

Community-Based Agrarian Reform Policies: The *Al-Mujtama' Al-Madani* Perspective

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Abstract: - Indonesia's agrarian reform policy refers to the Regulation of the President of the Republic of Indonesia No. 62 of 2023 on the Acceleration of the Agrarian Reform. This research aims to: (1) describe the portrait of the agrarian reform policies amid the Reformation Era and (2) formulate a community-based agrarian reform policy concept from the *al-Mujtama' al-Madani* perspective. This was normative legal research which employed the juridical approach and the philosophical approach in the form of the *al-Mujtama' al-Madani* (civil society) concept. It was found that the current agrarian reform policy has an instrumentalist characteristic that only focuses on the achievement of asset legalization targets. The government must guarantee regulations on agricultural land usage, ownership, and tenure that are oriented towards achieving benefit (*maslahah*). This is where there is a need for the civil society's role as a community support system to help straighten the orientation of agrarian reform policies in empowering society. Community empowerment through Al-Attas' *al-Mujtama' al-Madani* concept gives an affirmation of the civil society conception as a civilized society that complies with regulations. The active role of *al-Mujtama' al-Madani* will determine the sustainability of a policy process, whether or not the created policies will be dedicated to the interests of the people or vice versa.

Key-Words: - Law, Community, Agrarian, Reform, al Mujtamma Madani, Indonesia, Policy.

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1 Introduction

Indonesia's land law system is still based on Law No. 5 of 1960 on the Basic Regulation on Agrarian Principles, or what is also called the Basic Agrarian Law. The enactment of the Basic Agrarian Law is a manifestation of the Republic of Indonesia's 1945 Constitution Article 33, which aims to rearrange the imbalance in the existing agrarian structure, [1]. As an organization that has power over the nation, the state is burdened with a mandate to regulate land use for the sake of all national components' welfare

rather than only bringing welfare to a certain group of people, [2].

This regulation on land use must be developed into more concrete implementing regulations with operational characteristics. An example of an implementing regulation that has been issued is the Regulation of the Minister of Agrarian Affairs/the Head of the National Land Agency No. 3 of 1997 on the Stipulations on the Implementation of Governmental Implementation Regulation No. 24 of 1997 on Land Registration, [3].

Apart from the importance of implementing regulations, there is also a need for a commitment to

the explanation of the Basic Agrarian Law so that it is in line with the direction of the national agrarian law's political policies that orient towards the relationship between human beings and land, [4]. These laws contain the rights and obligations of citizens and the state, [5].

In providing certainty to the direction of the agrarian political policies, the Republic of Indonesia's People's Deliberative Assembly issued the Determination of the People's Deliberative Assembly No. IX/MPR/2001 on the Agrarian and Natural Resource Management Renewal, [6]. This Determination mandates that the renewal of agrarian laws and the management of natural resources must be based on the principles of national unity, legal supremacy, democracy, justice, respect for the rights of customary laws, as well as the balance of the rights and obligations of the state, the government, and society, [7].

Concerning the development of land issues in the last sixty years, since the enactment of Law No. 5 of 1960, it is a fact that conflicts due to the government's lack of professionalism in arranging legal norms have occurred. This leads to the occurrences of natural resource management conflicts in some areas of Indonesia. Land issues have become an inter-sectoral issue that includes all aspects of life. In such a context, land has multi-dimensional characteristics, as it encompasses the physical, chemical, biological, social, economic, political, and magi-religious dimensions. Each of these dimensions has the potential to bring welfare to humankind, [8].

Such great potential of land does not automatically develop well, as it is vulnerable to the emergence of land conflicts. In general, the motive and background of various emerging land conflicts include: (1) the lack of order in the past land administration, (2) societal conditions where the people have increasing awareness and understanding of their interests and rights, (3) the existence of the transparency climate as one of the policies outlined by the government, (4) the abundance of land plots that have not obtained certificates, (5) land plots are under the power of some people and the ownership rights are not always in the hands of the people who use them, (6) the land inheritance process is not stipulated in legal mechanisms, (7) there is still much land with communal ownership which may lead to conflicts at any time, and (8) there are parties that use this opportunity to seek material profits through inappropriate means.

In efforts to minimize land conflicts, especially regarding customary land rights, the government

needs to have good faith to provide legal guarantee and protection over customary land rights through mechanisms and policies that have currently been enacted, such as the regulation of the Republic of Indonesia's Minister of Agrarian and Spatial Affairs/the Head of the National Land Agency No. 6 of 2018 on the Complete Systematic Land Registration. This is to anticipate the tendency of rulers and business owners to deny the rights of customary societies. This is because, objectively, these indigenous communities have a weaker position compared to business owners and rulers, as the latter have a stronger political, social, and economic position.

Therefore, there is a need for criteria on the requirements of the existence of customary rights. There is also a need for limitations on national and state interests. They must become guidelines in resolving issues on customary rights, [9]. In this case, policies have an important position. The government needs to pay attention to the stages of policy formulation, starting from problem formulation, which is the stage of identifying and formulating problems. It is the most fundamental step in formulating an empowering policy that not only focuses on individuals, but also contains a collective characteristic, [10]. All this must become part of the actualization and co-actualization of the existence of human beings and humanity, [11].

In the effort to create social control, mere regulations are not enough for the state as an organization of national power, [12]. Thus, there needs to be insights and support from society through efforts of aspiration channeling, the freedom of speech, the freedom of expression, as well as the freedom to associate and gather that are guaranteed by the law, [13]. Civil society is a social order or a civilized society. It encompasses society's voluntary community associations that are independent from the state. The civil society's active role will determine the continuity of a policy process, i.e., whether or not the policies made will become policies that are dedicated to the interest of society, [14]. This includes the current land policies that cannot be separated from the civil society's role to control, prevent, and tackle the domination and manipulation of the government.

2 Methods

This was normative legal research which was carried out by utilizing secondary data and literary materials as the main data sources, [15]. This paper employed the juridical-conceptual approach, [16]. The juridical approach was a statute approach. Apart

from that, it employed the conceptual approach in the form of the *Al-Mujtama' Al-Madani* concept. Based on the scope of the existing issue and the stages of its depth, this research is categorized as explanatory research. Thus, the browsing and analysis of the collected data were continued with the presentation of explanations and the drawing of conclusions to find answers to the issues that are discussed in this research.

3 Results and Discussion

3.1 The Agrarian Reform Policy Amid the Reformation Era

In Indonesia, the issue of land is currently crucial, especially related to the availability of access to land and empowerment of land in the agricultural and non-agricultural sectors, [17]. This issue leads to the shrinkage of land and the lack of land empowerment. There was a decrease in the area of productive ricefields, from 77,500 km² in 2013 to 71,000 km² in 2019, [18]. This shows that 6,500 km² of ricefields were gone in six years.

The lack of attention to land empowerment leads to the impact of the decreasing quantity of land, as proven by the case of land shrinkage. Issues in the use of land can also be seen from the fact that even though many parties have been given the authority to empower land, their actions have not been carried out optimally, [19]. The government has issued Plantation Business Permits to 43,000 km² of land, but only 28,000 km² has been empowered according to its use. Meanwhile, the rest of the land, which was 15,000 km², was not used according to the appropriate land use, [20].

The issue regarding land does not stop at the land shrinkage and the suboptimum use of land that has been determined by the government, [21]. Another issue of land regards findings which show that 29,278.09 km² of land in Indonesia is indicated as abandoned land, as informed by the Ministry of Agrarian and Spatial Affairs/The Head of the National Land Agency of the Republic of Indonesia, [22]. The condition where there is a wide area of land that is categorized as abandoned is a contradiction for Indonesia as an agrarian state, whose one of its main economic bases is agriculture. However, most Indonesian farmers do not have their own land. Only a few truly own land, [23].

It becomes ironic when the fact shows that land ownership, which brings economic, social, and political impacts, cannot fully be felt by farmers, as most individual farmers have land tenure of less

than 5.000 m² or even none at all. Thus, most farmers are still below the poverty line, [24]. In responding to this situation, the government does not stay silent, as it has made efforts to provide farmers with access to agricultural land through the agrarian reform, as mandated in the Decision of the Republic of Indonesia's People's Consultation Assembly No. IX/MPR/2001. However, this mandate has not been followed up with the enactment of a new and comprehensive law on Agrarian Reform. The follow-up is only in the form of instrumental (subjective) Government Regulations and Presidential Regulations. Such a condition leads to a lack of solutions to the root problem of issues related to land ownership arrangements in the agrarian structure.

Ideally, in arranging land ownership, abandoned land needs to be directed to the interests of the people and the state. This arrangement is carried out based on the spirit of agrarian reform and the state's strategic programs, both in the form of state land usage or reserve, [25]. The sectors that are given priority to use this land are the food, energy, and residential housing sectors, which have a direct impact on people's welfare. Other reserves can be used for activities related to the state's security, safety, and interests.

This land is also used to accommodate needs in case of natural disasters, especially as places where people's residential areas need to be relocated. The land can also be used to compensate people for houses that are impacted by development for public interests. The National Mid-Term Development Plans from 2015 to 2019 show that 6,000 km² of land is deemed abandoned. However, in 2018, it was found that only 158.35 km² had been utilized, as shown in Table 1.

Table 1. Achievement of Abandoned Land Regulation and Utilization up to 2018

Year	The Determination of Abandoned Land (km ²)		The Optimization of Abandoned Land (km ²)
	Determination Letter	Clean and Clear	
2010-2017	763.84	248.26	23.89
2018	-	-	134.36
Total (2010-2018)	763.84	248.26	158.35

Source: [26]

Table 1 provides information about the achievement of the Abandoned Land Regulation and Utilization up to 2018. Further, the slow issuing of

redistribution land certificates is a frequently occurring problem in land redistribution in Indonesia. The land redistribution program aims to provide more equal land access for communities that lack ownership of land, such as smallholders and communities living in poor areas, [27].

Based on the data above, there are some main reasons why the issuing of redistribution land certificates is slow, namely:

1. Complicated administrative procedures. The land redistribution process involves various lengthy administrative steps, starting from land measurement, mapping, verifying land owners' data, legislation processes, and certificate issuing. In cases where there is a mismatch of data or there are issues related to land ownership, they may lead to postponements, [28].
2. The lack of resources and infrastructure in several areas. The lack of adequate resources and infrastructure may decelerate the land redistribution process. There is often a limited number of trained officials in land measurement and certificate administration, especially in areas that are isolated and difficult to access, [29].
3. Land ownership and legal challenges. In several cases, the land that must be distributed has legal issues, such as overlapping ownership claims or land disputes between private parties and society. The resolution of such a dispute requires time, and it may slow down the certificate-issuing process, [30].
4. Lateness in mapping and data renewal. The land redistribution process requires accurate and updated data on the borders of the land that will be distributed. If the mapping data is not updated or is incomplete, it will hinder the land certificate issuing process.
5. Lack of funds. The land redistribution project often depends on funds that are provided by the government. If the funds are limited or if they are not correctly allocated, the land redistribution program may experience delays, which in turn will influence the issuing of certificates.
6. Changes in governmental policies and priorities. Changes in the policies of the new government or the shifting of priorities in the national development may lead to the termination or slow implementation of the land redistribution program, including certificate issuing.
7. The lack of socialization in society. There is a lack of understanding and socialization in society on the importance of land redistribution, and the procedures that must be carried out may lead to lateness. Some land recipients may not know the

administrative requirements that must be fulfilled to obtain the certificate.

Apart from that, at the implementation level, there are still obstacles to the agrarian reform related to land tenure, namely, [31]:

1. The suboptimum community participation. Society has a crucial role as subjects who report abandoned land. The most effective manner to know of the existence of abandoned land is by obtaining reports from society.
2. Issues in tracking the existence of allegedly abandoned land. It is often the case that society has invalid addresses due to the differences between the registered address and the address of domicile, or due to other reasons.
3. There are findings of mortgage rights that are proposed based on the land that is indicated to be abandoned. Therefore, there needs to be steps carried out based on the principle of care to prevent conflicts between individuals' civil rights and legal entities.
4. The unclear compensation to owners of indicated abandoned land that have been indicated. Regulations have not accommodated compensation for abandoned land.
5. There is a lack of availability of clear and clean land. One of the causes is that there are double claims for forest areas and customary land. There is also a lack of harmonization in the plans regarding spatial planning.
6. The determination of agrarian reform subjects needs to be expanded, so that apart from farmers, fishermen can also be deemed appropriate to become beneficiaries of land distribution.

In general, the low achievement in bringing order to abandoned land is caused by the following factors:

1. The policy aspect. Policies related to abandoned land bring a wide range of interpretations. Some norms are deemed ambiguous, such as "intentionally and unintentionally" in the diction related to abandoned land. Another issue regards the period for determining the first, second, and third warnings, which are too short (three months). Ideally, the time needed is more than three months, which will then be used to create the permits, to prevent the land from being categorized as abandoned.
2. Limited human resources. The human resource sector can be seen from both the aspects of quality and quantity. In terms of quantity, the person in charge of land control should ideally be filled with three to six personnel with a

background in law school to minimize the risk of misinterpretation in reading land laws.

3. Suboptimum inter-institutional and interconnection coordination impacts the implementation of the agrarian reform program, which lacks a systematic structure.

Concerning the current status quo, at the start of the Reformation Era, there was a great change in the Indonesian constitution concerning the entrance of the neo-liberal paradigm towards the practice of natural resource management in Indonesia. This impacts management practices such as the Land Area Plans that are based on market logic. Based on the spatial planning perspective, there are various impactful consequences. First, dangerous residential areas will develop in bordering areas. Second, radical segregation will happen when the space that was formerly open becomes a closed community due to social issues or economic problems. There is a massive development of tall skyscrapers and land concession landscapes by oligarchies and capital owners, [32].

3.2 Welfare-Based Agrarian Reform Policy Concept from the *Al-Mujtama' Al-Madani* Perspective

An efficient management in a governmental system depends on the articulation or coherence of governmental functions. Coherence is understood as the design and implementation of synergic and systematic institutions that contribute towards the achievement of a certain goal. Land governance requires coherence that is not limited to the issue of policies. However, there must also be coherence between the management functions to achieve the desired goal. The idea of adaptive land management refers to flexible and long-term approaches to resource management where there is a distribution of responsibilities that is divided between society and other actors at various levels, [33].

The trees in agricultural land highly depend on whether farmers and land owners already have forms of land use, [34]. For instance, there is the agroforestry type of land usage that utilizes the land usage approach, which combines trees into the agricultural system and allows the simultaneous production of trees and food-producing plants and/or cattle on the same land, [35]. This method has been practiced for millennia in England with different levels of sophistication and management demands, [34].

It is crucial to handle the problem of land imbalance. This is not only for the sake of food production but also to create job opportunities in the

agricultural and non-agricultural sectors, especially in processing agricultural foods, to which the developing agricultural sector may contribute, as well as a more diversified land usage, [36]. It is proven that a more equal land distribution can contribute towards the creation of a more equal society that encourages sustainable growth and development with a stronger foundation.

Based on an analysis of various countries [37], it was found that only two out of fifteen developing countries with a highly unequal land distribution have succeeded in increasing their economy by more than 2.5% in the period between 1960 and 1992. South America found that the great gap in land ownership becomes the basis for a political gap that is used to hinder investment in increasing education for the majority of the people.

The lack of investment in the educational sector among countries with high land inequality hinders the formation of human resources and institutions that are required for the economic development of new industries, as well as the strengthening of democracy. This leads to differences in the long-term growth between countries that invest in the education sector and those that do not. Such lessons are still important to understand how land inequality may determine priorities and advancement. It is a crucial issue for countries that are currently experiencing a transition from the current agrarian economy.

Land tenure rights that are guaranteed and distributed in a more equal manner have been identified as beneficial for socio-economic development. Apart from that, it provides contributions to democracy, peace, productivity, and gender equality. This has been agreed upon in international policy frameworks, such as the Sustainable Development Goals (SDGs), which encompass several specific targets and indicators on land imbalance. The characteristics of "farmers" and what is meant by "agrarian" have changed. There has also been a change in the people's relationship with the land. This encourages us to rethink villages. However, it does not mean that land equality becomes less important, [38].

The arrangement of control over, the management, the use, and the ownership of abandoned land is carried out to achieve welfare and to protect society's interests. The basis of that program can be elaborated in the agrarian reform or the state's strategic program. One of the impacts that can be felt in optimizing abandoned land, especially in the case of energy, food, or residential housing development, is that it is a method to achieve societal welfare. Apart from that, the

abandoned land can be used as the state's land reserve, which can also be used to establish governmental security and guarantee community safety. The National Mid-Term Development Plans from 2015 to 2019 show that 6,000 km² of land is deemed abandoned. However, in 2018, it was found that only 158.35 km² had been utilized. The usage of that abandoned land is fully under the authority of the Ministry of Agrarian and Spatial Affairs, /The Head of the National Land Agency.

A democratic country needs to maintain an environment with protected individual freedom, where the state has limitations in intervening. To prevent such a political system from falling into anarchy, society in that protected environment must be able to organize itself. Civil society functions to balance the state power and protect individuals from state power, [14]. Mansour Faqih mapped the civil society paradigm into three types, namely the conformism, reformism, and transformism paradigms, [39] as shown in Figure 1.

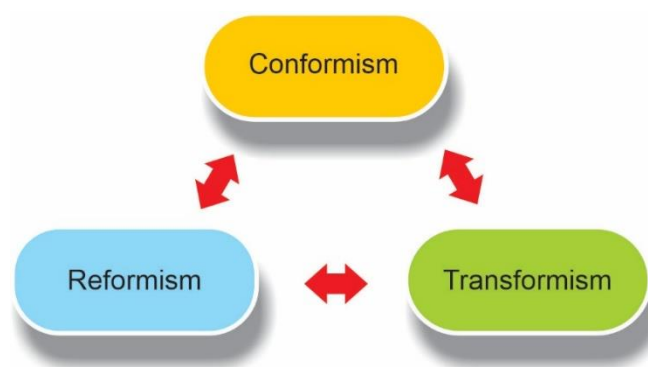


Fig. 1: The Civil Society Paradigm
Source: figure made by authors

Figure 1 shown Civil Society paradigm. The figure above shows that civil society has a crucial role in helping increase society's understanding so that it may better understand the advocacy of agrarian reform, [40]. Mansour Faqih provides an analysis of the role of civil society that may be implemented in the agrarian reform. In this case, there must be a mapping of the civil society paradigm that is divided into three types, namely, [41]:

1. The conformism paradigm. A civil society will carry out its jobs based on charitable help. They work as an organization that adapts to the existing system and structure. In the conformism paradigm, the civil society may develop a consultative relationship with the government, [42]. However, conformism in the agrarian reform context is not enough to change the power

structure distribution or the imbalanced land distribution. Land recipients are still trapped in a system that does not provide them with freedom or the potential to further develop.

2. The reformism paradigm. The main spirit of civil society with a reformist perspective is the need for public participation in development. It believes that the majority of people's backwardness is caused by an error in society's mentality and values. Civil society activities are manifested in efforts to motivate society to participate in the development, [43]. Reformism in this context strives not to stop with land redistribution, but also to make sure that the land may productively and sustainably be used to increase the welfare of agrarian reform recipients, [44].

Islam has a perspective regarding civil society that is known as the *al-mujtama al-madani* concept. This concept uncovers principles that may be used or that are offered in manifesting community-based agrarian reform. This conception is closely related to the policy function of rulers or the government (*beleid*) in managing land to achieve societal welfare.

There are three components of the civil society concept in the Arab world. The first is *al-mujtama al-ahli*, which refers to customary communities and local initiatives. This includes religious deeds and social solidarity that are formed around clans, tribes, and families. *Al-mujtama al-ahli* is also used to refer to the lack of a civil society in the Arab area. The term "civil society" or *Al-mujtama al-madani* refers to modern liberal associations, such as cultural groups, pro-democratic organizations, and professional syndicates.

There are six characteristics that are attached to *Al-mujtama al-madani*, namely free public sphere, democracy, tolerance, pluralism, social justice, and civility. These characteristics are described as follows, [45]:

1. Free Public Sphere. This means that the public space is a facility of free speech. Every member of society has the right to voice their thoughts in politics without worry. A civil society has full access to public activities. They can gather, associate, and voice their aspirations in public.
2. Democracy. Every citizen has the freedom to choose and make decisions in carrying out their activities. This democratic action is manifested without differentiating race, ethnic groups, and religion. This democratic attitude is embedded in several aspects of life, namely the economic

sector, social sector, cultural sector, political sector, etc.

3. Social justice. Each individual has the same rights and obligations. It encompasses the social aspects, economic aspects, political aspects, etc.
4. Civility, politeness, courtesy, good character, humanity, and respect must be developed in every individual. This is according to the second principle of Pancasila ("The Five Principles" that make up Indonesia's ideals), namely justice and civility. The application of civility will create a peaceful, open, prosperous, and advanced society.

The policies that the government issued regarding the post-reformation agrarian reform show an effort to reduce the people's participation in various aspects. One of which is the role to include society, both societal members that become the direct subject of agrarian reform and those who are not in the process of determining land plots that are objects of agrarian reform, [46]. It is limited only to the appointment of the government. Activists of agrarian affairs, as well as organizations that are involved in agrarian advocacy, cannot directly come to guide societal members who must ideally obtain guidance. Here, community members have a role as a civil society that is manifested through the action of developing institutional capacity, productivity, and independence of societal groups. *Al-Mujtama Al-Madani*-based agrarian reform is shown in Figure 2.

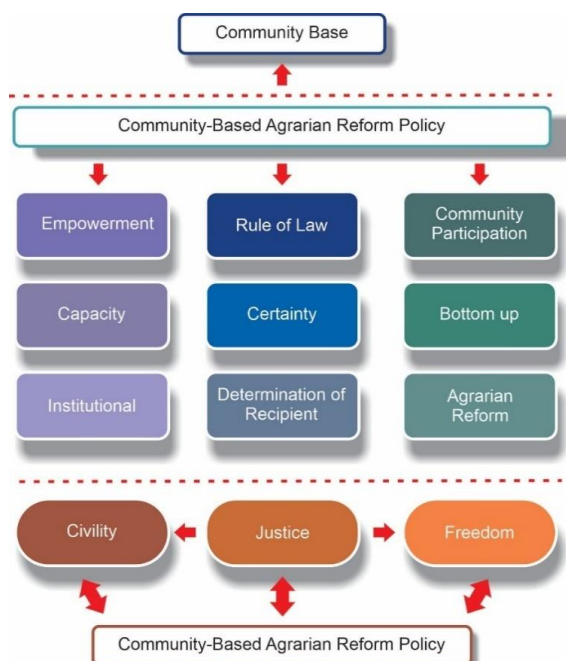


Fig. 2: *Al-Mujtama Al-Madani*-Based Agrarian Reform

Source: [24]

Based on the Figure 2, it can be seen that society's role as a civil society is manifested through the developmental actions of institutional capacities, [47], productivity, and independence of societal groups. It can be explained as follows:

1. In the case of the development of institutional capacities, one of the efforts to carry it out is through active participation in making decisions. It cannot be denied that civil society organizations have a great role, especially in giving insight as well as opinions to public policy stakeholders, [48]. Civil society has the role to advocate for every one of these policies so that they run as they should, i.e., they are implemented according to the people's desires and needs. Apart from that, the people's voices may be channeled through civil society organizations, [49]. This is an effort that must be appreciated, as in essence, the government cannot listen to the voices of all marginalized societal groups. Thus, the existence of civil society organizations actually becomes a representative of societal groups in the formalistic governmental process, [50]. It functions as a component that will strengthen the legitimacy and effectiveness of state institutions at all governmental levels.
2. Then, the development of institutional capacity can be translated into the form of civil society's roles in monitoring the government and private sectors. This is to strengthen the position of the civil society organization as an independent party. Thus, they can gain the capability to carry out their tasks and functions as the supervisors of the performance of governmental institutions and the private sector. This is so that their actions may be conducted in a transparent, accountable, and certainly responsible manner to the public society, [51]. Such a mechanism is a manifestation of the strengthening of the institutional capacity to become better in various aspects, namely, guaranteeing transparency as well as increasing the capacity to manage resources and provide public services.
3. The development of institutional capacity may be reflected through community empowerment. It is the main role of civil society organizations in the scope of community empowerment, which may be carried out in the educational sector by organizing training as well as capacity-strengthening activities, [52]. It is hoped that it may encourage every individual or societal group to have the skills to increase their capacities and knowledge to further participate in developing

the social sector, economic sector, and other sectors.

4 Conclusion

The current Agrarian Reform Policy is based on Regulation of the Republic of Indonesia's President No. 62 of 2023 on the Acceleration of the Agrarian Reform Implementation. It is an effort to equalize the structure of land ownership, tenure, use, and usage. It is also to resolve agrarian conflicts and create a just economy. Research results showed that this policy is still incapable of resolving the current land issue, especially related to the availability of land access and land empowerment. At the normative level, it was found that the Agrarian Reform implementation regulations do not explicitly provide a clear room for the direct involvement of civil society in determining the land recipients in the land redistribution program.

Al-Mujtama Al-Madani-based policies in agrarian reform are suitable to fulfill the current needs of society that require an increase in institutional capacity, empowerment, and defense of their rights to obtain certainty in natural resource management. This is stated in the reformism paradigm that emphasizes the involvement of society in the agrarian reform planning and implementation process. Land recipients are not merely policy objects but are subjects that have an active role in determining how their land is used. As a whole, the reformism paradigm in the empowerment of land, which is agrarian reform, aims to create an agrarian system that is more just, productive, and sustainable. This is so that agrarian reform does not only become a scheme of land distribution. Rather, it becomes a real instrument of socio-economic change.

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Bangsawan: Original research idea, Conceived the research and provided materials and data for the research.

Budiono: Selected research data as well as analyzed and interpreted the data.

Absori: Provided materials and data for the research as well as designed the methods.

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