INTERMEDIATE LAND RIGHTS TRANSFER SYSTEM INDONESIA AND BRUNEI DARUSALAM

Jhon Tyson Pelawi[1], Ismansyah[2], Muhammad Yamin[3], Marlina[4]
Universitas Sumatera Utara, Indonesia[134], Universitas Andalas, Indonesia[2]
jhon.tyson@students.usu.ac.id, ismansyahopi@gmail.com, yaminlubis16@gmail.com,
marlina@usu.ac.id

ABSTRACT

The certificate of land itself is a strong proof of ownership. This is regulated in Article 19 paragraph (2) letter c of the UUPA which states that land registration ends with the granting of letters of proof of rights, which apply as a strong evidentiary tool. There are differences in the legal system of the transfer of land rights between Indonesia and Brunei Darussalam in terms of utilizing the function and management of land as a basis for the welfare of the people. This study aims to analyze and form the concept of criminal law on land. Through normative legal research or literature law research using a juridical approach using the theory of legal objectives in analyzing problems. The results of the study that the Indonesian legal system has undergone a number of major changes to build an integrated national legal system, which is based on Pancasila and the 1945 Constitution and the legal system in Brunei Darussalam based on the British huku system with a combination of the Shari'a system for Muslims. That the transfer of land rights in the legal system in Indonesia which is regulated in Article 26 of UUPA Number 5 of 1960 and Brunei Darussalam grants property rights status to foreign nationals based on Brunei Darussalam Land Code Cap. 40 and Land Cap. 41 of 1984.

Keywords: Comparison, System, Land Switching

INTRODUCTION

The land law system in Indonesia is regulated in the Basic Agrarian Law Number 5 of 1960. The purpose of establishing the UUPA as stated in Article 33 of the 1945 Constitution is to regulate, manage, and utilize the wealth of agrarian resources for the prosperity of the Indonesian people. Especially land as a source of agrarian wealth that can provide benefits in the development of a country through the development of the social and economic fields of a country. Especially land as a source of agrarian wealth that can provide benefits in the development of a country through the development of the social and economic fields of a country. Indonesia has many regulations governing the use and utilization of land. Sanctions for violations in the use and utilization of land are also regulated by every regulation, both at the regional regulation level to the law. Sanctions applied for abuse in land use and use have a classification of criminal, administrative, and civil sanctions.

The legal system in land ownership of citizens must meet the requirements specified in the legislation. Ownership of land rights to citizens can occur due to legal events, namely buying and selling, pawning, inbreng or capital entry into the company in the form of land, grants, etc. And land ownership can also occur due to legal relationships such as inheritance where the rules regarding land ownership have been regulated in the UUPA. Land ownership based on administrative law must be registered with an institution that has the right to determine and ratify the ownership of land rights for every citizen. However, the land law system in Indonesia uses a

negative legal system, meaning that citizens who have legal land rights based on government regulations are not absolute to have their ownership cancelled as long as the legal process and evidence of land can be maintained and the truth is recognized.

Land registration activities for the first time are intended for lands that have never been registered so that a certificate of land rights can be issued, while the maintenance activities of land registration data that have been registered or have been certified, in order to record any changes that occur in the physical data in the form of maps or juridical data of the land in the certificate so that the data of the rights holder can be presented precisely in accordance with the existing reality. Registration of land rights transfer is included in the maintenance of registration data because from every transfer of land rights that occurs due to buying and selling, exchanging, grants, entering company data and others and as evidenced by deeds made by PPAT or temporary PPAT, it must be recorded in the certificate of land rights. The certificate of land itself is a strong proof of ownership. This is regulated in Article 19 paragraph (2) letter c of the UUPA which states that the registration of land ends with the granting of letters of proof of rights, which apply as a strong evidentiary tool.

According to the land law system adopted by Indonesia, it is based on the customary law system that has long been used in the utilization and use of land by citizens. The entry of the Dutch into Indonesia greatly influenced the local legal system with an economic system that was brought to the homeland to seize Indonesia's natural wealth by exploiting the weaknesses of local laws so that the power that had been built with economic strength could influence and enforce laws that could support their goal of controlling natural resources that there is. the influence of local law or customary law in preserving natural resources poses a threat to the objective of the Dutch governments to control Indonesia. As explained In 1748 the book "L'Esprit De lois" by Montesquieu was published, in which was put forward the view that the law is a social symptom and that legal differences are caused by differences in nature, history, ethnicity, politics and other factors of the social order. Montesquieu's work did not immediately continue. The codification of law after the French Revolution caused a flurry of statutory scientists for the purposes of application in the practice of law formulated in the law was seen as complete, so that legal scientists felt no need to study foreign law. Until then, the science of law was the science of correctly interpreting authoritative texts (originally corpus iuris, and now the national codification of each country after the science of law lost its international nature).

Also in Britain, which at that time had already managed to combine various local customs into the generally accepted "Common Law" in Britain, there was no attention to foreign law. Because those who develop the law are not scientists (laws), but practitioners (craftsmen), especially judges. English law is not taught in universities, so his legal knowledge is obtained through internships. Meanwhile, there was an interest in law from outside the environment of jurists, namely "scholars" or scholars (theologians, philosophers) who viewed the law not from the point of view of legal professionals, but rather from the point of standing observers who observed from the uar, these people who at that time were called "jurists.". Their attention is primarily directed at the growth of law in history, the values that the law protects and advances, the institutions through which the law functions, the structure of legal buildings, as well as the role and function of law in society. It was from this environment that a comparative study of the law was then raised for the first time.

Changes in law, which can then change a view / attitude and life of a society come from various stimuli as follows:

1. Various evolutive changes to the norms in society.

2. Impromptu needs of society due to the presence of special circumstances or emergencies in particular in relation to the distribution of resources or in relation to new standards of justice.
3. At the initiative of a small group of people who can look far ahead, which then little by little influences the views and way of life of society.
4. There is a technical injustice of the law that asks for the change of the law.
5. There is an inconsistency in the body of the law which also asks for changes to the law.
6. There is a development of knowledge and technology that gives rise to new forms of certain areas of law, such as the discovery of new evidence to prove a fact (Friedman Lawrence, 1975.)

The influence of the law applied by the Dutch government has changed the system of land use and utilization in Indonesia. Land law policy in Indonesia has long been regulated in various laws and regulations originating from the Netherlands based on the principle of concordance (Firman Freaddy Busroh, Vol 10, No. 2 Agustus, 2017). Initially, the regulation and utilization of land was managed for agriculture as the main livelihood of the community and the transfer of land rights between community members was determined by the customary leader. After the entry of the law applied by the Dutch government, it created a commercial land law system. Where the kings as the holders of the highest power over their territories were influenced to impose a rental system on foreign companies so that large areas of land that were not managed were given to foreign companies to be managed using a lease system. On the rental system which was considered to provide many advantages for the kings, the Dutch government managed to take advantage of the kings to give the company the right to control the widest possible land. As a result of the existing system causing loss of community land so that people are forced to become workers on their own land (Adrian Sutedi, 2020). After independence, the UUPA was enacted to give rights to citizens who had been deprived to be returned. The purpose of this UUPA in fact has not succeeded in realizing its ideals to provide benefits to all the people.

Cases that occur are many people's land grabbing by owners of capital based on evidence of legal ownership. The data found that there is dual ownership of land rights and then there is no legal certainty of ownership of land rights based on customary land. The system in the transfer of land rights should animate the values that live in the community. Where the rules that are supposed to provide benefits to citizens are the main in the process of resolving conflicts over land. Against this background, the author feels interested and needs to discuss further about the existing problems with several things that are the main problem is How is the Legal System in Indonesia and Brunei Darussalam? And What is the Legal System in the Transfer of Land Rights Between Indonesia and Brunei Darussalam?

RESEARCH METHOD

This research uses normative legal research methods. By using library materials or secondary data. According to Soetandyo Wignjosoebroto, normative legal research is specifically for researching law as a positive norm, as it is written in the books or what is more correctly referred to as doctrinal research. Doctrinal research departs from normative postulates called positive legal norms and doctrines.

The primary legal materials in this study are laws, court decisions, and books related to land crimes and secondary legal materials in this study, namely interviews with related parties to the police (Diskrimum Polda North Sumatra) as well as legal practitioners lawyers for land crime cases (lawyers) and tertiary legal materials in this study, namely journals, legal dictionaries, and electronic media. Techniques in collecting data and legal materials using field study techniques (field research) and library studies (library research). The approach used in this study uses a

comparative legal approach between Brunei Darussalam. This comparative approach is carried out with different legal systems so that indicators of success and weakness are found in each of the land systems adopted by the two countries, especially in the field of land law in realizing social welfare. Existing data will be analyzed using the existing land law based on the case. The purpose of the data that has been analyzed will be to answer and provide results on the application of land law in providing solutions to problems of ownership of land rights and the impact of land conflicts on economic, social and political development in Indonesia

RESULTS AND DISCUSSION

Legal System Between Indonesia And Brunei Darusalam.

Indonesian Legal System

Post-independence Indonesia's land law system underwent many changes through government policies that gave indigenous peoples the authority to control and utilize land that had been controlled for a long time by indigenous peoples. Another policy is to give land to foreign companies that have been taken by the Indonesian government to be handed over to the community. Changes made in the field of land administration aim to reorganize the management of land according to its designation and utilization. Currently, the government implements an electronic land registration system that aims to prevent and reduce the number of crimes against land parcels. Indonesia's legal system has undergone a number of major changes, although the country is still working hard to complete changes to its colonial legislation and establish an integrated national legal system, which is based on Pancasila and the 1945 Constitution. Before the August 1945 Proclamation of Independence, there were two types of civil courts, namely the European Court (Raad van Justitie) and the District Court for indigenous peoples (Landraad). In addition to these courts, there are Islamic Law courts for marriage and divorce (as well as inheritance) and Muslim cases. The law inherited from the Dutch government is still coloring conflict resolution as well as regulating the utilization and use of land rights. The resolution of conflicts between the community and the company can be seen in the decision data that discrimination against community members or small farmers in law enforcement occurs a lot. As explained in the process of resolving cases between indigenous people and European citizens.

For the indigenous people, things are first taken to the village head to be decided according to local customs. If the decision of the village head is opposed, then the case is filed with the District Court (Landraad) with a Dutch judge or an Indonesian judge with a Dutch education. Cases are decided according to what is viewed, by the judges as customary law. For these cases, Raad van Justitie is the Court of Appeal and the Last Court. The procedural law imposed by Raad van Justitie is different from the procedural law in force in landraad.

Cases among Europeans (including Americans and Japanese) were settled by Dutch judges of the European courts, with appeals and appeals to the High Court (Hoogerechtshof). For the "European" courts, the 1847 Reglement op de Rechtsvordering Act of 1847, which was replaced by 1489, was enacted, which was almost the same as the procedural law in force in the Netherlands at that time. Legal disputes involving Europeans or nationals of foreign descent (such as Chinese and Indians) as one party and indigenous peoples as the other party enter into the jurisdiction of the District Court and are heard on the basis of interpersonal legal rules. The main difference between the procedural law in both Courts is that the District Court : (1) oral claims may be filed (2) the presence of a lawyer or defender is not required (3) judges work actively to seek the truth (4) married women are allowed to file claims in court or defend themselves against a claim (in

contrast to the procedure in the European Courts, where women do not have such rights) as well as (5) the rules of procedure are longer.

Land law in Indonesia is based on customary law so that if you look at the history of handling conflicts regarding land, the settlement is carried out in accordance with applicable customary law. The current system of land law is colored by the influence of the Dutch legal system which creates dualism about land law and the resolution of land conflicts (Elza Syarief, 2014). Especially regarding the use of customary land that is converted into plantation businesses, then there is a conflict between indigenous peoples and companies resolved by criminal law based on plantation laws. the conflict is only one part of the case of a land conflict whose law enforcement is detrimental to and overrides the prevailing customary values.

Land redistribution policy which was also carried out by the government in 1968 which aimed to provide opportunities for small communities or farmers to own land as capital and a form of implementation as stated in Article 33 of the 1945 Constitution Article 33. The decade of 1950-1960 can be considered a period of agrarian planning and land reform; however, the planning basis is weak because absence of up-to-date regarding cadastral registration, minimum and maximum land ownership, the number of farmers without land, farm laborers, etc. then Indonesia's first five-year development plan (1956-1960) did not elaborate further about agrarian reform to some extent. Thus the enactment of the first step towards land the implementation of the reforms in 1961 was quite experimental. They coincided with the beginning of the eight-year development plan (1961-1968), which does provide an outline for agricultural and industrial development. however, the formulation and efforts made to date have not been able to provide maximum results in the use and management of land for small communities or farmers to improve community welfare through agrarian resources (Sediono M.P. Tjondronegoro, Desember 197). Although land reforms have been carried out in resolving land problems in many developing countries, the problem of land use abuse and restrictions on land use by local communities still occurs (Serge Gerard N. Ekpodessi, 2018).

A good management system provides certainty in success in the political, economic, and social fields that are effective, honest, fair, transparent and accountable that create quality, law enforcement and corruption control. a system built in a good way, inclusive, will produce the desired. transfer system of rights to in the context of brunei darussalam the law governing the transfer of property, the right to land, from one person to another. The concept of transferring land rights is a legal relationship carried out on land and community rights which generally aims to transfer the function of one object to another, for example opening a business or opening up job opportunities. System of transfer of land rights aimed at the public can be proposed by institutions that need it without any interference from any party as stipulated in the Land Code CAP 40 Sec. 9 and 31 (Pengiran Harizan Bin Pengrizan Haji Piut, 2018)

Brunei Darusalam Legal System

The legal system in Brunei Darussalam is based on the British huku system with a combination of the Shari'a system for Muslims. In 2014, Brunei became the first country to adopt strict Islamic law, both for Muslims and non-Muslims, with the enactment of shari'a criminal law. Brunei Darussalam law consists of the constitution, additional statutes and legislation, Islamic law, judicial case law/precedent and English law. Since 1962 Brunei has been under order under a state of emergency. The Sultan has great legislative power, and during an emergency, the Sultan can pass laws that he considers by the Emergency Order. There is no judicial review of his actions. In the past, the legal system of Brunei Darusalam was generally the responsibility of the British Resident and the Sultan. The Resident of the United Kingdom is responsible for all matters relating

to the appointment of judges to the lower courts and the functions of those courts. The Sultan held the power of jurisdiction to defend the rules and laws of Shari'a, meaning that the Sultan appointed all the "khatis" in the areas mentioned in their "power" or jurisdiction for the purpose of this purpose.

Because the courts have different jurisdictions, the sentences imposed are different. The courts of that time were: (1) the Resident Court, (2) the Court of Judges of the First Instance, (3) the Court of Judges of the Second Instance, and (4) the Court of Indigenous and Khatis Judges. Although the resident court was the high court in brunei's legal system hierarchy at the time, it was not the last court of appeal. The appeal arising from the decisions of the Resident Court was made by one of the two courts holding jurisdiction over cases concerning one of the states in the Colony, namely Sabah and Sarawak and Brunei as a British Protectorate State. If an Appeal or Cassation on a decision of the Resident Court is filed, the Colony's Supreme Court (MA) or the Court of Appeal in the Colony is responsible for hearing the appeal according to their respective criminal or civil jurisdictions. In such a situation, where an appeal is filed and heard by one of the aforementioned colony courts, the Resident Court shall be responsible for implementing or enacting the decision or order of the Court of Appeal or ma Colony made under the Court Act 1908. As one of the two highest Courts, the Supreme Court has jurisdiction over per- kara where the offence committed in the territory of the State and the prescribed penalty is the death penalty. The Supreme Court may also exercise its criminal jurisdiction in situations where the resident Court has decided and sentenced anyone to imprisonment or a fine.

Brunei Darussalam law moves towards an appropriate legal system to meet its needs. In addition to the aforementioned law, customary law has become one of the main sources of law in Brunei. Although there were some statutory Amendments between 1908 and 1959, the legal system it remained in the same structure as in the Court Act of 1908. On September 29, 1959, with the enactment of the Brunei Darussalam Constitution, the legislative and executive bodies were clearly established. Based on Article 3 of the Supreme Court Law (1985 Amendments, which were previously the Supreme Court Law No. 2/1963) and Article 3 of the Court Law under the Supreme Court which was amended in 1985 (previously the Low Court Law No. 11/1982), the Supreme Court and the courts below were stipulated (Astim Riyanto, No 2 April-Juni 2007).

The difficulty in understanding Islamic law is compounded because it is similar to Hindu law and african law, belonging to a family of complex laws instead of a single legal system. The legal contention of 'islam' or 'Muslim' law itself raises debate. The prolonged politics of terms such as Muhammadan Law', which is typical of Indo-Muslim law and the historically developed 'Anglo Muhammadan Law', continues to attract attention as an author. Muslims themselves tend to emphasize the unity of the world's community of believers (ummah) and do not like to be fragmented, especially after the events of 9/11. Because Islam is a way of life that is manifested in a variety of different local traditions that can make the eyebrows raised, the wide plurality of religious practices and customs that are local in style has led scientists to call 'islam-islam instead of 'islam.

From a religious point of view, divine revelation has the highest authority and law for Muslims. Even in modern times, the primacy of Islam's revelation is still prominent, and El Alami and Hinkliffe begin their research with the following statement: For Muslims, Shariah is the law of God. God Himself is the Lawgiver. Man's function is to understand the laws and follow God's rules. Sharia covers all aspects of life and even all areas of law (constitutional, international, criminal, civil and commercial law), but at its core is family law. Not only does this belief reflect that the Muslim variant of law-centrism speaks only of God's law, but comparative analysis

suggests that God's law, as understood by Western legal theory, is the law of God. Qur'anic law goes far beyond the realm of positivist law and covers all aspects of life, including life after death, so it is The field is much broader than conventional legal research attempts to achieve. Therefore, to study all Islamic law, one must first analyze its religious underpinnings. Artfully emphasized: It answers a fundamental question about the nature of law for Muslim jurisprudence. In an uncompromising manner, through religious belief itself. Law is a system that God outlines in terms of commandments.Rejecting this principle therefore amounts to denying the Islamic faith.

Effectiveness of the Legal System for The Transfer of Land Rights of Indonesia and Brunei Darussalam.

Transfer of Land Rights in Indonesia

The transfer of land rights in the Indonesian legal system pursuant to Article 26 of UUPA No. 5 of 1960 provides foreigners with firmness and limitation of ownership of land rights. Directly or indirectly transferring property rights to a foreigner, a citizen holding a foreign nationality in addition to Indonesian citizenship, or a legal entity, except by testamentary gifts and other decisions of the government referred to in Article 21; (2), the law and its land are void because they are returned to the State, provided that the other party's right to hinder him continues and the payment received from the owner is irrecoverable. Indonesian citizens and foreigners are: (1) Use rights are governed by UUPA Section 42 and (2) Building lease rights are governed by UUPA Section 45.

Table 1.

Comparison of The Term of Right of Use for Foreigners Domiciled in Indonesia

Regulation	Term (Years)			
	First	Extension	Updates	Total
government regulation number 44 of 1996	25	20	25	70
government regulation number 41 of 1996	25	-	25	50
government regulation number 103 of 2015	30	20	30	80

Based on the table above, it can be seen that the granting of The Right of Use with the longest period is a Government Regulation on the Occupancy of Foreigners. The provision is an increase of 30 years from the previous provision. Meanwhile, when compared to Government Regulation Number 44 of 1996, the period in the Government Regulation on The Occupancy of Foreigners also remains higher. With a total term of 80 years it can cover two to three generations. that is to say that foreigners are granted rights on a limited basis in the possession of land rights then in guaranteeing legal certainty against the transfer of land rights from indonesian citizens to foreign nationals is also regulated and accommodated by law.

The land law system in Indonesia has undergone a shift where previously the UUPA was formed to realize and practice Article 33 Paragraph 3 of the 1945 Constitution in fact the UUPA as a legal umbrella in the management and use of land for the greatest prosperity of the people shifted to the use of land for the greatest amount of capital owners. According to Achmad sodiki unlike the UUPA-1960 was born, which is anti-foreign capital, at this time the presence of foreign capital has become a necessity of this nation. Therefore, uupa requires contextual reinterpretation. Why is that, because ideologically the doctrine of Land to the tiller Article 10 of the UUPA, that is, land for farmers, as it was when the UUPA was born, is no longer a reality. Land is already a commodity to fight for in the free market. Farmers are no longer dealing with landlords like the UUPA-1960 Era, but are dealing with large capital in industry as well as urban rich people who buy land in suburban areas as well as in rural areas. Land changes in value into stocks that can be traded through the capital market at any time. So land transactions mean reaching out to and crossing national territorial boundaries (Mustofa dan Suratman, 2018)

Transfer of Land Rights in Brunei Darussalam

The land administration law system in Brunei Darussala is called the ordination system this system gives the sultanate the highest power to control and own all lands that fall within the territory of the sultanate of brunei. as a decree of Sultan Abdul Momin The year 1852 - 1885 states that the dividing of the territory of brunei is known as the Tulin or Pesaka River, the Royal River and the Kuripan River. This former administrative law system gave the sultan the authority to give land rights to the sultan's family as owners. This policy is a form of the Sultan's affection for his family and provides a guarantee that the Brunei Darussalam Sultanate can unite and assist the Sultanate in maintaining the Sultanate's territory. After the entry of British power (British Government) into the territory of the Sultanate of Brunei Darussalam, the territory or land owned by the Sultanate or the sultan's relatives began to decline due to being taken by force, sold, and rented to the British Government.

With the presence of the British government, the land ownership system in the form of the Royal River, the Kuripan River, and the Tulin River was not in accordance with the existing one, so the 19th century peak of the land ownership system in the form of a river ended. The entry of the British government into the government of the Sultanate of Brunei Darussalam indirectly affected the economic, social, political and land law fields, which changed rapidly through the Land Act of 1907. In the 1907 land law, ownership of land rights was given to the people to control and own land and to lease land to foreign parties. Land ownership can be submitted through a land application in the form (Land application) or Tanah Pusitan, (Deposite Land) or Grand Eternal (Temporary Occupation Licence) or Temporary Overlap License (Awg asbol bin Haji Mail, 2012).

The government of Brunei Darussalam already has a land law that is able to design its economic development, which at that time the economy of the Sultanate was not good. With a good land system, the sultanate government gave land ownership rights to residents for agriculture with annual tax payments. meanwhile the kingdom also imposed leases on foreign parties to open oil plantations and mining businesses. the government of the sultanate of brunei pushed to give lease rights to land to companies engaged in oil mining to find oil sources in their country. In 1929 oil was discovered in Seria at that time oil became a source of economic income for the government of the Sultanate of Brunei Darussalam. on the existence of government power over the management of the land, the sultanate government did not stop at the management and utilization of land, but the use of the sea was also used with the same system.

The system of ownership of land rights is held by the sultan as the highest holder of power. Ownership of land rights in the system of government is determined by agreement by the sultan

or the royal family as the rightful owner of the land. and Brunei darussalam has a system of transfer of land rights regulated in Brunei Darussalam Land Code Cap. 40 and Land Cap. 41 of 1984. According to Brunei Darussalam's land law that lands that have not been registered in the land register by the land official will automatically become the property of the kingdom. The transfer of land rights on a concessional basis is also enforced and foreign nationals can have land rights. Brunei Darussalam realizes and increases state revenue through strengthening its land laws. With the land law system that has been formulated by the Sultanate of Brunei Darussalam, it has contributed greatly to the improvement of the economy by opening up as much as possible the ownership of land rights to foreign nationals in doing business and settling high tax payments to those who occupy the land. However, the alarming impact that residents of Brunei Darussalam may lose their land rights due to the transfer of rights to foreign nationals due to the factor of very high land price offers (Haji Awg Asbol Bin Haji Mail, 2009).

What worsened the system and law of the land sector in the field of dual administration and this situation has existed since the 1600 s, at the time of pre-independence Indonesia, at which time the Dutch carried out the first colonization in Indonesia. Government policies to provide solutions to land problems do not have an impact and success and even cause conflicts and land tenure by capital owners is increasingly rampant which causes the loss of community rights to the land they own. then the authority that each agency has in the control and management of land creates a separate and overlapping land administration system between authority and jurisdiction. Weak institutions, lack of cross-sectoral coordination, and arbitrary and unclear rules and regulations exacerbate the situation (Shivakumar Srinivas, 2015).

CONCLUSION

Indonesia's legal system has undergone a number of major changes, although the country is still working hard to complete changes to its colonial legislation and build an integrated national legal system, which is based on Pancasila and the 1945 Constitution and the legal system in Brunei Darussalam based on the British huku system with a combination of the Shari'a system for Muslims. In 2014, Brunei became the first country to adopt strict Islamic law, both for Muslims and non-Muslims, with the enactment of shari'a criminal law. Brunei Darussalam law consists of the constitution, additional statutes and legislation, Islamic law, judicial case law/precedent and English law and The transfer of land rights in the legal system in Indonesia which is regulated in Article 26 of UUPA Number 5 of 1960 provides firmness and restrictions on the ownership of land rights to foreigners, Brunei Darussalam grants property rights status to foreign nationals based on Brunei Darussalam Land Code Cap. 40 and Land Cap. 41 of 1984.

The land law system applied in Indonesia and Brunei Darussalam has not succeeded in solving existing land problems. The inhibiting factors for the land law system in Indonesia and Brunei Darussalam are the lack of socialization of the use and function of the land used, the dualism and inconsistency of regulations regarding land policies, the land registration system that has not been well integrated between institutions. , causing dual ownership, and the recognition of customary law community land rights is not implemented properly so that currently the community cannot maintain their land ownership which has been taken over by big investors.

REFERENCES

Adrian Sutedi, (2020), *Implementasi Prinsip Kepentingan Umum Di Dalam Pengadaan Tanah Untuk Pembangunan*, Sinar Grafika.

Astim Riyanto (2007) Jurnal Hukum dan Pembangunan Ke 37 No 2 April-Juni, ASEAN Law Association, ASEAN *Legal Systems*, Butterworths Asia, Singapore, Malaysia, Hongkong, 1995.

Awg asbol bin Haji Mail (2012) *Pemilikan Hartanah Negara Brunei Darussalam Sejak abad Ke-19 Hingga 1941 Dari Perspektif Sejarah Dan Peranan Kerajaan*,, Institut Pengajian asia Timur, Universitas Brunei Darusaalam.

Achmad Sodiki (2000), *Empat Puluh Tahun Masalah Dasar Hukum Agraria*, Pidato Pengukuhan Guru Besar Ilmu Hukum, Universitas Brawijaya, Malang, Hlm. 10 dalam Mustofa dan Suratman, *Penggunaan Hak Atas Tanah Untuk Industri*, Sinar Grafika, 2018.

Awg asbol bin Haji Mail (2009) Perjanjian Tambahan 1905/1906 Brunei dan United Kingdom: *Satu Tinjauan Hubungannya dengan Undang-Undang Tanah* Jurnal Sosiohumanika, 2(1).

Elza Syarief (2014) *Menuntaskan Sengketa Tanah Melalui Pengadilan Khusus Pertanahan*, Jakrta: Kepustakaan Populer Gramedia.

Firman Freaddy Busroh (2017) *Konseptualisasi Omnibus Law Dalam Menyelesaikan Permasalahan Regulasi Pertanahan*, Arena Hukum Vol 10, No. 2 Agustus.

Friedman Lawrence (1975) *The Legal System. A Social Sience Perspective*. New york. Usa: Russel Sage Foundation.

Mustofa dan Suratman (2018) *Penggunaan Hak Atas Tanah Untuk Industri*, Jakarta: Sinar Grafika.

Pengiran Harizan Bin Pengrizan Haji Piut (2018) *Efficient and Effective Land Reservation Implementation For Good-Governance in LAS: A Case For Brunei Darussalam*, International Journal of Engenering & Technology , 7 [2.29].

Sediono M.P. Tjondronegoro, (1972) *Land Reform or Land Settlement: Shifts in Indonesia's Land Policy 1960-1970*, Desember The Land Tenure Center, University of Wisconsin-Madison, Ltc. No. 81.

Serge Gerard N. Ekpodessi (2018) *Land Use and management in Benin Republic: An evaluation of the effectiviness of Land Law 2013-01*, Land Use Policy, Vol. 78, November.

Shivakumar Srinivas (2015) *A Review of Indonesia Land-Based Sectors With Particular Reference to Land Governance and Political Economy*, The Word Bank – Washington DC 23-27, March..