minister of Environment and Forestry (LHK) gave passes to release forest areas to three oil palm plantation companies and the food industry, namely PT. Build Mappi Mandiri in Mappi Regency in July 2017, covering an area of 18,006 hectares, PT. Agriprima Cipta Persada in Merauke Regency in July 2017, totaling 6,200 hectares, and PT Menara Wasior in Teluk Wondama Regency in September 2017, with an area of 28,880 hectares. So, the total number of new permits for oil palm plantations in 2017 for the three companies was 53,806 hectares. [14]

Examples of land management under the pretext of public interest in Papua are just a few of the many land cases in Indonesia. So far, the Indonesian government has used 2 (two) ways to acquire land for development, namely:

First, the revocation of land rights or in *Oentegening* terms, has a real meaning, namely the revocation of eigendom (property rights) only. This definition is also used in Article 27 of the 1950 Provisional Constitution. The term revocation in Law Number 5 of 1960, included in Article 18, has a different meaning. This term is interpreted broadly in the sense of revocation of legend rights and other things.

The essence of revoking land rights lies in the declaration: "Land rights can be revoked in the public interest, which encompasses national, state, and public interests, with proper compensation and by legal regulations." Furthermore, this notion is reinforced in various provisions within UTIPA (Undang-Undang Tata Ruang or Spatial Planning Law). Specifically highlighted are the annulment of property rights, rights to business use, and rights to building use due to their revocation for public interest purposes (as stipulated in Article 27, subsection a, Part II; Article 34, subsection d; and Article 40, subsection d).

Another understanding explains that the revocation of land rights contains two primary meanings. Namely, the government needs the land for public purposes, and the government has a limited budget to pay, so there appears to be an element of coercion in the transaction. [15] From this explanation, it can be seen that the government has substantial authority to revoke land rights if needed for the public interest, including by force.

As per the stipulations in Law Number 20 of 1961 regarding the Revocation of Rights to Land and Objects on it, Article 1 dictates that land rights can be revoked in the public interest, encompassing the interests of the nation, the State, and the collective welfare of the people, as well as development interests. In certain compelling situations, after consultation with the Minister of Agrarian Affairs, the Minister of Justice, and the relevant Minister, the President holds the authority to revoke land rights and the associated objects. [16] By law, revocation of land rights may be carried out under the following conditions:

1. Land use must be in the public interest, which means the public interest as stated in the formulation of public interest.
2. A deliberation process has been held at the level of land acquisition/land acquisition with the provision of compensation, and this deliberation must have reached the frequency limit and maximum time limit.
3. Deliberations do not agree, with evidence stating no agreement, such as minutes.
4. Forced circumstances, meaning that the location for the development of public interest must be realized immediately, and the location cannot be moved to another place.

Revocation of land rights is not an insult to the land because the person concerned is still given proper compensation as regulated by law and its implementing regulations. as the revocation of the right itself cannot be contested before the court or its implementation is hindered. To consider and decide on this matter is solely the president's authority.

Subsequently, the concept of land acquisition, which *Prijsgeving* refers to as the process of releasing the original legal relationships associated with land rights holders or authorities, was altered to "land procurement." [13] The term land acquisition was then changed to "land

acquisition" at the time of its entry into force, with Presidential Decree No. 65 of 2006 issuance concerning Land Acquisition for Implementation of Development for Public Interests.

This shift in terminology, from land acquisition to land procurement, was subsequently codified in Law Number 2 of 2012 concerning Land Procurement for Development in the Public Interest. This law is the foundation for land acquisition activities for public interest development. According to this law, land procurement involves providing land while ensuring proper and equitable compensation for the rightful parties.

In Article 1 (9) of Law No. 2 of 2012, "Relinquishment of Rights" refers to terminating legal relations between the entitled party and the state, facilitated through the Land Agency. To guide the implementation of Law No. 2 of 2012, Presidential Decree No. 36 of 2005 outlines that land procurement for public interest development, whether conducted by the Government or Regional Government, can occur through: a) Relinquishment or Transfer of Land Rights or b) Revocation of Land Rights.

Additionally, the decree's second paragraph specifies that land procurement for purposes other than public interest development can be carried out through purchasing, bartering, or any other mutually agreed upon voluntary means by the concerned parties.

Land management is still a polemic in this country, where many land disputes always exist between individuals and individuals, individuals and corporations, as well as individuals and the state. One of the common problems is that there are games initiated by people called the "land mafia," who are always looking for profits.

According to Agrarian Minister Sofyan Djalil, one of the land mafias in this country comes from employees of the National Land Agency itself. [18] Many cases involve BPN members or employees in the acquisition of Khusunya land in the making of SHM. This act gives rise to excessive land tenure or a land monopoly by a corporation or specific people.

The problem of the land mafia is one of the causes of the pain of unbalanced land inequality between one group and another or one group within the community. This also resulted in the price of buying and selling land continuing to soar. The land is currently a growing commodity, so some people or groups are using it as land for profit.

Nationally, this problem also interferes with national development, economic growth and employment; with these emerging problems, the government intends to resolve the agrarian conflict by adequately managing the existing land in Indonesia by the mandate of Article 33 of the Constitution and the provisions of the Law, namely utilization in the public interest.

The dynamics of land management that continue to change in the old order and the new order are phenomena that have not been resolved until now; this makes the level of public confidence in how the state manages land very lacking. This is also influenced by the realization of legislation that has occurred. Jokowi and KH administrations. Ma'ruf Amin currently intends to realize good land governance for agrarian reform.

The management referred to by the government is to build an institution that manages land fairly and prosperously. The realization of the institution is the creation of a Land Bank, which is then

the forerunner of Law Number 11 of 2021 concerning Job Creation contained in Articles 125 to 135.

The establishment by the state intends to realize the agrarian reform that became the ideal of the president and vice president-elect. The Land Bank is an Agency specially established by the Central Government to carry out planning, acquisition, procurement, management, utilization, and distribution activities. The duties and functions of the land bank are as follows:

- a) Planning
- b) The plans included in the land bank are the long-term plan (25 years), the medium-term plan (5 years), and the annual plan
- c) Land Acquisition
- d) The acquisition of land referred to in the land bank is land designated by the government and land from other parties
- e) Land Acquisition
- f) Land acquisition, referred to in the land bank, is the management of land for the public/direct interest
- g) Land management
- h) The land management referred to in the land bank is related to land development, maintenance and control of the land
- i) Land Utilization
- j) The utilization of land covered in the land bank is a form of utilization cooperation with other parties
- k) Soil dusters
- l) The land distribution covered in the land bank is the provision and division of land to other parties.

According to the government, the birth of a land bank is a solution to solve agricultural problems in Indonesia. However, this is a concern for the lower class as well as rural observers where the lower society means that the existence of a land bank will give birth to state authority over land (*domain Verklering*), which means that the presence of a land bank reawakens the past of the old order government.

Agrarian management through land banks is a topic of discussion in all circles; this is because there is no clarity on the technicalities of procurement and management of land by the state through presidential regulations or ministerial regulations, which make it clear that the management is a manifestation of the welfare of the community or the public interest, by the mandate of the 1945 Constitution.

### **3.3 Soil Management Perspectives on Ecofeminism**

As stated in the 1945 Constitution, everything on earth is covered and used for the welfare and welfare of the community. In ecofeminism, nature and women are one unit; a comprehensive linkage identifies where women have a particular task under challenging times. Where women witness the destruction of the world and its contents by capitalists and the threat of nuclear annihilation by the military, as a concern for feminists, that is a commonality to a masculine mentality that denies the right to women and that relies on a dual system of domination and state power to make it happen. Wherever women act against ecological or nuclear destruction, they



recognize the relationship between the threat of patriarchal violence against women, people and nature and patriarchy for the sake of future generations. [4]

When masculinity dominates nature, nature is destroyed, and women are oppressed. Therefore, efforts to address gender issues and environmental protection must be pursued by integrating women's roles as mothers and caregivers in the family and environment by applying the principle of femininity-friendly. Ecofeminism is a movement that views the relationship between exploitation and damage to nature as the position for the oppression of women. [9]

Generally, masculine thinking is identified with rational, competitive, aggressive, and dominative tendencies. An ecofeminism thinker, Shiva argues as a feminine principle that is more intuitive, prefers to coordinate and cooperate and is more inclined to nurture and care. This modern science gave birth to "dualism" and "reductionism". The principle of dualism lies diametrically between object-subject, the universe, and man, sensory and male-female feelings. Modern science entrusts dualism by requiring separation between the research subject (man) and the object under study (the universe). From this, a distance is created between man and nature. The universe is treated as an object that can be treated arbitrarily. [4]

Basic principles First, economic activity intends to generate a wealth of goods and money and regenerate life. Second, it is based on growing participation. Third, it calls for a new paradigm of science, technology, and knowledge to be developed by incorporating participatory community action. Fourth, the rejection of privatization of public goods such as water, air, land and natural resources. Therefore, the prospect of livelihood requires man to be jointly responsible for maintaining life on the planet. At this point, transformative ecofeminism offers new perspectives, foundations, and agendas. More than just views look at man and woman, body and soul, man and nature as opposites that negate each other. Transformative ecofeminism offers a holistic and pluralistic view that empowers men and women to build equal relationships, prevent violence, go to war, and protect the environment in which they live.

From the perspective of ecofeminism, the land management policy carried out by the government in terms of development and investment in action is called maldevelopment, which means that it is not a process of evolution from a lower stage to a higher stage but a polarisation process where a few people will get richer because it makes a group of the majority poorer As for the form that capitalists do in development, namely logging. Massively in India conducted by large corporations. The women in India made a tree-hugging movement called the Chipko movement to protect the forest. The movement comprises women's "grassroots" organizations concerned with women's relationship with nature. This movement views the importance of women who have been victims for business purposes.

This has also happened in India, where the Chipko movement emerged, which was the first woman in India or any other developing country to be the first victim in the felling of trees. These trees become their source of life, such as food, fuel, household appliances, and so on; these women live in the village, whose husbands go to the city looking for work. As a result, women in the village use trees for their lives. If the trees are cut down, the consequences will make it difficult for the women to live. Secondly, in decision-making, women are rarely involved. So that women become excluded from every decision-making in the village. Because one of the activities carried out by women in the town is an effort to provide clean water.

## 4 Conclusion

According to the school of ecofeminism, Land Management needs to develop environmental impacts that will also affect women's lives in villages that depend on the nature around them. There needs to be a policy that includes women in the process of land management because, in the thinking of ecofeminism, women and nature are an inseparable whole because of their softness and femininity.

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