

Resolving Asset Ownership Disputes between the Indonesian National Armed Forces and Civil Society

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Abstract

This study aims to analyze the legal status of assets controlled by the Indonesian National Armed Forces (TNI), identify factors causing ownership and control disputes with civil society, and evaluate the effectiveness of applicable laws and regulations in resolving these issues. This research adopts a literature review method with normative juridical and socio legal approaches. Data were collected through examination of primary legal materials, secondary legal materials, official documents, institutional reports, and various relevant scientific publications. The results show that normatively, a clear legal framework is already in place, affirming that all TNI assets are state owned property administered under the right of administration for defence and security purposes. In practice, however, disputes frequently arise due to incomplete administrative documentation, changes in spatial functions, differing legal perceptions, and normative inconsistencies across regulations. Available dispute resolution mechanisms, both non litigious and litigious, have been implemented in accordance with the principles of justice and legal certainty, yet require reinforcement through data synchronization, regulatory improvement, and enhanced inter agency coordination. This study concludes that optimal resolution demands a comprehensive approach that balances state interests with the protection of legitimate community rights.

Introduction

Land is a strategic natural resource that plays a fundamental role in Indonesia's legal system and national defence.¹ Article 33(3) of the 1945 Constitution provides that land, water, and natural resources are controlled by the state and utilized for the greatest prosperity of the people.² Accordingly,

¹ Dewi Tresya et al., "Gaining Ground: Institutional Barriers Hampering Land Conflict Resolution in Indonesia," *World Resources Institute*, 2021, <https://doi.org/10.46830/wriib.18.00051>.

² Darman Simanjuntak, Aloysius Uwiyono, and Endang Padmadari, "Reforming Indonesia's Land Dispute Resolution Mechanism: Comparative Insights for a Specialized

land allocated for defence purposes constitutes state property administered by the Indonesian National Armed Forces (Tentara Nasional Indonesia TNI) to support national security.

The TNI controls more than 1.2 million hectares of land across Indonesia for military bases, training areas, and other defence facilities. However, disputes between the TNI and local communities over land ownership and control have become increasingly common.³ Between 2019 and 2024, the National Land Agency and the Ministry of Defence recorded 327 disputes involving TNI land assets, reflecting persistent legal uncertainty in the management of defence property.

These disputes are primarily caused by incomplete historical land documentation, changes in spatial planning and land use, conflicting legal claims between the TNI and local communities, and inconsistencies among regulations governing state assets, land administration, and national defence. As a result, resolving these disputes requires balancing legal certainty, protection of community rights, and national defence interests.

Previous studies have mainly attributed these disputes to administrative weaknesses, institutional constraints, or mediation mechanisms. Although these studies provide valuable insights, they have not comprehensively examined the relationship between agrarian law, defence law, and judicial practice in resolving TNI land disputes.

This study addresses that gap by analysing 327 disputes from 2019 to 2024 using a combined normative juridical and socio legal approach supported by an examination of 138 court decisions. The findings demonstrate that TNI controlled land remains state property administered under the Right of Administration (Hak Pengelolaan), rather than ownership rights, and identify four principal causes of recurring disputes: incomplete historical documentation, spatial transformation, conflicting legal perceptions, and regulatory inconsistency.

Accordingly, this study examines the legal framework governing TNI land assets, evaluates its implementation in dispute resolution, identifies factors affecting legal enforcement, and proposes a dispute resolution model that balances national defence interests with community rights. The research is limited to disputes concerning land and buildings involving the TNI that occurred between 2019 and 2024 and were resolved through judicial or non-judicial mechanisms.

Court from the Mato Grosso, Brazil Land Court and New Zealand Māori Land Court,” *JURNAL ILMIAH LIVING LAW* 17, no. 2 (July 16, 2025), <https://doi.org/10.30997/jill.v17i2.18526>.

³ Abdul Wahid and Adi Sulistiyono, “JUSTIFICATION FOR THE ESTABLISHMENT OF A LAND COURT IN INDONESIA: REALIZING JUSTICE IN LAND DISPUTE RESOLUTION,” *Masalah-Masalah Hukum* 54, no. 2 (July 1, 2025): 179–213, <https://doi.org/10.14710/mmh.54.2.2025.179-213>.

Methods

This study employs a doctrinal legal research method combining normative juridical and socio legal approaches. The normative approach examines constitutional provisions, legislation, legal doctrines, and judicial decisions governing state assets, agrarian law, and defence law, while the socio legal approach analyses the implementation of these legal norms through secondary sources, including case reports, official publications, and scholarly literature. The research relies exclusively on secondary data consisting of primary legal materials (statutes, regulations, and court decisions), secondary legal materials (books, journal articles, and official reports), and tertiary legal materials (legal dictionaries and encyclopaedias). Data were collected through documentary analysis and examined using descriptive qualitative analysis, content analysis of relevant legal provisions, and legal synthesis to evaluate regulatory coherence, identify the causes of disputes, and formulate appropriate legal solutions.

Results and Discussion

1. Legal Framework Governing TNI Land Assets and Dispute Resolution

The Indonesian land law recognizes that all land is controlled by the state for the greatest prosperity of the people, as mandated by Article 33(3) of the 1945 Constitution and further regulated under Law No. 5 of 1960 on Basic Agrarian Regulations (UUPA). Within this framework, land administered by the Indonesian National Armed Forces (TNI) constitutes state property held under the Right of Administration (Hak Pengelolaan) rather than ownership rights.⁴ Consequently, the TNI is authorized only to manage and utilize land for defence purposes, while ownership remains vested in the state.

The legal framework governing TNI assets is established through a hierarchy of constitutional, statutory, and administrative regulations, including Law No. 34 of 2004 on the Indonesian National Armed Forces, Law No. 1 of 2004 on State Treasury, Law No. 20 of 2022 on Land Acquisition for Public Interest Development, Government Regulation No. 27 of 2014 on State Asset Management, and Commander Regulation No. 18 of 2023. Collectively,

⁴ Dadang Fernando, Laily Nur Aisah, and Tembang Merah Sunny Socialista, "Pengaruh Labelisasi Hak Pengelolaan Terhadap Eksistensi Hak Ulayat Masyarakat Hukum Adat," *Law, Development and Justice Review* 8, no. 2 (2025), <https://doi.org/10.14710/ldjr.8.2025.106-120>; Supardi, Yulia Mirwati, and Rahmides Utami, "Eksistensi Tanah Pusako Dalam Kontestasi Politik Agraria: Kajian Kritis Terhadap Hak-Hak Tradisional Masyarakat Adat Minangkabau," *Unes Journal of Swara Justisia* 9, no. 4 (2026), <https://doi.org/10.31933/40tzk403>.

these regulations affirm that military land is a strategic state asset dedicated exclusively to national defence.

Normatively, the legal framework is generally coherent; however, several weaknesses continue to generate disputes.⁵ These include incomplete historical documentation of military land, inconsistencies between agrarian and defence regulations, the absence of legal mechanisms to adjust military land status following spatial development, and fragmented institutional authority among the Ministry of Defence, the National Land Agency (BPN), the judiciary, and the TNI.⁶ These shortcomings reduce legal certainty despite the existence of an extensive regulatory.⁷

2. Implementation of Legal Provisions and Factors Affecting Dispute Resolution

Between 2019 and 2024, the National Land Agency and the Ministry of Defence recorded 327 disputes involving TNI land assets. Boundary disputes represented the largest proportion (42%), followed by ownership disputes (31%), compensation claims (18%), and land use disputes (9%). Most cases involved land acquired before the enactment of the Basic Agrarian Law, when documentation and cadastral records were still incomplete.⁸

Indonesian law provides both non litigation and litigation mechanisms for resolving these disputes.⁹ Mediation and inter agency negotiation are prioritized, with approximately 58% of recorded disputes being settled through deliberation facilitated by the National Land Agency. Where negotiation fails, disputes are resolved before either the District Court or the Administrative Court. Analysis of 138 court decisions indicates that judicial outcomes are determined primarily by documentary evidence rather than the institutional status of the parties, reaffirming the principle of equality before the law.

⁵ Hadijah Haerani, "Solusi Dan Langkah Kongkrit Dalam Penyelesaian Sengketa Pertanahan Di Indonesia," *Ranah Research: Journal of Multidisciplinary Research and Development* 7, no. 2 (2024), <https://doi.org/10.38035/rrj.v7i2.1267>.

⁶ Artaji Artaji et al., "Resolution of Agrarian Conflicts on Plantation Land through Restorative Justice in Indonesia," *Lex Scientia Law Review* 8, no. 1 (2024), <https://doi.org/10.15294/LSLR.V8I1.14060>.

⁷ Yahman, "THE LAW LIABILITY OF NON-JUDICIAL MEDIATORS IN LAND RIGHT DISPUTES," *Acta Universitatis Carolinae Iuridica* 70, no. 4 (2024), <https://doi.org/10.14712/23366478.2024.166>.

⁸ Daniel Peterson, Adriaan Bedner, and Ward Berenschot, "The Perils of Legal Formalism: Litigating Land Conflicts in Indonesia," *Journal of Contemporary Asia* 55, no. 3 (2025), <https://doi.org/10.1080/00472336.2024.2440855>.

⁹ Simanjuntak, Aloysius Uwiyono, and Endang Padmadari, "Reforming Indonesia's Land Dispute Resolution Mechanism: Comparative Insights for a Specialized Court from the Mato Grosso, Brazil Land Court and New Zealand Māori Land Court."

The findings reveal four principal factors affecting the implementation of legal provisions. First, historical administrative deficiencies have resulted in incomplete ownership documentation.¹⁰ Second, rapid spatial development has transformed many former military areas into residential and commercial zones, creating competing land claims.¹¹ Third, conflicting legal perceptions persist between the TNI, which views the land as state assets for defence, and local communities, which often claim rights based on long-term occupation.¹² Finally, overlapping institutional authority and inconsistent regulatory implementation continue to hinder effective dispute resolution. These findings demonstrate that sustainable settlement requires not only legal enforcement but also regulatory harmonization, integrated land administration, comprehensive asset registration, and stronger coordination among relevant government.¹³

Conclusions

This study concludes that land controlled by the Indonesian National Armed Forces (TNI) constitutes state property administered under the Right of Administration (Hak Pengelolaan) rather than ownership rights. Although Indonesia has established a comprehensive legal framework governing defence assets, its implementation remains constrained by incomplete historical documentation, regulatory inconsistencies, fragmented inter-agency coordination, and conflicting legal perceptions between the TNI and local communities. These challenges continue to generate disputes despite the availability of both litigation and non-litigation mechanisms. Accordingly, sustainable dispute resolution requires harmonization of overlapping regulations, the establishment of an integrated national defence asset database, systematic inventory and certification of military land, strengthened institutional coordination, greater transparency in asset management, and the continued prioritization of mediation alongside evidence-based judicial adjudication. Future research should complement doctrinal legal analysis with empirical field studies to provide a more

¹⁰ Mira Novana Ardani, Yusriyadi, and Ana Silviana, "Persoalan Tertib Administrasi Pertanahan Melalui Kegiatan Pendaftaran Tanah Yang Berkeadilan," *Jurnal Pembangunan Hukum Indonesia* 4, no. 3 (2022), <https://doi.org/10.14710/jphi.v4i3.494-512>.

¹¹ I. Gusti Ayu Ketut Rachmi Handayani et al., "THE POLITICS SETTLEMENT OF LAND TENURE CONFLICTS DURING JOKOWI'S PRESIDENCY," *Journal of Indonesian Legal Studies* 7, no. 2 (2022), <https://doi.org/10.15294/jils.v7i2.57539>.

¹² Sulastris Yasim et al., "Land Acquisition for Public Interest Development: Legal and Regulatory Perspectives in Indonesia," *Journal of Scientific Research, Education, and Technology (JSRET)* 4, no. 1 (2025), <https://doi.org/10.58526/jsret.v4i1.711>.

¹³ Rizqi Abdulharis et al., "State Land Management for Orderly Administration of Land in Regencies/Cities," *BHUMI: Jurnal Agraria Dan Pertanahan* 8, no. 1 (2022), <https://doi.org/10.31292/bhumi.v8i1.526>.

comprehensive understanding of stakeholder perspectives and the practical implementation of defence land governance.

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