

## Assessing Land Rights in Indonesia's Protected Forests: A Case Study of Tormatutung Region



Bahmid<sup>1\*</sup>, Gautam Kumar Jha<sup>2</sup>, Siti Nurzannah<sup>3</sup>, David Pradhan<sup>4</sup>

<sup>1</sup> Faculty of Law, Universitas Asahan, North Sumatra 21216, Indonesia

<sup>2</sup> Centre for Chinese & Southeast Asian Studies, Jawaharlal Nehru University, New Delhi 110067, India

<sup>3</sup> Law Study Program, Undergraduate Program, Faculty of Law, Universitas Asahan, North Sumatra 21216, Indonesia

<sup>4</sup> School of International Studies, Jawaharlal Nehru University, New Delhi 110067, India

Corresponding Author Email: [bahmid1979@gmail.com](mailto:bahmid1979@gmail.com)

Copyright: ©2024 The authors. This article is published by IETA and is licensed under the CC BY 4.0 license (<http://creativecommons.org/licenses/by/4.0/>).

<https://doi.org/10.18280/ijspd.190319>

### ABSTRACT

**Received:** 20 December 2023

**Revised:** 1 March 2024

**Accepted:** 7 March 2024

**Available online:** 29 March 2024

#### **Keywords:**

*legal policy, land certificate, Tormatutung forest region, customary rights, protected areas*

The research aims to analyze the complexities of land tenure in the Tormatutung protected forest region, where the issuance of land ownership certificates does not guarantee possession due to overlapping designations as registered and protected forest zones. This anomaly restricts certificate holders from exercising their legal rights over the land. The study assesses Indonesian land tenure policies, focusing on individual land ownership rights granted by certificates. Using a normative research method with a legislative approach, it examines statutory provisions and land use planning policies by relevant agencies responsible for issuing certificates and implementing land rights. The key finding of the research reveals governmental passivity in upholding land ownership rights in protected forest areas, prioritizing global forest preservation over individual property rights. The implications highlight governmental failure to protect the legal rights of certificate holders, constituting a violation of property rights. The research concludes the lack of coordination among government bodies leads to contradictory decisions in the Tormatutung forest area, necessitating proactive measures such as area remapping, reforestation of certified or community-controlled land, and collaborative agreements for regulated land use.

## 1. INTRODUCTION

The land is a tool for the realization of human welfare. The existence of land is not only a necessity for housing but also a supporting factor for the growth of all aspects of human life, including economic, social, political, and cultural aspects. Land and land certification are very important considering the fixed amount and extent of land controlled by the state, while the population growth is increasing rapidly over time. The connection between humans and land is so strong that there needs to be a legal force within it. By registering land rights or granting land rights to rights holders, administratively, legal certainty for those subjects will be achieved. This means that the right holders are administratively guaranteed to use the land ownership rights for any purpose as long as the use of those rights is in accordance with their intended purpose.

### 1.1 Land certificates

A land certificate is a legal document issued by the government that serves as official proof of ownership or tenure rights to a specific piece of land. It typically contains detailed information about the land parcel, including its boundaries, location, and any encumbrances or restrictions on its use. In the context of land tenure and ownership, a land certificate

signifies a bundle of rights granted to the holder by the government. These rights may include the ability to use the land for agricultural purposes, cultivation, development, or other lawful activities. The certificate establishes the individual named on it, or their legal heirs and assigns, as the rightful owner or holder of these rights. Land ownership is in contrast to land leasing, wherein the ownership of the land is vested solely in the lessor. The lessee has no ownership rights but only enjoys a restricted legal right to use the land for a specified purpose or a specified period, only as outlined in the lease agreement [1].

However, it is important to note that land ownership is not absolute and is subject to the doctrine of eminent domain, which is the inherent power of the state to seize private property for public use. This means that while the landowner holds certain rights outlined in the land certificate, the government retains the ultimate authority to expropriate the land if deemed necessary for public purposes. In such cases, the landowner is typically entitled to receive just compensation for the loss of their property.

Land ownership certificates prove that the state recognizes the private ownership rights of individuals and legal entities as entitled persons at law. Consequently, land registration in favor of a legal person and its legal acknowledgment in the form of a land ownership certificate issued in favor of that

person connotes a legal certainty. This legal certainty also explicitly implies an assurance that the government undertakes and guarantees to uphold and implement the legal right of the person entitled to the land, as recorded in the public registration records. The rule of law is pivoted upon this explicit assurance that the government will implement the rights of the person entitled. The purpose of the land registration system is to make it easier for people to document their land rights in a way that is inclusive and easily accessible [2].

Registration of tenurial land rights of ownership in public records and the issue of land ownership certificates for certification, implementation, and protection of these land rights are a sovereign function and duty of the state. The expected positive effect of this public registration and clear demarcation of tenurial land ownership rights is to clarify land ownership, reduce transaction uncertainty and potential disputes, reduce risks associated with land adjustment, and in particular, obviate any risk that village governments will reduce the allocation of land to farmers in response to changes in village infrastructure or household size [3].

The subject matter of ownership, sources, time, boundaries, and changes in ownership must be recorded in a physical registration book of record which is publicly accessible, and which must also record collective land ownership, houses, and other structures, forest and tree ownership, management of contract rights on forest cultivation land, grassland, land use rights for construction, housing, maritime territory, facilities, mortgage rights, and other real obligors who must be registered [4].

### 1.2 Protected forest areas

According to Law No. 41 of 1999 concerning Forestry in Indonesia, a protected forest is an area of forest primarily designated as a protection zone to regulate water systems, prevent floods, control erosion, prevent seawater intrusion, and maintain soil fertility. These areas are protected because they are beneficial in maintaining ecosystems. The designation of forest areas as protected forests is based on the function of forests as providers of clean water reserves, erosion control, habitat for flora and fauna, and other functions. Protected forest areas can be found within production forests, community forests, customary forests, and areas adjacent to residential areas. These forests can be managed by the central government, local governments, or communities concerned with forest conservation. An example is prohibition forests or closed forests, which are usually managed by indigenous communities in Indonesia.

The vast majority of Indonesia's deforestation has been for palm oil plantations. In Indonesia, oil palm cultivation is conducted both legally and fraudulently [5]. In this context, it is pertinent to point out that while genuine land ownership certificate holders are often deprived of their land tenurial ownership rights, illegal encroachment into forest areas by powerful corporate and individual entities can not be ruled out. These illegal encroachments affect the environment and the cultural and economic rights of the genuine tenurial owners of the land.

The Kisaran Regional Forest Management Unit Office, Region III reports that the total area of formatting forests in Asahan Regency, Indonesia is 48,674.49 hectares. Several land ownership certificates issued by the National Land Agency have been recorded and verified through researchers'

observations. Some land possession certificates are also seen to have been issued in this forest area, even though Indonesian land laws prohibit the issuance of such possession documents in protected forest areas. Therefore, this current research focuses on a heuristic case, specifically Tomuan Holbung, in the Tormatutung forest area, Mandage District, Asahan Regency, North Sumatra Province.

### 1.3 Land ownership in other countries

For an analogous comparison of practices in other states, for instance, certain regions are demarcated and designated for forest preservation in the conservation areas of Tanzania in Africa. By law, neither Tanzanian citizens nor any multinational legal entities or individuals are permitted to undertake any activities which may harm the protected forest [6]. However, in reality, due to the unsatisfactory legal and administrative implementation of policies and the status of customary land rights concerning nature conservation laws, it is not surprising that some affected communities feel compelled to seek alternative solutions to the problem [6].

An exploratory study in Tanzania's Meru District revealed that individual rights could be registered on land managed by villages through issuing Certificates of Customary Rights of Occupancy (CCRO) [7]. In Indonesia, in the Tormatutung forest region, even though the local community is in physical possession of the land, they are legally incapacitated from engaging in legal actions concerning the land in their possession, such as purchase and sale, gifting or using it as collateral, due to the National Land Agency's administrative processes not being implemented.

Meanwhile, Article 21 of the American Convention on Human Rights (ACHR) explicitly references the private property rights of individuals in the forest law of Salta Province, Argentina. Although there is no specific reference to indigenous communities, jurists have opined that the indigenous communities of Argentina are entitled to the rights outlined in Article 21 of the ACHR because they are explicitly recognized as legal subjects in the Argentinean Constitution [8].

To comprehend the complex land-related issues, effective policy measures to provide public advocacy and education in land ownership, including changes in rights, title transfers, and financing for each land transaction, are required for the affected citizens, especially the local indigenous communities [9].

The recognition of indigenous land should be accompanied by regulations that guarantee legal certainty for the indigenous communities. The government's appropriation and distribution of traditional indigenous land have led to acknowledging and granting commercial rights to corporate entities. This has caused significant exploitation of indigenous forests through deforestation and changes in land use. Importantly, these activities occur without any responsibility or approval from the indigenous communities who are the rightful owners, users, and inhabitants of these forests [10].

The research objectives of this study are to examine the land ownership policy in Indonesia. In addition, the study analyzes the legal policy on state ownership of land in Tormatutung forest areas and analyze the government responsibility for the issuance of land ownership certificates in Tormatutung forest areas. In a behavioral sense, responsibility is also social, meaning accountability to multiple individuals or groups [11]. Responsibility only makes sense when limited to activities

within the responsible party's control [12]. Further, this research is anticipated to contribute to establishing legislation and guidelines for the government's formulation of legal land policies on land certificates in forest regions.

## 2. METHODS

The data for this study comprises primarily legal documents such as statutes, regulations, and case law, including Law No. 5 of 1960 on Basic Agrarian Principles, Government Regulation No. 24 of 1997 on Land Registration, and Law No. 21 of 1997 on Land and Building Acquisition Fees which serve as the foundation for the normative legal research and legislative approach employed. These legal sources were systematically gathered through library research and documentation review processes. Reports and relevant literature were utilized as secondary materials to supplement the legal analysis. The collection process involves extensive review and categorization of these documents to ensure comprehensive coverage of the relevant legal landscape, particularly regulations regarding land ownership.

While secondary materials provide valuable context and analysis, potential gaps in the data must be acknowledged. These may arise due to limitations in access to certain literature or variations in interpretations presented in different sources. Consequently, efforts were made to mitigate these limitations by cross-referencing multiple sources and critically evaluating the credibility of each.

The outlined methodology provides a structured framework for conducting legal research and analysis; however, it is essential to recognize its inherent limitations. Continuous evaluation was emphasized, with assessments carried out to assess the efficacy of the methodology and adjust procedures as required to tackle identified limitations, thereby ensuring alignment with research objectives and standards.

## 3. RESULTS

### 3.1 Land ownership policy in Indonesia

Land ownership certificates provide legal certainty regarding land. The government's issuance of land ownership certificates conforms to statutory and regulatory requirements, including the exclusion of specific categories of land that are not permitted to be owned, as these protected lands are not amenable to individual or community ownership, and therefore land ownership certificates for these lands are prohibited. Land with extant rights, land within river flow areas, and land within forest areas are protected lands excluded from ownership. The anticipated legal policy is intended to safeguard forests as a life-supporting ecosystem. In actuality, however, the function of forests has been replaced by settlements and oil palm plantations owned by communities with proof of land ownership certificates.

The issuance of land ownership certificates for community-owned land in the Toromatutung forest area was done by the National Land Agency, the authorized institution in Indonesia for the regulation of tenurial ownership of land. In the protected forest area, land ownership certificates have engendered legal uncertainty. On the one hand, the land ownership certificate is the most comprehensive and legally irrefutable evidence of the vested and protected right of the

certificate holder to the land guaranteed by the government. In addition, since the land ownership certificate was issued granting ownership over a prohibited category of land, i.e., land designated as a protected forest in which private tenurial ownership rights are statutorily prohibited, it gives rise to a legal quandary. This resulting conflict of laws of tenurial ownership of land and nature conservation by the prohibition of land ownership is solely due to administrative mismanagement.

### 3.2 Case study finding

The National Land Agency has shirked from acknowledging the mess caused by it, as it may reveal massive corruption/incompetence among its bureaucrats and possibly even some powerful politicians. Instead, the government has taken the easy path of restricting the tenurial ownership rights of the land certificate holders in the protected forest area. Even though the land ownership certificate signifies ownership, the National Land Agency specifies that the land cannot be used for legal transactions, such as altering ownership through sale and purchase, donation, mortgage registration, or other legal actions.

The National Land Agency has tried to cover its mistake by restricting vested legal rights and legitimate expectations of legal actions associated with the ownership of poor indigenous holders of the land ownership certificate in protected forest areas. Since the land ownership certificate is a record of authentic and irrefutable evidence of public land records issued by the government, the government is after that prohibited by the legal principle of *Nullus Commodum Capere Potest de Injuria Sua Propria* (no one can take advantage of his own wrong) from seeking to take advantage of its mistake and restricting the rights of the innocent holders of land ownership certificates in protected forest areas. Further, since government decisions are prima facie considered valid and legally binding according to the legal principle of *Presumptio Iustae Causa* (presumption of a just cause), which states that administrative decisions made by state officials should be presumed correct unless there is a contrary court decision until the courts of law revoke the land ownership certificate, the National Land Agency has no right to restrict the rights thereunder.

Ironically, the land ownership certificates initially issued in the Toromatutung forest region by the National Land Agency, the authorized institution responsible for land matters, have been implemented in a passive and wait-and-see manner, which can be described as a highly hypocritical policy. This is evidenced by the agency's refusal to process the community's land ownership certificates and its adoption of a waiting policy, expecting parties who disagree with or are adversely affected by government policy to file legal actions and claims in competent courts to obtain legal certainty over the land they own. Due to the lack of legal certainty regarding the issued certificates, created by the mismanagement by the National Land Agency itself, this policy may negatively impact both the community and the long-term ecological viability of the forest.

### 3.3 Land ownership in other countries

Tanzania, as one of the republics in East Africa, has also implemented a positive publication system in its land registration system. The land registration system in Tanzania is governed by the Land Registration Act (Cap 334), which

outlines procedures and administration for land registration. One of the articles within the Land Registration Act (Cap 334) regulates the types of land that can be registered, private property, leasehold land, or land designated as freehold under the law, which can be privately owned/individually owned, and land acquired before their Independence Day on January 26, 1923. Land that has been used and utilized before that date is considered private land with absolute rights. In addition, ownership rights over land and buildings inherited from the German administration and any land previously owned absolutely and lawfully given, donated, or dedicated as waqf land under Islamic law is considered ownership rights, even if initially given as a donation or grant [13].

Tanzania and Indonesia both face complexities in their land registration systems, albeit in different contexts. In Tanzania, the Land Registration Act (Cap 334) governs the registration procedures, encompassing various types of land, including private property, leasehold land, and freehold land designated by law, as well as land acquired before their Independence Day in 1923. This Act also acknowledges ownership rights inherited from the German administration and land designated as waqf under Islamic law. Meanwhile, in Indonesia's Toromatung forest region, despite local communities' physical possession of the land, they are legally incapacitated from partaking in legal actions regarding it due to the National Land Agency's administrative processes not being implemented. These scenarios highlight the importance of not only having comprehensive legal frameworks but also ensuring effective implementation to address the complexities and challenges surrounding land ownership and management in different regions.

The study of Japan's approach to Ainu indigenous rights and forest certification also provides support for the current study. Japan's recognition of the Ainu as indigenous people and the subsequent development of policies in response to the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) demonstrate a proactive approach to recognizing and protecting indigenous rights [14]. Furthermore, the emphasis on forest certification in Japan, particularly concerning the respect for indigenous rights outlined in the UNDRIP, underscores the potential relevance of similar mechanisms in the Toromatung forest case.

## 4. DISCUSSION

### 4.1 Land ownership policy in Indonesia

As a primary asset of Indonesia, land is regarded as a natural resource that the state must administer to benefit the entire Indonesian population. Land policy necessitates government intervention in managing land resources, including land ownership, land law, judiciary, property taxes and assessment, development procedures, public utilities and infrastructure, land development accounting, land disposal regulations, land or property management, and, more recently, facility management [15]. Due to the inability of existing legal institutions to formalize what is virtually impossible to implement, policymaking in this area is constrained [15]. Like general forest development policies, forest policy seeks to maximize the prosperity of the populace, as outlined in Pelita VI of the 1993 General Guidelines for State Policy.

Problematization refers to how policy issues are conceptualized in policy documents, whereas characterization refers to the references or reasons that identify the sources or causes of the problems [16]. In five of the eight examined policies, deforestation is depicted as an issue of policy. Some examples include Forest Policy, Climate Change Policy, Environmental Management Policy, Land Use Policy, and Land Policy [16].

Policy research has several limitations, as it encompasses a variety of materials written by various authors for various audiences and purposes [17]. Consequently, based on a comprehension of how the law functions, it can be stated that the law's operation has been communicated through establishing supervisors related to regulating the general organization and administration of the Land Office, Forestry Office, and other relevant parties [16].

Indonesia's land regulations are adequate for regulating the complexities of land ownership. Table 1 contains a selection of Indonesian regulations governing land law policies.

Sovereign and tenurial land ownership in Indonesia is governed by Article 33, paragraph 3 of the 1945 Constitution, which asserts explicitly that land, water, and airspace are state-owned and utilized to the greatest extent possible for the prosperity of the people [18]. This eminent domain of the state over the land and resources of Indonesia is not construed as absolute state ownership over land but rather an authority for regulation of various aspects of land, such as land allocation, land use, land maintenance, and land registration to be utilized for the welfare of the people of Indonesia.

Most tenurial land proprietors know the need to register their land-related legal actions and are willing to pay the associated fees [2]. Land registration serves to establish legal certainty and an orderly land administration system. Government institutions are responsible for the administration of land registration; they provide land information, prevent unauthorized and clandestine land transactions, and facilitate investment [4]. Land registration functions as a database for various purposes, although it may not guarantee land certificate holders certainty of rights in developing nations [19].

Indonesian state authorities have issued numerous legal policies in land administration, as measured by the number of laws. Various regulations that have been enacted are founded on the concept of how the law operates. In a formal juridical sense, these legislative products are elements of the law's operation about enacting legislation and legal policies. At the very least, Law No. 5 of 1960 on the Basic Agrarian Principles has spawned principles of agrarian renewal following the regime of the Dutch East Indies government, such as nationalism, legal certainty, anti-monopoly and anti-accumulation, land distribution, sustainability, and utilization of land resources for social welfare [20].

Given the perspective, land law's purpose, intent, and content have been responsive, with the responsibility for its operational implementation delegated to the designated government authority. Nonetheless, there is a discrepancy between the conception and implementation. In that case, it can result in inequity, necessitating reconstruction of the underlying regulations or following the legal principle of *Salus Populi Suprema Lex Esto*, which means that the law must be placed above the interests of the people's well-being [21].

**Table 1.** Several land legal policies in Indonesia in the form of laws and regulations

Legal Policies	Status
Law No. 5 of 1960 on Basic Agrarian Principles	In effect
Government Regulation No. 37 of 1994 concerning the Payment of Income Tax (PPh) on Income from the Transfer of Land Rights and Development	In effect
Law No. 4 of 1996 on Mortgage Rights	In effect
Law No. 21 of 1997 on Land and Building Acquisition Fees	In effect
Government Regulation No. 24 of 1997 on Land Registration	In effect
Government Regulation No. 28 of 1997 on Land Endowment	In effect
Minister of Agrarian Affairs/National Land Agency Head Regulation No. 3 of 1997 regarding the Implementation Provisions of Government Regulation No. 24 of 1997 on Land Registration	In effect
Government Regulation No. 4 of 1998 on Apartment Buildings	In effect
Government Regulation No. 37 of 1998 on Land Deed Officials	In effect
Minister of Agrarian Affairs/National Land Agency Head Regulation No. 2 of 1998 on Licensed Surveyors	In effect
Law No. 20 of 2000 on Amendments to Law No. 21 of 1997 on Land and Building Acquisition Fees	In effect
Law No. 25 of 2009 on Public Services	In effect

#### 4.2 Legal policy on state ownership of land in forest areas

Governance of forests involves assuring the extent and boundaries of forests to prevent encroachment by the community, such as by installing boundary markers. Policies that transparently define land ownership diminish uncertainty regarding land-related legal actions and prospective land disputes [3]. Therefore, land policies are part of development policy measures related to the function of land in implementing urban and regional planning [15]. The policy objectives, both those that will be implemented and those that have been implemented, are analyzed, followed by planning, implementation, evaluation, and appropriate action [16].

**Table 2.** Legal policies regarding land tenure in forest areas by the Indonesian government

Legal Policies	Status
Government Regulation No. 8 of 1953 concerning State Land Acquisition	In effect
Law No. 56 of 1960 on the Determination of Agricultural Land Area	In effect
Government Regulation No. 4 of 1961 concerning the Implementation of Land Division and Compensation	In effect
Minister of Home Affairs Regulation No. 15 of 1974 on Guidelines for the Implementation of Land Reform Follow-up Actions [18]	In effect
Presidential Decree No. 55 of 1980 on the Organization and Work Procedures for Land Reform Implementation	In effect
Government Regulation No. 40 of 1996 concerning the Right to Cultivate, Right to Build, and Right to Use Land	In effect

When forests have been illegally converted and replanted with palm oil or other crops in forest areas, a policy can be implemented by planting forest trees among the community's crops. This indicates that the government maintains a

cooperative relationship with the community in safeguarding the forest, allowing the community to cultivate plants within mutually agreed-upon time limits.

As an analogous illustration, consider Nigeria. It necessitates an integrated National Land Policy as an entity. This resulted in forming a committee tasked with examining the land tenure system in the country and developing Land Use and Management Policies for Nigeria. The result was the passage of Land Use Decree No. 6 of 1978, entrenched in the Nigerian Constitution of 1979 and representing the country's National Land Policy [22]. State and federal agencies have issued countless regulations, all under working regulations.

Land regulation strategies should be analyzed regarding how the law operates, mainly when the origins and implementations are inconsistent. The reality regarding land policy necessitates the government to restructure land laws and institutional mechanisms to ensure effective implementation. Table 2 lists the various regulations governing the legal policies of state land tenure in forest areas.

#### 4.3 Government responsibility for the issuance of land ownership certificates in forest areas

According to Article 6 of the Basic Agrarian Law (Law No. 5 of 1960 on Basic Agrarian Principles), property rights have the social capacity and are equivalent to other land rights. Moreover, this implies that land ownership rights should not only facilitate the owner's benefits and that extraordinary efforts should be made to ensure that it benefits a reasonable number of wise individuals or serves the public interest, presuming that the situation is urgent and significant. The exercise of these ownership rights must allow public needs and pursuits [7].

The land management responsibilities are delegated to the designated village council, also known as the village authority [23].

**Table 3.** Regulations regarding the government's responsibility in issuing land ownership certificates in forest areas

Legal Policies	Status
Law No. 5 of 1984 on Industry (Industrial Permit Services)	In effect
Decree of the People's Consultative Assembly of the Republic of Indonesia No. IX of 2001 on Land and Natural Resources Renewal	In effect
Law No. 18 of 2004 on Plantations	In effect
Law No. 30 of 2004 on Notary Position	In effect
Law No. 32 of 2004 on Regional Government	In effect
Law No. 4 of 2007 on Coastal Areas and Small Islands	In effect
Government Regulation No. 6 of 2007 on Forest Management and Forest Utilization Planning	In effect
Law No. 25 of 2007 on Foreign Investment	In effect
Law No. 4 of 2009 on Mineral and Coal Mining	In effect
Government Regulation No. 23 of 2021 on Forestry Implementation	In effect

The legal responsibility can be used as an alternative to, or in conjunction with, traditional regulations or tax instruments



For comparison with analogous policies worldwide, in Tanzania, the state recognizes and authorizes private land ownership to instill confidence in land ownership rights. Before the 2007 enactment of the Property Rights Law in China, the implementation procedure for land certificate programs was relatively slow during the 1980-2007 exploratory phase. When a right is initially registered at the HM Land Registry, a register of titles, a title number, is assigned to each registered title. The certificate functions as the primary irrefutable evidence, which means that the physical and legal information stated in the certificate must be accepted as accurate unless proven otherwise. The physical and legal information on the certificate must match the information recorded in the land book and relevant survey documents, as this data is derived from these sources.

#### 4.4 Implications and recommendation for further research

There are several policies made by the government regarding land ownership, especially in forest areas. While the forests are illicitly converted and replanted with palm oil or other crops in forested areas, implementing a policy that includes planting forest trees among the community's crops serves multiple purposes. It acts as a proactive measure to restore forest cover and biodiversity within degraded areas, counteracting the adverse effects of illegal deforestation.

Forest governance involves the government's efforts to ascertain and demarcate the boundaries of forests to deter encroachment by local communities, often employing strategies such as the installation of boundary markers. These measures are implemented to uphold the integrity of forest ecosystems and safeguard their ecological balance. Transparent land ownership policies are enacted to clarify ownership rights, thereby promoting responsible land stewardship and reducing the likelihood of conflicts over land use and ownership. This approach aligns with the government's broader objectives of promoting sustainable forest management practices and ensuring the long-term viability of forest resources for present and future generations. The task of managing land is assigned to the village council, also referred to as the village authority. This delegation of responsibilities by the government is aimed at empowering local governance structures to oversee land management within their respective communities.

The government can do such things in the future as their responsibilities regarding land ownership certificate issuance in forest area:

- Conducting interviews with local communities to know better about the conditions in the area;
- Create a land record database to collect all of the certificates and information of the owner; and
- Establish grievance redressal mechanism for the people to report any complaints.

#### 5. CONCLUSION

The conflicting government decisions regarding the Toromatung forest area and certificate issuance therein stem from institutional coordination issues, leading to personal losses and hampering forest conservation. The National Land Agency's passive stance exacerbates the situation, leaving land rights certificate holders in Tomuan Holbung, Mandoge District, Asahan Regency, facing legal uncertainty.

This study has successfully answered the research questions by providing comprehensive insights into the land ownership policy in Indonesia. Through a detailed examination of the legal framework surrounding state ownership of land in the Toromatung forest areas, the study has shed light on the intricacies of land tenure in this specific region. Additionally, the analysis of government responsibilities concerning the issuance of land ownership certificates has revealed significant challenges and gaps in implementation. In summary, the study has contributed to a deeper understanding of the complexities of land ownership and governance in the Toromatung forest areas, laying the groundwork for potential policy reforms and improvements to address these issues effectively.

Stakeholders, such as the National Land Agency, should prioritize the development of a centralized land record database. Such a database would enhance coordination among government agencies, ensuring consistency in land management decisions. Additionally, establishing accessible grievance redressal mechanisms is crucial for resolving legal uncertainties faced by forest area landowners. The government should actively remap the entire forest area and replant certified or community-controlled land with forest vegetation under time-limited utilization agreements.

For future studies, it is recommended that pathways explore similar issues in diverse forest types or regions. This approach can help identify common challenges and effective management strategies. Additionally, evaluating the long-term effectiveness of policies addressing government decisions and legal uncertainties in forest areas will provide insights into evolving forest management dynamics.

#### REFERENCES

- [1] Gościński, J., Kubacki, A.D. (2021). Land registration concepts in translation. *International Journal for the Semiotics of Law-Revue Internationale de Sémiotique Juridique*, 34(5): 1451-1482. <https://doi.org/10.1007/s11196-020-09800-y>
- [2] Ali, D.A., Deininger, K., Mahofa, G., Nyakulama, R. (2021). Sustaining land registration benefits by addressing the challenges of reversion to informality in Rwanda. *Land Use Policy*, 110: 104317. <https://doi.org/10.1016/j.landusepol.2019.104317>
- [3] Qin, M., Lin, W., Li, J., Yu, Z., Wachenheim, C. (2020). Impact of land registration and certification on land rental by Chinese farmers. *Land Use Policy*, 99: 104875. <https://doi.org/10.1016/j.landusepol.2020.104875>
- [4] Wang, H., Wei, S., Tang, B., Chen, J., Li, W. (2018). A comparative study on registration system of real estate between Hong Kong and Mainland China. *Property Management*, 36(1): 5-19. <https://doi.org/10.1108/PM-08-2016-0044>
- [5] Prabowo, D., Maryudi, A., Senawi, Imron, M.A. (2017). Conversion of forests into oil palm plantations in West Kalimantan, Indonesia: Insights from actors' power and its dynamics. *Forest Policy and Economics*, 78: 32-39. <https://doi.org/10.1016/j.forpol.2017.01.004>
- [6] Wanitzek, U., Sippel, H. (1998). Land rights in conservation areas in Tanzania. *GeoJournal*, 46(2): 113-128. <https://doi.org/10.1023/A:1006953325298>
- [7] Biddulph, R., Hillbom, E. (2020). Registration of private interests in land in a community lands policy setting: An exploratory study in Meru district, Tanzania. *Land Use*

- Policy, 99: 104830.  
<https://doi.org/10.1016/j.landusepol.2020.104830>
- [8] Ceddia, M.G., Zepharovich, E. (2017). Jevons paradox and the loss of natural habitat in the Argentinean Chaco: The impact of the indigenous communities' land titling and the Forest Law in the province of Salta. *Land Use Policy*, 69: 608-617.  
<https://doi.org/10.1016/j.landusepol.2017.09.044>
- [9] Kline, J.D. (2005). Forest and farmland conservation effects of oregon's (USA) land-use planning program. *Environmental Management*, 35(4): 368-380.  
<https://doi.org/10.1007/s00267-004-0054-5>
- [10] Hidayat, H., Yogaswara, H., Herawati, T., Blazey, P., Wyatt, S., Howitt, R. (2018). Forests, law and customary rights in Indonesia: Implications of a decision of the Indonesian Constitutional Court in 2012. *Asia Pacific Viewpoint*, 59(3): 293-308.  
<https://doi.org/10.1111/apv.12207>
- [11] Staddon, J. (1999). On Responsibility in Science and Law. *Social Philosophy and Policy*, 16(2): 146-174.  
<https://doi.org/10.1017/S0265052500002429>
- [12] Vize, C. (2009). New ways of working and the issue of responsibility and accountability. *The Journal of Mental Health Training, Education and Practice*, 4(2): 8-12.  
<https://doi.org/10.1108/17556228200900012>
- [13] Putra, P.S., SH, M. (2019). Reforma agraria hambatan dan tantangan di Kabupaten Karawang. *Jurnal Ilmiah Hukum DE'JURE: Kajian Ilmiah Hukum*, 4(1): 110-134.  
<https://doi.org/10.35706/dejure.v4i1.1865>
- [14] Nagai, F. (2020). Implementing the rights of indigenous peoples in Japan: Implications and challenges of forest certification for the Ainu. In *The United Nations Declaration on the Rights of Indigenous Peoples*. Routledge, pp. 248-265.
- [15] Magsino, R.F. (1982). Realism and legal policy. *Interchange*, 13(3): 26-28.  
<https://doi.org/10.1007/BF01807946>
- [16] Namaalwa, J., Byakagaba, P. (2019). Analysis of Uganda's policy and legal framework for the implementation of REDD+. *Environmental Science & Policy*, 95: 38-45.  
<https://doi.org/10.1016/j.envsci.2019.02.003>
- [17] Maglione, G. (2022). Restorative justice policy in context: A legal-archaeological analysis. *International Journal for the Semiotics of Law-Revue Internationale de Sémiotique Juridique*, 35(2): 493-517.  
<https://doi.org/10.1007/s11196-020-09747-0>
- [18] Roestamy, M., Martin, A.Y., Rusli, R.K., Fulazzaky, M.A. (2022). A review of the reliability of land bank institution in Indonesia for effective land management of public interest. *Land Use Policy*, 120: 106275.  
<https://doi.org/10.1016/j.landusepol.2022.106275>
- [19] Abdulai, R.T., Ochieng, E. (2017). Land registration and landownership security: An examination of the underpinning principles of registration. *Property Management*, 35(1): 24-47. <https://doi.org/10.1108/PM-09-2015-0051>
- [20] Hardiyanto, B. (2021). Politics of land policies in Indonesia in the era of President Susilo Bambang Yudhoyono. *Land Use Policy*, 101: 105134.  
<https://doi.org/10.1016/j.landusepol.2020.105134>
- [21] Firdaus, S.U. (2022). The urgency of legal regulations existence in case of COVID-19 vaccination refusal in Indonesia. *Journal of Forensic and Legal Medicine*, 91: 102401. <https://doi.org/10.1016/j.jflm.2022.102401>
- [22] Adejoke Oladapo, R., Olukayode Olotuah, A. (2007). Appropriate real estate laws and policies for sustainable development in Nigeria. *Structural Survey*, 25(3/4): 330-338. <https://doi.org/10.1108/02630800710772890>
- [23] Segerson, K. (1997). Legal liability as an environmental policy tool: Some implications for land markets. *The Journal of Real Estate Finance and Economics*, 15(2): 143-159. <https://doi.org/10.1023/A:1007713515455>
- [24] Forsythe, D.P. (2012). American political science association comments. *Journal of Human Rights*, 11(3): 360-364.  
<https://doi.org/10.1080/14754835.2012.702029>
- [25] Myers, R., Fisher, M., Monterroso, I., Liswanti, N., Maryudi, A., Larson, A.M., Mwangi, E., Herawati, T. (2022). Coordinating forest tenure reform: Objectives, resources and relations in Indonesia, Kenya, Nepal, Peru, and Uganda. *Forest Policy and Economics*, 139: 102718.  
<https://doi.org/10.1016/j.forpol.2022.102718>