

# Realizing “Deconstructional” Justice Through Agrarian Civil Law Reform: A Review of Jacques Derrida’s Theory

Sahlan<sup>1</sup>, Nurul Miqat<sup>2</sup>, Susi Susilawati<sup>3</sup>

<sup>1</sup>Tadulako University, Indonesia, Email : sahlamilyas@gmail.com

<sup>2</sup>Tadulako University, Indonesia, Email : nurulmiqat@gmail.com

<sup>3</sup>Tadulako University, Indonesia, Email : drsusilawati@gmail.com

## Abstract

*Agrarian law in Indonesia has a long history influenced by various power regimes. However, it still faces challenges such as agrarian conflicts and inequalities in land distribution. This research aims to analyze the application of Jacques Derrida’s deconstruction concept in the reform of Indonesian agrarian civil law, by identifying and evaluating critical aspects that need to be deconstructed to realize more substantive and inclusive agrarian justice. This study uses normative legal research methods with a conceptual approach, analyzing primary, secondary, and tertiary legal materials through literature studies, and applying qualitative analysis techniques including descriptive, interpretative, and critical analysis to examine the application of Jacques Derrida’s deconstruction theory in Indonesian agrarian civil law reform. The research results show that Jacques Derrida’s deconstruction concept can be applied in Indonesian agrarian civil law reform to achieve more substantive justice. This approach allows for the dismantling of existing agrarian legal structures, revealing inconsistencies and contradictions within them, and opening space for new, more inclusive interpretations. Critical aspects that need to be deconstructed include colonial legacies in agrarian law, dualism between customary and national law, inequalities in land tenure, unfair conflict resolution mechanisms, lack of integration between agrarian policies and environmental protection, and weak implementation of indigenous peoples’ rights. Through the deconstruction of these aspects, agrarian law reform can be directed to create a more just, inclusive, and sustainable system, taking into account broader social, cultural, and economic contexts.*

**Keyword: Deconstruction, Agrarian, Justice, Reform, Derrida.**

## 1. INTRODUCTION

Agrarian law in Indonesia has a long history that has been influenced by various power regimes, from the colonial era to the post-independence period. The agrarian system during the Dutch colonial era was governed by colonial laws that did not take into account the needs and interests of indigenous peoples and small people. The law tended to be exploitative, supporting the control of land by large plantation companies owned by the colonizers.<sup>1</sup> One striking example is the 1870 Agrarische Wet policy, which gave Dutch companies wide access to

1 Damianus Krismantoro, “Sejarah Dan Perkembangan Hukum Agraria Di Indonesia Dalam Memberikan Keadilan Bagi Masyarakat,” *Ijd-Demos* 4, no. 2 (August 4, 2022), <https://doi.org/10.37950/ij.d.v4i2.287>.

manage land in Indonesian territory without considering the traditional rights of local communities.

After independence, Indonesia attempted to reform its agrarian law system through the Basic Agrarian Law (UUPA) No. 5 of 1960. UUPA was an attempt by the Indonesian government to eliminate the influence of colonial agrarian law and replace it with a legal system based on national values and social justice. One of the main principles of UUPA is the recognition of customary rights (*hak ulayat*) and the desire to provide more equitable access to land ownership to all Indonesian people.<sup>2</sup> However, the implementation of the LoGA faces serious challenges. Agrarian conflicts, unclear land ownership status, and injustice in land distribution are still major problems to date. Agrarian conflicts in Indonesia often involve indigenous communities dealing with the government or private companies over land tenure and use. One of the problems that often arises is the dualism between state law and customary law. State law often ignores the rights of indigenous peoples, while customary law does not have strong enough legal power to protect their interests.<sup>3</sup> This has resulted in various inequalities and injustices, where small communities, especially indigenous peoples, are often the victims of agrarian policies that favor corporations or certain elite interests.

In the context of agrarian law, the concept of justice is often viewed through two lenses: the distribution of land ownership and the right to land management. Agrarian justice is not only a formal legal issue, but also a political, economic and social one. Agrarian justice involves the equitable distribution of land assets, the protection of the rights of indigenous peoples, and access for the common people to utilize land as a source of livelihood.<sup>4</sup> However, the reality on the ground shows many inequalities. The control of land by a handful of elites and large corporations creates injustice that harms small communities and indigenous communities. Many agrarian policies made by the state tend to ignore the principle of social justice. Governments often favor foreign and domestic investments that require large tracts of land, for example in the plantation and mining sectors, at the expense of the rights of local communities. This triggers prolonged agrarian conflicts and deepens injustice. According to data from the Consortium for Agrarian Reform (KPA), throughout 2020 there were 241 agrarian conflicts in Indonesia involving various sectors such as plantations, agriculture, and mining, affecting tens of thousands of families.<sup>5</sup>

In this context, agrarian law reform is important to achieve justice. However, the reform must be based on the principles of true justice, which is able to accommodate the interests of all parties, especially the weak and marginalized. Justice does not only mean providing formal rights, but also includes substantive aspects that ensure that everyone has equal opportunities to access agrarian resources.<sup>6</sup> In an effort to understand and approach the issue of agrarian justice more deeply, the theory of deconstruction introduced by French philosopher Jacques Derrida can be used as a basis for analysis. Jacques Derrida's deconstruction theory is used because it reveals internal

<sup>2</sup> Muwahid, *POKOK-POKOK HUKUM AGRARIA DI INDONESIA* (Surabaya: UIN Sunan Ampel Press, 2016).

<sup>3</sup> I Made Suwitra, "EKSISTENSI TANAH ADAT DAN MASALAHNYA TERHADAP PENGUATAN DESA ADAT DI BALI," *Wicaksana: Jurnal Lingkungan Dan Pembangunan* 4, no. 1 (2020).

<sup>4</sup> Habib Ferian Fajar, Julfahmi Syahputra, and Mareta Puri Nur Ayu Ningsih, "Agrarian Reform Policy Strategy In Realizing The Welfare Of A Social Justice Community Based On The Constitution," *Jurnal Hukum Lex Generalis* 3, no. 9 (September 24, 2022): 758-75, <https://doi.org/10.56370/jhlg.v3i9.308>.

<sup>5</sup> Mohamad Shohibuddin, *Perspektif Agraria Kritis: Teori, Kebijakan Dan Kajian Empiris* (Jakarta Selatan: STPN Press, 2018).

<sup>6</sup> William W. Sokoloff, "Between Justice and Legality: Derrida on Decision," *Political Research Quarterly* 58, no. 2 (June 2005): 341, <https://doi.org/10.2307/3595634>.

contradictions and hidden biases within established structures, such as Indonesia's agrarian legal system, enabling the re-evaluation of unjust assumptions. This approach opens pathways for more inclusive and dynamic interpretations of justice, particularly addressing marginalized groups like indigenous communities. Deconstruction, in Derrida's understanding, is not a process of total destruction or overhaul, but rather an attempt to analyze existing structures and reveal the internal contradictions hidden within them. Derrida believes that in every text or system, there is always an unstable meaning that can be dismantled to see other possibilities implied. Deconstruction tries to see justice as a concept that is always in motion and never finished, which means that efforts to achieve justice must continue without considering a system as final or perfect.<sup>7</sup>

In the context of agrarian law, a deconstructive approach allows us to see how the existing legal system actually harbors internal contradictions that could jeopardize efforts to achieve justice. The existing agrarian civil law system may appear to provide formal justice through the recognition of land rights, but on the other hand, these rules are often interpreted and applied differently according to the interests of those with power. Deconstruction challenges these formal justice claims by digging deeper, questioning the foundations of the law, and opening up possibilities for more equitable and inclusive reforms. Derrida also talks about the concept of "justice to come", which is justice that is always pursued but never totally achieved. In this case, agrarian civil law reform cannot be seen as something that will be completed by a single policy or law change.<sup>8</sup> Instead, reform should be seen as an ongoing process, where every policy taken needs to be continuously evaluated, deconstructed, and adjusted to the evolving social, political, and economic dynamics.<sup>9</sup> In other words, achieving justice in agrarian law is a never-ending journey.

As an introduction in the context of research based on Jacques Derrida's theory, the deconstruction approach offers a unique perspective that is very relevant to understanding the problem of agrarian law in Indonesia.<sup>10</sup> As explained in previous studies, Indonesian agrarian law has historical and structural complexity that reflects social, political, and economic inequality.<sup>11</sup> This study seeks to enrich the discourse by developing a deconstruction-based analysis, which not only challenges normative assumptions about justice but also opens up the possibility of reinterpreting existing legal structures. Many studies that discuss justice in agrarian law use normative, sociological, and economic approaches. However, the application of Derrida's theory which emphasizes that meaning is something that is always unstable and open to new interpretations is still rarely done in the context of Indonesian agrarian law. Jacques Derrida argued that every legal text does not have a completely independent unit of meaning, but always depends on its context in a larger structure.<sup>12</sup> This approach is very important to reveal internal

7 Turiman Turiman, "METODE SEMIOTIKA HUKUM JACQUES DERRIDA MEMBONGKAR GAMBAR LAMBANG NEGARA INDONESIA," *Jurnal Hukum & Pembangunan* 45, no. 2 (June 30, 2015): 308, <https://doi.org/10.21143/jhp.vol45.no2.6>.

8 John P. McCormick, "Derrida on Law; Or, Poststructuralism Gets Serious," *Political Theory* 29, no. 3 (2001): 395–423.

9 Chris Ruhupatty, "Keadilan Dalam Pandangan Dekonstruksi," *Dekonstruksi* 9, no. 04 (September 28, 2023): 125–28, <https://doi.org/10.54154/dekonstruksi.v9i04.199>.

10 I Gede Agus Kurniawan, "Digitalization of Business Law: Urgency and Orientation of the Industrial Revolution 4.0 and Society 5.0," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 2 (December 2022): 253–65, <https://doi.org/10.24090/volksgeist.v5i2.6847>.

11 Marjan Miharja, *Filsafat Hukum* (Bandung: CV Cendekia Press, 2021).

12 Anak Agung Istri Ari Atu Dewi et al., "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia," *Sriwijaya Law Review* 6, no. 2 (2022): 268–85, <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.

contradictions in agrarian law, especially in terms of the dualism between state law and customary law, as well as inequality in land ownership. The originality of this research lies in its attempt to integrate Derrida's deconstruction theory into agrarian law reform to create more substantive justice. This research not only critiques the existing legal structure, but also explores the potential to create a legal system that is more inclusive and adaptive to the needs of small and indigenous communities. In the context of agrarian law, this approach seeks to reinterpret the concepts of justice, land rights, and resource distribution, so that they are more responsive to dynamic social, economic, and political changes.

Jacques Derrida also introduced the idea of "*justice to come*", which emphasizes that justice is something that must be continuously pursued and is never completely finished. This view is an important foundation for this study, because agrarian law reform should not be seen as a one-time effort, but rather an ongoing process that is always open to evaluation and adjustment. Therefore, this study contributes significantly to the discussion of agrarian law by offering a new perspective that is not only theoretical but also applicable in the context of policy and implementation in the field. Through a deconstructive perspective, agrarian civil law reform in Indonesia can be seen as an effort that needs to be continuously reviewed and dismantled in order to be more inclusive and just. One aspect that needs to be deconstructed is the tension between state law and customary law. State law is often seen as a formal and rational system, while customary law is considered inadequate because it is based on local traditions and norms that are considered irrelevant to the times.<sup>13</sup> However, deconstruction allows us to see that customary law actually holds very relevant principles of justice, especially in terms of recognizing the rights of collectives and communities.

Agrarian law reform based on a deconstructive approach should also consider the impacts of policies on the most vulnerable groups, such as smallholders, indigenous peoples and women. Within the existing legal system, these groups are often marginalized due to their lack of access to legal processes and political power. Deconstruction can help dismantle discriminatory legal structures and open up space for more just and equitable policies.<sup>14</sup> For example, land redistribution policies must be considered not only from an economic perspective, but also from a social and cultural perspective. Land is not only an economic asset, but also has very important social, cultural and spiritual values for indigenous peoples.<sup>15</sup> Therefore, agrarian law reform should seek to understand these meanings and integrate them into policy decisions. Overall, it can be understood that agrarian civil law reform in Indonesia cannot be separated from the issue of justice. Despite various reform efforts, the problem of injustice and inequality in land distribution and management remains a serious challenge. Jacques Derrida's deconstruction theory offers a critical analytical framework to see the contradictions in the existing legal system and opens up space for the creation of more just and inclusive reforms.<sup>16</sup> With a deconstructive approach, agrarian justice is not something that can be achieved easily through formal legal changes, but must be seen as an ongoing process that is always open to interpretation and re-evaluation.

13 Agus Widodo, *REKONSTRUKSI KEBIJAKAN PENATAAN RUANG TERBUKA HIJAU (RTH) YANG BERBASIS NILAI KEADILAN* (Semarang: Universitas Sultan Agung, 2021).

14 Simon Chesterman, "Beyond Fusion Fallacy: The Transformation of Equity and Derrida's 'The Force of Law,'" *Journal of Law and Society* 24, no. 3 (1997): 350-76.

15 Chris Bevan, *Land Law* (Oxford: Oxford University Press, 2020).

16 M. Nazir Salim, *Reforma Agraria: Kelembagaan Dan Praktik Kebijakan* (Yogyakarta: STPN Press, 2020).



Deconstruction teaches us that justice is always in process, and therefore, agrarian law reform must also be constantly evaluated and adjusted to accommodate the interests of all parties, especially those who are most vulnerable and marginalized.<sup>17</sup> Based on the background explanation above, the author is interested in conducting research entitled “Realizing “Deconstruction” Justice Through Agrarian Civil Law Reform: A Review of Jacques Derrida’s Theory”. The problem formulation in this research is:

1. How can Jacques Derrida’s concept of deconstruction be applied in agrarian civil law reform to realize justice?
2. What are the critical aspects of agrarian civil law that need to be deconstructed to achieve more substantive justice?

This research uses a normative legal research method that focuses on the study of applicable legal norms. In the context of this research, the law that is the object of study is agrarian civil law in Indonesia, which is analyzed from the perspective of Jacques Derrida’s deconstruction theory. Normative legal research focuses on legal materials, both primary and secondary, to understand the structure, principles, and norms contained in the prevailing law. In this study, a normative approach is used to examine how agrarian law in Indonesia is deconstructed, interpreted, and implemented in order to create substantive justice, not just formal justice. This approach allows researchers to examine existing agrarian legal regulations and find contradictions or gaps that allow for the proposal of legal reform.

Jacques Derrida’s deconstructive approach in normative research aims to dismantle seemingly established legal structures to reveal internal contradictions and open up space for more inclusive reforms. In the context of Indonesian agrarian law, deconstruction can be applied to evaluate injustices stemming from colonial legacies, such as the dualism between customary law and national law that often harms indigenous peoples. Article 3 of the UUPA, for example, recognizes customary rights conditionally, but its implementation is often ignored in practice. Deconstruction allows for a re-evaluation of these regulations to ensure substantive recognition of indigenous peoples’ rights. In addition, this approach helps question the dominance of corporate interests in land control, which often marginalizes the common people, by challenging the basic assumptions of law regarding the concept of ownership.

In this research, a conceptual approach is used as a method that emphasizes the exploration and understanding of fundamental concepts relevant to the research topic. The concepts of justice, deconstruction, and agrarian law reform are at the core of this approach. The conceptual approach is used to understand the meaning of justice in Derrida’s deconstruction theory, as well as how the concept can be applied in agrarian law reform. Derrida’s thoughts on deconstruction are not only relevant for understanding legal structures, but also used as a tool to evaluate and reformulate the concept of justice in the agrarian context. This approach emphasizes that agrarian law should not only be seen as a collection of formal rules, but also as a reflection of the values of justice that develop in society.

In normative legal research, there are three categories of legal materials used, which are:

1. Primary legal materials: Primary legal materials in this research include legislation related to agrarian law in Indonesia, such as the Basic Agrarian Law (UUPA) No. 5 of 1960, government regulations governing land distribution and management, and policies related to agrarian reform. In addition, jurisprudence and court decisions

17 Bambang Santoso, *PEMBAHARUAN HUKUM* (Tangerang Selatan: UNPAM Press, 2021).

related to agrarian cases are also primary legal materials that will be studied to see how agrarian law is applied in practice.

2. Secondary legal materials: Secondary legal materials include literature containing explanations of agrarian law, relevant legal studies, and legal doctrines. Included in secondary legal materials are scholarly works that discuss Jacques Derrida's theory of deconstruction, especially in relation to its application in legal analysis. Books, scientific journals, legal articles, and other works that support the understanding of the theory of justice and deconstruction are important materials in this research.
3. Tertiary legal materials: Tertiary legal materials serve as a guide or support in finding primary and secondary legal materials. Tertiary legal materials in this research include legal dictionaries, legal encyclopedias, and indexes of relevant legal books.

Data collection techniques in this normative legal research are carried out through literature study. Researchers will collect data from various sources of legal materials mentioned above. Literature study is conducted by accessing various legal documents, laws and regulations, court decisions, and relevant academic literature. Data collection through literature study allows researchers to obtain comprehensive and in-depth information on agrarian law, deconstruction, and legal reform. In addition, data was also collected through a critical review of Jacques Derrida's works related to deconstruction theory and the concept of justice, which will be used to formulate the theoretical basis of this research.

After the data is collected, the technique used to analyze the data is a qualitative analysis technique. Data obtained from primary, secondary, and tertiary legal materials will be analyzed descriptively, interpretatively, and critically.

1. Descriptive analysis: At this stage, the researcher systematically describes the existing agrarian law rules, and explains how the concepts of justice and land rights are regulated in Indonesian agrarian law.
2. Interpretive analysis: This stage involves interpreting existing legislation and jurisprudence using Derrida's deconstructive approach. The researcher will analyze how existing agrarian law rules can lead to contradictions in their application, as well as how they can be changed or reformed to be more in line with the principles of inclusive and substantive justice.
3. Critical analysis: This technique is used to evaluate and critique the existing agrarian law rules using the deconstruction theoretical framework. Researchers will examine how current agrarian law policies tend to ignore marginalized groups, such as smallholders and indigenous peoples, and propose fairer reforms based on deconstructive analysis.

With these approaches, the research is expected to reveal fundamental problems in Indonesia's agrarian legal system and provide recommendations on legal reforms that can create more substantive justice, especially for community groups that have been marginalized in the agrarian legal system.

## 2. ANALYSIS AND DISCUSSION

### 2.1. Jacques Derrida's Concept of Deconstruction Can Be Applied in Agrarian Civil Law Reform to Realize Justice

The deconstruction approach initiated by French philosopher Jacques Derrida challenges traditional ways of thinking in understanding legal and social concepts.<sup>18</sup>

<sup>18</sup> Richard T. Ford, "Law's Territory (A History of Jurisdiction)," *Michigan Law Review* 97, no. 4 (February 1999): 843, <https://doi.org/10.2307/1290376>.

Deconstruction does not aim to destroy a text or system, but to uncover inconsistencies and contradictions in seemingly established structures, as well as make room for new possibilities in understanding the concept of justice.<sup>19</sup> In the context of agrarian civil law reform, a deconstruction approach can be used to scrutinize and overhaul the foundations of agrarian law in Indonesia which is often unfair or discriminates against certain groups, especially indigenous peoples and smallholders. Deconstruction according to Derrida is a critical analysis method that rejects the view that the meaning of a text, law, or concept is fixed and cannot be challenged. Derrida argues that meaning is always uncertain, ambiguous, and contextual, and depends on interpretation.<sup>20</sup> Therefore, in the context of law, law cannot be understood only as a rigid and static text. Law must be understood as a social construction that is always open to reinterpretation.

In Derrida's thinking, no law is fully "present" or final. Law is always in the process of reinterpretation and rewriting because of the element of absence inherent in the text. Thus, agrarian law-like any other regulation-is not final, and should continue to be revised in order to meet the dynamic demands of social justice.<sup>21</sup> Deconstruction encourages us to reopen spaces of interpretation and challenge assumptions that may stand in the way of more inclusive justice.

In the context of agrarian law, Derrida's deconstruction can be applied to understand how the current legal system, including the Basic Agrarian Law (UUPA), still contains structural injustice. One of the articles in the Basic Agrarian Law (UUPA) that reflects structural injustice is Article 3, which conditionally recognizes indigenous land rights ("hak ulayat") only "as long as they still exist in reality." This conditional recognition often marginalizes indigenous communities because the state or private interests frequently challenge the "existence" of these rights. In practice, the lack of formal documentation and state recognition weakens indigenous land claims, enabling land appropriation for corporate or state development projects.<sup>22</sup> This article creates structural injustice by subordinating customary laws to the state's interpretation of legality, favoring powerful interests while leaving indigenous communities vulnerable to dispossession and exclusion from decision-making processes regarding their ancestral lands.

One example is the inequality of land ownership that favors elites and corporations over indigenous communities and small farmers. The inequality of land ownership in Indonesia is evident from data provided by the Consortium for Agrarian Reform (KPA), which recorded 241 agrarian conflicts in 2020, involving disputes over land control in sectors such as plantations, agriculture, and mining. This inequality disproportionately favors elites and corporations, leaving indigenous communities and small farmers at a disadvantage. While the Basic Agrarian Law (UUPA) of 1960 aimed to address such disparities through principles like Article 7 which limits excessive land ownership it has failed in practice due to weak implementation and enforcement. The lack of clear mechanisms to redistribute land and recognize customary rights, combined with government policies prioritizing investment and economic development, has perpetuated

19 Mangihut Siregar, "KRITIK TERHADAP TEORI DEKONSTRUKSI DERRIDA," *Journal of Urban Sociology* 2, no. 1 (May 28, 2019): 65, <https://doi.org/10.30742/jus.v2i1.611>.

20 Iromi Ilham, "PARADIGMA POSTMODERNISME; SOLUSI UNTUK KEHIDUPAN SOSIAL? Sebuah Pandangan Teoritis Dan Analitis Terhadap Paradigma Postmodernisme," *Jurnal Sosiologi USK* 12, no. 1 (2018).

21 Ruth Mei Ulina Malau, *RESISTENSI SANG LIYAN: PERFORMA PEREMPUAN DALAM K-POP MV DI YOUTUBE* (Semarang: Universitas Diponegoro, 2013).

22 Armi Indrayuni, Syamsu A. Kamaruddin, and Arlin Adam, "Deconstructing Learning Spaces: Applying Derrida's Theory in the Design of Higher Education Buildings," *Jurnal Info Sains: Informatika Dan Sains* 14, no. 1 (2024), <https://doi.org/http://dx.doi.org/10.54209/infosains.v14i01>.

structural injustice. These issues highlight how the UUPA, despite its progressive intent, has been insufficient to prevent land monopolization and protect marginalized groups.<sup>23</sup>

The deconstruction approach challenges the formal justice claims of this agrarian law by delving deeper into how these norms are constructed and interpreted.<sup>24</sup> The Basic Agrarian Law (UUPA) of 1960 was designed to establish agrarian justice in Indonesia by promoting equitable land distribution and protecting the rights of all citizens, particularly small farmers and indigenous communities. Rooted in the principles of social justice as mandated by the 1945 Constitution, the UUPA emphasizes that land must serve the welfare of the people (Article 2). It introduced key concepts such as limiting land ownership (Article 7) to prevent monopolization and ensure broader access, and recognizing customary land rights (“hak ulayat”) under Article 3. Additionally, Article 6 mandates that land ownership and use must fulfill a social function, meaning land cannot be used solely for individual or corporate benefit but must also consider community welfare. These principles reflect the UUPA’s vision of justice one that balances individual, collective, and state interests to ensure land resources contribute to the common good and social equity.<sup>25</sup>

Derrida introduced the idea of justice to come, which states that justice is never fully achieved,<sup>26</sup> but is always in the process of being achieved. In this case, agrarian law reform cannot stop at regulatory changes alone, but must continue to involve evaluation and adjustment to deal with the evolving social, political, and economic dynamics.<sup>27</sup> The Basic Agrarian Law (UUPA) is closely related to agrarian reform because it serves as the legal foundation for redistributing land to achieve social justice. Agrarian reform aims to address land ownership inequality by redistributing land to landless farmers and marginalized communities, in line with the UUPA’s principles, particularly Articles 7 and 17. For example, Article 17 explicitly states that land ownership must have a maximum and minimum limit to prevent monopolization and ensure equitable distribution. A relevant case is the Agrarian Reform Program (TORA), where the government redistributes state land, including abandoned or illegally occupied land, to small farmers. While this reflects the spirit of agrarian justice embedded in the UUPA, its implementation often falls short due to bureaucratic inefficiencies, weak enforcement, and competing interests, thus highlighting the gap between UUPA’s ideals and practical outcomes. Deconstruction can also be used to criticize the relationship between customary law and national law. So far, customary law has often been considered inferior or irrelevant, even though customary law contains principles of justice that are contextual and oriented towards community interests. By deconstructing this hierarchical view, customary law can be seen as an equal partner in the national agrarian law system, which can enrich the perspective of agrarian justice.<sup>28</sup>

Furthermore, the deconstructive approach allows for an evaluation of the capitalist bias inherent in the agrarian legal system. Land tenure policies often support investment

23 Natasya Aulia Putri et al., “Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia,” *Jurnal Ilmu Kenotariatan* 5, no. 1 (May 12, 2024): 1, <https://doi.org/10.19184/jik.v5i1.47416>.

24 Nurjannah, “Undang-Undang Pokok Agraria (Uupa) Sebagai Induk Landreform,” *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 3, no. 2 (2014), <https://doi.org/https://doi.org/10.24252/ad.v3i2.1436>.

25 Bayu Dwi Anggono and Rofi Wahanisa, “The Implementation Of Agrarian Reform In Semarang Regency,” *Journal of Strategic and Global Studies* 1, no. 2 (July 20, 2018), <https://doi.org/10.7454/jsgs.v1i2.1008>.

26 Jeffrey T. Nealon, “The Discipline of Deconstruction,” *PMLA/Publications of the Modern Language Association of America* 107, no. 5 (October 1992): 1266–79, <https://doi.org/10.2307/462879>.

27 Ruhupatty, “Keadilan Dalam Pandangan Dekonstruksi.”

28 Inayatul Anisah, “Dekonstruksi Hukum Sebagai Strategi Pembangunan Hukum Di Indonesia Pasca Reformasi,” *De Jure: Jurnal Hukum Dan Syar’iah* 2, no. 1 (2010).



and economic development, but ignore their impact on local communities. For example, land conversion for plantations or mining often harms small farmers who lose their livelihoods.<sup>29</sup> Derrida would see this as a form of violence of the law, where the law is used to perpetuate power imbalances. Deconstructing this norm can encourage legal reforms that are more sensitive to vulnerable groups.<sup>30</sup> In addition, Derrida's deconstruction approach can be applied to integrate the perspective of environmental sustainability into agrarian law. Agrarian reform is not only about land redistribution but also how land is managed sustainably to protect the ecosystem. In this case, agrarian policy must combine the principles of social justice with ecological justice, thus creating a system that is not only fair to humans but also to the environment.<sup>31</sup>

Agrarian law in Indonesia, especially since the enactment of the Basic Agrarian Law (UUPA) No. 5 of 1960, aims to create an agrarian system that is fair, equitable, and in accordance with the social values in the 1945 Constitution. One of the main objectives of UUPA is to realize a more equitable distribution of land for the benefit of the common people.<sup>32</sup> However, in its implementation, many problems have arisen, including structural injustices in land distribution and management, unclear rights of indigenous peoples, and the dominance of large corporate interests in land ownership.<sup>33</sup>

Derrida's deconstruction invites us to re-examine this agrarian legal system, especially by questioning the assumptions underlying the concepts of ownership, land rights, and resource distribution.<sup>34</sup> In this context, agrarian law reform can utilize a deconstruction approach to assess whether existing laws truly reflect justice or only strengthen the power of certain groups. In a deconstruction perspective, land is not a static or fixed entity that is interpreted in one way. In the Indonesian context, the land ownership system underwent a significant transformation during the colonial period, where colonial agrarian laws introduced by the Dutch, such as the 1870 Agrarisch Wet, introduced the concept of individualistic and capitalistic property rights.<sup>35</sup>

After independence, the 1960 Basic Agrarian Law (UUPA) tried to restore the concept of land ownership in accordance with "ulayat rights" or customary rights, but in practice, tensions between the interests of the state, corporations and indigenous peoples continued to occur. Derrida's deconstruction allows us to examine how agrarian law has constructed a concept of ownership that often ignores the rights of indigenous peoples and other marginalized groups.<sup>36</sup> By deconstructing the legal-formal concept of land ownership, we can open up space for a more inclusive understanding of land as a source of livelihood for indigenous peoples and farmers.

29 Ricco Andreas, Luthfi Kalbu Adi, and Sri Sulastuti, "The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 13, no. 2 (July 1, 2019): 101, <https://doi.org/10.25041/fiatjustisia.v13no2.1565>.

30 Hartoyo, *CARA BARU PETANI MENGGUGAT KEBIJAKAN AGRARIA (Potret Konflik Pertanahan Dan Dinamika Gerakan Petani Di Lampung Pasca Orde Baru)* (Bandar Lampung: CV. Anugrah Utama Raharja, 2015).

31 Natasha Constantin and Fitzgerald Kennedy Sitorus, "Dekonstruksi Makna Dan Bahasa Dalam Perspektif Jacques Derrida," *JKOMDIS: Jurnal Ilmu Komunikasi Dan Media Sosial* 3, no. 3 (December 15, 2023): 795-801, <https://doi.org/10.47233/jkomdis.v3i3.1315>.

32 Chandra Purwadi Munziri et al., "Analisis Analisis Perkembangan Politik Hukum Agraria/Pertanahan Pada Era Orde Baru Di Indonesia," *Jurnal Perspektif Administrasi Dan Bisnis* 5, no. 1 (2024), <https://doi.org/https://doi.org/10.38062/jpab.v5i1.744>.

33 Susan Chomba et al., "Roots of Inequity: How the Implementation of REDD + Reinforces Past Injustices," *Land Use Policy* 50 (January 2016): 202-13, <https://doi.org/10.1016/j.landusepol.2015.09.021>.

34 Muchammad Yustian Yusa, *ISLAM DAN KAPITALISME: STUDI KASUS QATAR INDOSAT OOREDOO* (Jakarta: UIN Syarif Hidayatullah, 2021).

35 Asep Riyadi, "KONSEP KEPEMILIKAN TANAH DALAM HUKUM AGRARIA DAN HUKUM EKONOMI SYARIAH," *Jurnal Riset Ekonomi Syariah Dan Hukum Al-Falah* 1, no. 2 (2023).

36 M. Sofyan Pulungan, "Menelaah Masa Lalu, Menata Masa Depan: Sejarah Hukum Tanah Ulayat Dan Model Penanganan Konflik Sosialnya," *Undang: Jurnal Hukum* 6, no. 1 (2023), <https://doi.org/https://doi.org/10.22437/ujh.6.1.235-267>.

One of the main issues in agrarian law in Indonesia is the inconsistent implementation of the UUPA, especially in the context of land tenure by large corporations and foreign investment. Programs such as Agrarian Reform and Social Forestry initiated by the Indonesian government in recent decades aim to redistribute land to the common people and indigenous communities.<sup>37</sup> However, in practice, the rate of conversion of agricultural land into industrial land, plantations, and infrastructure is faster than the redistribution of land to the small people.

Derrida would see this phenomenon as part of the logic of global capitalism that continues to reconstruct the law in favor of capital, rather than in favor of social justice. The deconstruction approach can be used to reveal that agrarian law in this context functions more as a tool to facilitate land control by economic elites rather than as an instrument to achieve justice for the common people. This contradiction needs to be uncovered and addressed with more comprehensive legal reforms.<sup>38</sup>

One of the pressing issues in agrarian law reform is the recognition and protection of indigenous peoples' rights to their lands. The Constitutional Court Decision No. 35/PUU-X/2012 recognizing that customary forests are not part of state forests is an important step in protecting indigenous peoples' rights.<sup>39</sup> However, the implementation of this decision on the ground still faces various obstacles, including the lack of formal recognition of indigenous territories and overlapping regulations between the central and local governments.

In deconstruction, Derrida also talks about how legal texts or systems often contain hidden "structural violence". This violence arises from asymmetrical power relations in the construction of the law itself. In the context of agrarian law in Indonesia, we can see the unequal power relations between the state, large corporations, and indigenous peoples or small farmers. The state, in many cases, becomes an actor that legitimizes the control of land by corporations through legal mechanisms that seem legitimate but are detrimental to the little people. A deconstruction approach can help us to dismantle these power relations and identify how agrarian law has been used as a tool to preserve inequality.<sup>40</sup> As such, agrarian law reform must include fundamental structural changes, including the empowerment of indigenous peoples and smallholders in decision-making processes regarding agrarian resource management.

For Derrida, justice is not something final or fully attainable. Justice is always in the process of becoming, or in Derrida's terms, "to come" (*à venir*). This means that justice is a concept that continues to evolve and is never complete. In the context of agrarian law reform, justice cannot be seen as a goal that has been achieved through formal regulations or land redistribution alone. Agrarian justice must continue to be pursued through a continuous process, where every policy and regulation is always open to criticism and revision.<sup>41</sup> Equitable agrarian law reform requires the courage to deconstruct existing laws, recognize entrenched structural injustices, and design more inclusive policies. With a deconstruction approach, we can develop agrarian law that

37 Mushafi, "Problematika Dan Pembaharuan Hukum Agraria Nasional," *Keadaban: Jurnal Sosial & Humaniora* 1, no. 1 (2019), <https://doi.org/https://doi.org/10.33650/keadaban.v1i1.916>.

38 Siregar, "KRITIK TERHADAP TEORI DEKONSTRUKSI DERRIDA."

39 Faiq Tobroni, "Menguatkan Hak Masyarakat Adat Atas Hutan Adat (Studi Putusan MK Nomor 35/PUU-X/2012)," *Jurnal Konstitusi* 10, no. 3 (2013).

40 King Faisal Sulaiman, "Polemik Fungsi Sosial Tanah Dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 Dan Putusan Mahkamah Konstitusi Nomor 50/PUU-X/2012," *Jurnal Konstitusi* 18, no. 1 (2021).

41 Fachry Romanza, *MENGANALISIS KAUM ARTIKULATIF EKSTREM DALAM KERANGKA DEMOCRACY TO COME/JACQUES DERRIDA* (Depok: Universitas Indonesia, 2012).

does not only focus on legal-formal aspects, but also on broader social, cultural and economic aspects.<sup>42</sup>

Realizing inclusive agrarian justice requires openness to criticism and the courage to deconstruct existing laws. Derrida's deconstruction provides a new perspective for agrarian law reform in Indonesia by challenging assumptions that have been considered established. With deconstruction, we are invited not only to focus on formal regulations, but also to see how these regulations are implemented and their impact on marginalized groups.<sup>43</sup> Equitable agrarian law reform must involve the active participation of indigenous peoples, smallholders, and other groups that have so far received less attention in decision-making related to land management. Agrarian law must be continuously revised and adapted to the evolving social, political and economic dynamics, so that it can truly reflect the principles of social justice.<sup>44</sup>

In conclusion, Derrida's deconstruction approach opens the way for critical reflection on the agrarian legal system in Indonesia. Equitable agrarian law reform is not only about physical land redistribution, but also about dismantling legal structures that have been reinforcing injustice and inequality. By continuing to deconstruct the existing legal system, we can design legal reforms that are more inclusive and fairer for all levels of society.

## 2.2 Critical Aspects of Agrarian Civil Law That Need to Be Deconstructed to Achieve More Substantive Justice

In the context of agrarian civil law in Indonesia, various critical aspects covering the regulation, implementation, and enforcement of agrarian law often require deconstruction to realize more substantive justice. This is important considering that the agrarian sector in Indonesia is closely related to the distribution of natural resources, the rights of indigenous peoples, and environmental sustainability. Deconstruction of agrarian civil law in Indonesia is necessary to create a more just legal system, especially in the context of natural resource management, land distribution, and recognition of indigenous peoples' rights.<sup>45</sup> Indonesian agrarian law still inherits structures and concepts from the colonial era, such as the Agrarische Wet of 1870, which introduced the concept of individualistic land ownership. This system ignored the collective rights of indigenous peoples, whose land was often considered state property or handed over to private companies. The Basic Agrarian Law (UUPA) of 1960 attempted to erase the influence of colonial law by placing land as a resource owned by the people. However, in practice, the impact of this colonial system is still felt, especially in the control of land by large corporations.<sup>46</sup> Deconstruction of this colonial legacy can be done by prioritizing collective ownership based on customary law. The government needs to provide stronger legal protection for the customary rights of indigenous peoples and

42 Sulaiman, "Polemik Fungsi Sosial Tanah Dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 Dan Putusan Mahkamah Konstitusi Nomor 50/ PUU-X/2012."

43 Israwati Akib, "Urgensi Reformasi Agraria Dalam Menegakkan Hak Asasi Manusia Dan Good Governance," *Jurnal Ilmiah Ekonometriks (JIE)* 6, no. 2 (2023).

44 Sulaiman, "Polemik Fungsi Sosial Tanah Dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 Dan Putusan Mahkamah Konstitusi Nomor 50/ PUU-X/2012."

45 Andre Dwi Putra Sinaga et al., "Efektivitas Kehadiran Bank Tanah Terhadap Perlindungan Hukum Masyarakat Adat Atas Tanah Adat Studi Kasus Di Kecamatan Medan Belawan," *Jurnal Hukum Lex Generalis* 5, no. 4 (2024).

46 Slamet Catur Pamungkas, "Transformasi UU Agraria Tahun 1870 Ke UUPA 1960 Pada Masa Dekolonisasi Kepemilikan Tanah Pasca Kemerdekaan Di Indonesia," *Al-Isnad: Journal of Islamic Civilization History and Humanities* 2, no. 2 (December 30, 2021): 43–59, <https://doi.org/10.22515/isnad.v2i2.4854>.

ensure that the concept of national law does not damage long-standing land ownership patterns.

The second aspect to note is the dualism in Indonesia's agrarian law system. The UUPA attempts to integrate customary land law and national law into a single entity. However, in practice, this dualism persists, especially in terms of recognizing and regulating indigenous peoples' rights to customary or communal land. Indigenous peoples often experience difficulties in obtaining legal recognition for their customary lands, especially if the land does not have a formal certificate recognized by the state.<sup>47</sup> Article 3 of the UUPA does recognize hak ulayat and similar rights, but only "as long as in fact they still exist". This is problematic because such recognition is conditional and often ignored in practice when customary lands are claimed by the government or companies for development or investment purposes. To achieve substantive justice, there needs to be further efforts to strengthen the protection of customary rights and provide easier procedures for indigenous peoples to obtain formal recognition of their lands.<sup>48</sup>

One of the major problems in agrarian law is the dualism between customary law and national law. Article 3 of the UUPA recognizes customary rights, but its implementation is often hampered because the recognition is conditional: "as long as they still exist in reality". In many cases, the rights of indigenous peoples are difficult to formally recognize because there is no written documentary evidence or certificates recognized by the state. This conflict is exacerbated when customary land is claimed for development projects without the consent of local communities. Inequality in land tenure is a fundamental issue that demands deconstruction in agrarian law. This inequality, despite having long been a concern in the agrarian reform discourse, still persists. According to data from the National Land Agency (BPN), most productive land in Indonesia is controlled by a small group of elites, be it private companies, state-owned enterprises, or even wealthy individuals.<sup>49</sup> This has led to unequal land distribution, with most communities, especially smallholders and indigenous peoples, having only limited access to land.

Inequality in land ownership in Indonesia is a fundamental problem that creates social injustice. Most land is controlled by a handful of elites or large corporations, while indigenous peoples, small farmers, and other vulnerable groups have limited access. This inequality deepens poverty and results in the loss of livelihoods for vulnerable groups. Article 7 of the UUPA limits the amount of land that can be owned by individuals or legal entities, but its implementation is weak. Land redistribution is often just a discourse without significant realization. To deconstruct this problem, there needs to be a firm policy to limit land monopolies, accelerate land redistribution to small farmers, and impose sanctions on land owners who exceed the limit.<sup>50</sup> The UUPA initially attempted to address this inequality through a land redistribution program. Article 7 of the UUPA states that "Individuals and legal entities who have a land right are not allowed to own and control land that exceeds its size." However, the implementation of this article has been less effective, especially in the face of large-scale land tenure by corporations. Over

47 Suwitra, "EKSISTENSI TANAH ADAT DAN MASALAHNYA TERHADAP PENGUATAN DESA ADAT DI BALI."

48 Gede Marhaendra Wija Atmaja, *POLITIK PLURALISME HUKUM DALAM PENGAKUAN KESATUAN MASYARAKAT HUKUM ADAT DENGAN PERATURAN DAERAH* (Malang: Universitas Brawijaya, 2012).

49 Ward Berenschot and Ahmad Dhiaulhaq, "The Production of Rightlessness: Palm Oil Companies and Land Dispossession in Indonesia," *Globalizations*, September 6, 2023, 1–19, <https://doi.org/10.1080/14747731.2023.2253657>.

50 Marc C. A. Wegerif and Arantxa Guereña, "Land Inequality Trends and Drivers," *Land* 9, no. 4 (March 28, 2020): 101, <https://doi.org/10.3390/land9040101>.



time, the process of land redistribution has also been hampered by bureaucracy and a lack of political will to counter the interests of large landowners.<sup>51</sup> Deconstruction of this aspect requires fundamental changes in regulation and stricter law enforcement related to land tenure restrictions, especially to prevent land monopoly by corporations. The fundamental changes required to address land tenure restrictions and prevent land monopolies by corporations include strengthening regulatory frameworks and ensuring stricter enforcement of land ownership limits as stated in Article 7 of the UUPA. This can be achieved by implementing a transparent land audit system to monitor and evaluate land ownership patterns, ensuring compliance with legal limits. Additionally, the government must prioritize progressive land redistribution programs that allocate excess land to landless farmers and marginalized communities. Legal mechanisms should also be revised to include penalties for corporations or individuals who exceed ownership limits, such as land reclamation or taxation on unused land. These changes must be accompanied by community participation in land management decisions and clear protection of indigenous land rights to ensure a just and equitable agrarian system.<sup>52</sup> In addition, land redistribution policies should be more inclusive and focus on groups of people most in need, such as marginalized smallholders and indigenous peoples.<sup>53</sup>

Land conflicts in Indonesia often involve local communities facing the government or large companies. The process of resolving these conflicts often does not favor small communities, especially when they do not have legal access or official documents proving their rights to land.<sup>54</sup>

Deconstructing land conflict resolution mechanisms involves critically analyzing and dismantling the existing legal structures that prioritize state or corporate interests over marginalized communities. This can be done by questioning the dominance of formal legal processes, which often favor parties with greater power, and integrating alternative, community-based dispute resolution approaches. For example, customary practices of mediation among indigenous communities could be recognized as legitimate mechanisms alongside formal courts, ensuring a pluralistic legal framework. Additionally, the process must include equal participation from affected communities, ensuring their voices are heard in decision-making. By exposing the inherent biases in the current system where legal access is often costly and bureaucratic for small farmers and indigenous people's deconstruction opens the space for reforms that center on fairness, accessibility, and inclusivity in land conflict resolution. This approach moves beyond formal justice claims to address substantive and social justice in agrarian disputes.<sup>55</sup>

51 Fareta Angelica Ichwana P. and Ridha Wahyuni, "EFEKTIVITAS PROGRAM REDISTRIBUSI TANAH BEKAS PERKEBUNAN DI DALAM KERANGKA REFORMA AGRARIA INDONESIA," *Kertha Semaya: Jurnal Ilmu Hukum* 12, no. 9 (2024), <https://doi.org/https://doi.org/10.24843/KS.2024.v12.i09.p19>.

52 Cecep Miptahuddin, "The Problem of Ownership of Land Rights Is Reviewed Based on the Law and Government Regulations," *Advances In Social Humanities Research* 2, no. 5 (May 31, 2024): 784–803, <https://doi.org/10.46799/adv.v2i5.250>.

53 Suraji, *REKONSTRUKSI REGULASI PERALIHAN PEMILIKAN TANAH SECARA ABSENTEE YANG BERBASIS NILAI KEADILAN* (Semarang: Universitas Islam Sultan Agung, 2022).

54 Kukuh Wibowo, Arthur Josias Simon Runturambi, and Achmad Sanusi, "Police Intelligence in Resolving Land Conflicts: Case Study of Land Conflict Resolution for the Construction of the Great Mosque in South Solok," *International Journal of Science and Society* 5, no. 5 (November 3, 2023): 424–38, <https://doi.org/10.54783/ijssoc.v5i5.903>.

55 Fajar Ardiansah Wahyu, Mundzir Tamam, and Ahmad Misbakh Zainul Musthofa, "The Status of the People's Tribunal in Resolving Land Disputes in the Dago Elos Community," *Al-Ishlah: Jurnal Ilmiah Hukum* 27, no. 2 (August 20, 2024): 215–29, <https://doi.org/10.56087/aijih.v27i2.483>.

Alternative dispute resolution, such as community-based mediation, can be a more inclusive approach. In addition, judicial institutions must pay more attention to land cases by prioritizing protection for marginalized groups.<sup>56</sup>

To deconstruct this aspect, there needs to be a revision of the land acquisition mechanism to make it more transparent and fairer. The revision of the land acquisition mechanism should focus on ensuring transparency, fairness, and inclusivity by incorporating stronger protections for marginalized communities, such as small farmers and indigenous peoples. This includes implementing clear consultation processes with affected communities, establishing mechanisms for fair compensation, and creating independent oversight to monitor land acquisition practices. From a deconstructive perspective, Jacques Derrida's theory challenges the existing legal structures and exposes their hidden biases and contradictions such as prioritizing economic development over social justice. By deconstructing these mechanisms, we can identify how laws and policies favor powerful stakeholders while marginalizing vulnerable groups.<sup>57</sup> Revision, therefore, becomes a means of reinterpreting and reconstructing legal norms to ensure they align with principles of substantive justice, rather than merely serving formal or procedural legality.

Although Article 18B of the 1945 Constitution and Constitutional Court Decision No. 35/PUU-X/2012 have recognized the rights of indigenous peoples to customary forests, their implementation is still far from adequate. Many indigenous peoples do not receive official recognition of their land due to complicated and expensive procedures. Deconstructing this aspect requires a more inclusive approach. The government needs to simplify the process of recognizing customary rights and provide legal support to indigenous peoples to defend their rights. In addition, agrarian policies must provide special protection to vulnerable groups, including indigenous women who are often excluded from decision-making processes.<sup>58</sup> Deconstructing this aspect requires a more inclusive approach in agrarian policy by providing greater space for indigenous peoples to be involved in decision-making processes related to their lands and natural resources. In addition, the government needs to establish legal mechanisms that make it easier for indigenous peoples to obtain recognition of their land rights without having to go through complicated and expensive procedures.<sup>59</sup> The deconstruction of agrarian civil law in Indonesia requires a holistic approach that considers various aspects, ranging from colonial history, legal dualism, land tenure inequality, agrarian conflict resolution, environmental protection, to the rights of indigenous peoples and local communities. The Basic Agrarian Law No. 5/1960 has indeed become an important milestone in agrarian reform in Indonesia, but various challenges still remain, both in terms of implementation and law enforcement.<sup>60</sup>

56 Husen Alting, "PENGUASAAN TANAH MASYARAKAT HUKUM ADAT (SUATU KAJIAN TERHADAP MASYARAKAT HUKUM ADAT TERNATE)," *Jurnal Dinamika Hukum* 11, no. 1 (February 1, 2011), <https://doi.org/10.20884/1.jdh.2011.11.1.75>.

57 Novriansyah Rosyid Hermawan, Arina Novizas Shebubakar, and Sadino Sadino, "Legal Aspects of Land Acquisition for the National Capital City (IKN) of the Nusantara," *JLPH (Journal of Law, Politic and Humanities)* 4, no. 5 (2024), <https://doi.org/https://doi.org/10.38035/jlph.v4i5.544>.

58 Thea Farina et al., "Pengakuan Dan Perlindungan Hutan Adat Dalam Mewujudkan Hak Masyarakat Hukum Adat Di Provinsi Kalimantan Tengah," *UNES Law Review* 6, no. 3 (2024).

59 Indah Rahmahdini, Aang Anggara, and Suzana Margareth Aror, "Menciptakan Ruang Terbuka Hijau Dengan Persepsi Keamanan Sebagai Elemen Inklusif," *Archvisual: Jurnal Arsitektur Dan Perencanaan* 4, no. 1 (August 30, 2024): 19–32, <https://doi.org/10.55300/archvisual.v4i1.2419>.

60 Hartana and Kadek Novi Darmayanti, "PERAN HUKUM ADAT DALAM PERKEMBANGAN HUKUM AGRARIA DI INDONESIA," *Jurnal Pendidikan Kewarganegaraan Undiksha* 8, no. 3 (2020).

### 3. CONCLUSION

Jacques Derrida's deconstruction theory provides a critical framework for analyzing Indonesia's agrarian legal system by revealing hidden contradictions and biases that perpetuate inequality and injustice. The Basic Agrarian Law (UUPA), while rooted in principles of social justice, contains structural limitations, such as conditional recognition of customary land rights and ineffective implementation of land redistribution policies. Deconstruction highlights these flaws and opens possibilities for revising agrarian laws to ensure inclusivity, fairness, and substantive justice, particularly for marginalized groups like indigenous peoples and small farmers. By continuously reinterpreting and reconstructing agrarian policies, justice can be pursued as an ongoing process responsive to evolving social, economic, and environmental dynamics.

### REFERENCES

- Akib, Israwati. "Urgensi Reformasi Agraria Dalam Menegakkan Hak Asasi Manusia Dan Good Governance." *Jurnal Ilmiah Ekonometriks (JIE)* 6, no. 2 (2023).
- Alting, Husen. "PENGUASAAN TANAH MASYARAKAT HUKUM ADAT (SUATU KAJIAN TERHADAP MASYARAKAT HUKUM ADAT TERNATE)." *Jurnal Dinamika Hukum* 11, no. 1 (February 1, 2011). <https://doi.org/10.20884/1.jdh.2011.11.1.75>.
- Anastasia, Sasikirana, Rifki Nurohman, Daffa Tegar Nabil Zaidan, and Asnawi Mubarak. "Implikasi Hukum Agraria Terhadap Konflik Pertanahan Indonesia." *Arus Jurnal Sosial Dan Humaniora* 4, no. 2 (August 19, 2024): 545–53. <https://doi.org/10.57250/ajsh.v4i2.485>.
- Andreas, Ricco, Luthfi Kalbu Adi, and Sri Sulastuti. "The Effect of Colonialism on Implementation of Agrarian Reform in Indonesia." *FIAT JUSTISIA: Jurnal Ilmu Hukum* 13, no. 2 (July 1, 2019): 101. <https://doi.org/10.25041/flatjustisia.v13no2.1565>.
- Anggono, Bayu Dwi, and Rofi Wahanisa. "The Implementation Of Agrarian Reform In Semarang Regency." *Journal of Strategic and Global Studies* 1, no. 2 (July 20, 2018). <https://doi.org/10.7454/jsgs.v1i2.1008>.
- Anisah, Inayatul. "Dekonstruksi Hukum Sebagai Strategi Pembangunan Hukum Di Indonesia Pasca Reformasi." *De Jure: Jurnal Hukum Dan Syar'iah* 2, no. 1 (2010).
- Atmaja, Gede Marhaendra Wija. *POLITIK PLURALISME HUKUM DALAM PENGAKUAN KESATUAN MASYARAKAT HUKUM ADAT DENGAN PERATURAN DAERAH*. Malang: Universitas Brawijaya, 2012.
- Berenschot, Ward, and Ahmad Dhiaulhaq. "The Production of Rightlessness: Palm Oil Companies and Land Dispossession in Indonesia." *Globalizations*, September 6, 2023, 1–19. <https://doi.org/10.1080/14747731.2023.2253657>.
- Bevan, Chris. *Land Law*. Oxford: Oxford University Press, 2020.
- Chesterman, Simon. "Beyond Fusion Fallacy: The Transformation of Equity and Derrida's 'The Force of Law.'" *Journal of Law and Society* 24, no. 3 (1997): 350–76.

- Chomba, Susan, Juliet Kariuki, Jens Friis Lund, and Fergus Sinclair. "Roots of Inequity: How the Implementation of REDD + Reinforces Past Injustices." *Land Use Policy* 50 (January 2016): 202–13. <https://doi.org/10.1016/j.landusepol.2015.09.021>.
- Constantin, Natasha, and Fitzgerald Kennedy Sitorus. "Dekonstruksi Makna Dan Bahasa Dalam Perspektif Jacques Derrida." *JKOMDIS : Jurnal Ilmu Komunikasi Dan Media Sosial* 3, no. 3 (December 15, 2023): 795–801. <https://doi.org/10.47233/jkomdis.v3i3.1315>.
- Dewi, Anak Agung Istri Ari Atu, Ni Ketut Supasti Dharmawan, Anak Agung Istri Eka Krisnayanti, Putu Aras Samsithawrati, and I. Gede Agus Kurniawan. "The Role of Human Rights and Customary Law to Prevent Early Childhood Marriage in Indonesia." *Sriwijaya Law Review* 6, no. 2 (2022): 268–85. <https://doi.org/10.28946/slrev.Vol6.Iss2.1885.pp268-285>.
- Fajar, Habib Ferian, Julfahmi Syahputra, and Mareta Puri Nur Ayu Ningsih. "Agrarian Reform Policy Strategy In Realizing The Welfare Of A Social Justice Community Based On The Constitution." *Jurnal Hukum Lex Generalis* 3, no. 9 (September 24, 2022): 758–75. <https://doi.org/10.56370/jhlg.v3i9.308>.
- Farina, Thea, Satriya Nugraha, Agus Mulyawan, and Andika Wijaya. "Pengakuan Dan Perlindungan Hutan Adat Dalam Mewujudkan Hak Masyarakat Hukum Adat Di Provinsi Kalimantan Tengah." *UNES Law Review* 6, no. 3 (2024).
- Ford, Richard T. "Law's Territory (A History of Jurisdiction)." *Michigan Law Review* 97, no. 4 (February 1999): 843. <https://doi.org/10.2307/1290376>.
- Hartana, and Kadek Novi Darmayanti. "PERAN HUKUM ADAT DALAM PERKEMBANGAN HUKUM AGRARIA DI INDONESIA." *Jurnal Pendidikan Kewarganegaraan Undiksha* 8, no. 3 (2020).
- Hartoyo. *CARA BARU PETANI MENGGUGAT KEBIJAKAN AGRARIA (Potret Konflik Pertanahan Dan Dinamika Gerakan Petani Di Lampung Pasca Orde Baru)*. Bandar Lampung: CV. Anugrah Utama Raharja, 2015.
- Hermawan, Novriansyah Rosyid, Arina Novizas Shebubakar, and Sadino Sadino. "Legal Aspects of Land Acquisition for the National Capital City (IKN) of the Nusantara." *JLPH (Journal of Law, Politic and Humanities)* 4, no. 5 (2024). <https://doi.org/https://doi.org/10.38035/jlph.v4i5.544>.
- Ilham, Iromi. "PARADIGMA POSTMODERNISME; SOLUSI UNTUK KEHIDUPAN SOSIAL? Sebuah Pandangan Teoritis Dan Analitis Terhadap Paradigma Postmodernisme." *Jurnal Sosiologi USK* 12, no. 1 (2018).
- Indrayuni, Armi, Syamsu A. Kamaruddin, and Arlin Adam. "Deconstructing Learning Spaces: Applying Derrida's Theory in the Design of Higher Education Buildings." *Jurnal Info Sains: Informatika Dan Sains* 14, no. 1 (2024). <https://doi.org/http://dx.doi.org/10.54209/infosains.v14i01>.
- Krismantoro, Damianus. "Sejarah Dan Perkembangan Hukum Agraria Di Indonesia Dalam Memberikan Keadilan Bagi Masyarakat." *Ijd-Demos* 4, no. 2 (August 4, 2022). <https://doi.org/10.37950/ijd.v4i2.287>.
- Kurniawan, I Gede Agus. "Digitalization of Business Law: Urgency and Orientation of



- the Industrial Revolution 4.0 and Society 5.0.” *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 2 (December 2022): 253–65. <https://doi.org/10.24090/volksgeist.v5i2.6847>.
- Malau, Ruth Mei Ulina. *RESISTENSI SANG LIYAN: PERFORMA PEREMPUAN DALAM K-POP MV DI YOUTUBE*. Semarang: Universitas Diponegoro, 2013.
- McCormick, John P. “Derrida on Law; Or, Poststructuralism Gets Serious.” *Political Theory* 29, no. 3 (2001): 395–423.
- Miharja, Marjan. *Filsafat Hukum*. Bandung: CV Cendekia Press, 2021.
- Miptahuddin, Cecep. “The Problem of Ownership of Land Rights Is Reviewed Based on the Law and Government Regulations.” *Advances In Social Humanities Research* 2, no. 5 (May 31, 2024): 784–803. <https://doi.org/10.46799/adv.v2i5.250>.
- Mulyani, Sri, Joko Sriwidodo, Basuki, and Yuhelson. “Perlindungan Hukum Pengelolaan Hak Atas Tanah Yang Bersertifikat Terkait Perubahan Peruntukan Menjadi Konservasi Kehutanan.” *Dikmas: Jurnal Pendidikan Masyarakat Dan Pengabdian* 3, no. 1 (2023). <https://doi.org/http://dx.doi.org/10.37905/dikmas.3.1.221-232.2023>.
- Munziri, Chandra Purwadi, Faikar Mufid, Syarif Syahrizal, and Eko Setiawan. “Analisis Analisis Perkembangan Politik Hukum Agraria/Pertanahan Pada Era Orde Baru Di Indonesia.” *Jurnal Perspektif Administrasi Dan Bisnis* 5, no. 1 (2024). <https://doi.org/https://doi.org/10.38062/jpab.v5i1.744>.
- Mushafi. “Problematika Dan Pembaharuan Hukum Agraria Nasional.” *Keadaban: Jurnal Sosial & Humaniora* 1, no. 1 (2019). <https://doi.org/https://doi.org/10.33650/keadaban.v1i1.916>.
- Muwahid. *POKOK-POKOK HUKUM AGRARIA DI INDONESIA*. Surabaya: UIN Sunan Ampel Press, 2016.
- Nealon, Jeffrey T. “The Discipline of Deconstruction.” *PMLA/Publications of the Modern Language Association of America* 107, no. 5 (October 1992): 1266–79. <https://doi.org/10.2307/462879>.
- Nugroho, Wahyu. *BUKU AJAR HUKUM LINGKUNGAN DAN PENGELOLAAN SUMBER DAYA ALAM*. Yogyakarta: Genta Publishing, 2022.
- Nurjannah. “Undang-Undang Pokok Agraria (Uupa) Sebagai Induk Landreform.” *Al Daulah: Jurnal Hukum Pidana Dan Ketatanegaraan* 3, no. 2 (2014). <https://doi.org/https://doi.org/10.24252/ad.v3i2.1436>.
- Obidzinski, Krystof, Rubeta Andriani, Heru Komarudin, and Agus Andrianto. “Environmental and Social Impacts of Oil Palm Plantations and Their Implications for Biofuel Production in Indonesia.” *Ecology and Society* 17, no. 1 (2012): art25. <https://doi.org/10.5751/ES-04775-170125>.
- P., Fareta Angelica Ichwana, and Ridha Wahyuni. “EFEKTIVITAS PROGRAM REDISTRIBUSI TANAH BEKAS PERKEBUNAN DI DALAM KERANGKA REFORMA AGRARIA INDONESIA.” *Kertha Semaya: Jurnal Ilmu Hukum* 12, no. 9 (2024). <https://doi.org/https://doi.org/10.24843/KS.2024.v12.i09.p19>.

- Pamungkas, Slamet Catur. "Transformasi UU Agraria Tahun 1870 Ke UUPA 1960 Pada Masa Dekolonisasi Kepemilikan Tanah Pasca Kemerdekaan Di Indonesia." *Al-Isnad: Journal of Islamic Civilization History and Humanities* 2, no. 2 (December 30, 2021): 43–59. <https://doi.org/10.22515/isnad.v2i2.4854>.
- Pulungan, M. Sofyan. "Menelaah Masa Lalu, Menata Masa Depan: Sejarah Hukum Tanah Ulayat Dan Model Penanganan Konflik Sosialnya." *Undang: Jurnal Hukum* 6, no. 1 (2023). <https://doi.org/https://doi.org/10.22437/ujh.6.1.235-267>.
- Putri, Natasya Aulia, Sarmilah Sarmilah, Jennifer Velda, and Wulan Mirdayanti Zschock. "Bridging the Gap by Exploring Inequalities in Access to Land and Disparities in Agrarian Law in Indonesia." *Jurnal Ilmu Kenotariatan* 5, no. 1 (May 12, 2024): 1. <https://doi.org/10.19184/jik.v5i1.47416>.
- Rahmahdini, Indah, Aang Anggara, and Suzana Margareth Aror. "Menciptakan Ruang Terbuka Hijau Dengan Persepsi Keamanan Sebagai Elemen Inklusif." *Archvisual: Jurnal Arsitektur Dan Perencanaan* 4, no. 1 (August 30, 2024): 19–32. <https://doi.org/10.55300/archvisual.v4i1.2419>.
- Riyadi, Asep. "KONSEP KEPEMILIKAN TANAH DALAM HUKUM AGRARIA DAN HUKUM EKONOMI SYARIAH." *Jurnal Riset Ekonomi Syariah Dan Hukum Al-Falah* 1, no. 2 (2023).
- Romanza, Fachry. *MENGANALISIS KAUM ARTIKULATIF EKSTREM DALAM KERANGKA DEMOCRACY TO COME JACQUES DERRIDA*. Depok: Universitas Indonesia, 2012.
- Ruhupatty, Chris. "Keadilan Dalam Pandangan Dekonstruksi." *Dekonstruksi* 9, no. 04 (September 28, 2023): 125–28. <https://doi.org/10.54154/dekonstruksi.v9i04.199>.
- Salim, M. Nazir. *Reforma Agraria: Kelembagaan Dan Praktik Kebijakan*. Yogyakarta: STPN Press, 2020.
- Santoso, Bambang. *PEMBAHARUAN HUKUM*. Tangerang Selatan: UNPAM Press, 2021.
- Sarif, Asri, Rahman Hasima, and Ayib Rosidin. "Penyelesaian Konflik Pengadaan Tanah Untuk Kepentingan Umum." *Halu Oleo Law Review* 6, no. 1 (2022).
- Shohibuddin, Mohamad. *Perspektif Agraria Kritis: Teori, Kebijakan Dan Kajian Empiris*. Jakarta Selatan: STPN Press, 2018.
- Sinaga, Andre Dwi Putra, Hizkia Roland Prawyra Sitorus, Lennai Situmorang, Devi Sri Wahyuni, Putri Lopiga Br Tarigan, Naulita Panggabean, Parlaungan Gabriel Siahaan, and Sri Hadiningrum. "Efektivitas Kehadiran Bank Tanah Terhadap Perlindungan Hukum Masyarakat Adat Atas Tanah Adat Studi Kasus Di Kecamatan Medan Belawan." *Jurnal Hukum Lex Generalis* 5, no. 4 (2024).
- Siregar, Mangihut. "KRITIK TERHADAP TEORI DEKONSTRUKSI DERRIDA." *Journal of Urban Sociology* 2, no. 1 (May 28, 2019): 65. <https://doi.org/10.30742/jus.v2i1.611>.
- Sokoloff, William W. "Between Justice and Legality: Derrida on Decision." *Political*

- Research Quarterly* 58, no. 2 (June 2005): 341. <https://doi.org/10.2307/3595634>.
- Sulaiman, King Faisal. "Polemik Fungsi Sosial Tanah Dan Hak Menguasai Negara Pasca UU Nomor 12 Tahun 2012 Dan Putusan Mahkamah Konstitusi Nomor 50/PUU-X/2012." *Jurnal Konstitusi* 18, no. 1 (2021).
- Suraji. *REKONSTRUKSI REGULASI PERALIHAN PEMILIKAN TANAH SECARA ABSENTEE YANG BERBASIS NILAI KEADILAN*. Semarang: Universitas Islam Sultan Agung, 2022.
- Suwitra, I Made. "EKISTENSI TANAH ADAT DAN MASALAHNYA TERHADAP PENGUATAN DESA ADAT DI BALI." *Wicaksana: Jurnal Lingkungan Dan Pembangunan* 4, no. 1 (2020).
- Tobroni, Faiq. "Menguatkan Hak Masyarakat Adat Atas Hutan Adat (Studi Putusan MK Nomor 35/PUU-X/2012)." *Jurnal Konstitusi* 10, no. 3 (2013).
- Turiman, Turiman. "METODE SEMIOTIKA HUKUM JACQUES DERRIDA MEMBONGKAR GAMBAR LAMBANG NEGARA INDONESIA." *Jurnal Hukum & Pembangunan* 45, no. 2 (June 30, 2015): 308. <https://doi.org/10.21143/jhp.vol45.no2.6>.
- Wahyu, Fajar Ardiansah, Mundzir Tamam, and Ahmad Misbakh Zainul Musthofa. "The Status of the People's Tribunal in Resolving Land Disputes in the Dago Elos Community." *Al-Ishlah: Jurnal Ilmiah Hukum* 27, no. 2 (August 20, 2024): 215–29. <https://doi.org/10.56087/aijih.v27i2.483>.
- Wegerif, Marc C. A., and Arantxa Guereña. "Land Inequality Trends and Drivers." *Land* 9, no. 4 (March 28, 2020): 101. <https://doi.org/10.3390/land9040101>.
- Wibowo, Kukuh, Arthur Josias Simon Runturambi, and Achmad Sanusi. "Police Intelligence in Resolving Land Conflicts: Case Study of Land Conflict Resolution for the Construction of the Great Mosque in South Solok." *International Journal of Science and Society* 5, no. 5 (November 3, 2023): 424–38. <https://doi.org/10.54783/ijssoc.v5i5.903>.
- Widodo, Agus. *REKONSTRUKSI KEBIJAKAN PENATAAN RUANG TERBUKA HIJAU (RTH) YANG BERBASIS NILAI KEADILAN*. Semarang: Universitas Sultan Agung, 2021.
- Yusa, Muchammad Yustian. *ISLAM DAN KAPITALISME: STUDI KASUS QATAR INDOSAT OOREDOO*. Jakarta: UIN Syarif Hidayatullah, 2021.