

# A Comparison of the Ideal Agrarian Reform Law to be Implemented in Indonesia

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## Abstract

The purpose of this research is to examine the ideal agrarian reform program for Indonesia by conducting a comparison method with Japan, which is one of the countries in Asia that has been very successful in implementing agrarian reform. This research is descriptive research with a normative juridical research type, using secondary data, through legislative and comparative approaches. Data is collected through document studies and then analyzed qualitatively. The results of the research found similarities and differences between the two agrarian reform models. From these differences, it can be seen the advantages of Japanese agrarian reform that need to be adjusted to the need to improve Indonesia's agrarian reform, including compensation for excess land and absentee land that is used as the object of agrarian reform is given in the form of bonds; the agrarian reform team is independent; the government buys all excess land, the government provides a budget as needed.

## Keywords:

Agrarian Reform,  
Comparison; Indonesia;  
Japan.

## A. INTRODUCTION

The land is a natural resource that is a primary human need, so there are almost no human activities that are not related to land. The availability of land is always out of balance with human needs. Because the increase in the number of people cannot be stopped, while the addition of land area is relatively insignificant even though it is possible through reclamation. In the context of a modern state, the government is obliged

to support the welfare of its people, including providing land for settlement and agricultural purposes.

Hargreaves stated that there are 2 (two) types of land law functions, namely: First, the static function, which is the legal arrangement between the owner and the land, which regulates the right to enjoy the land itself; Second, the dynamic function, which controls the transfer and creation of land rights.<sup>1</sup>

<sup>1</sup> Hargreaves in Boedi Harsono, *Sejarah Pembentukan UUPA (Isi dan Pelaksanaannya)*, Revised Edition (Jakarta: Djambatan, 2008), p. 17.

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In each country, the contents and rights of land tenure and the function of land law vary, because they are influenced by various aspects, including the ideology adopted by the country, the legal family adopted, and the concrete needs of a country. Agrarian reform in Indonesia has started since the enactment of Law Number 5 of 1960 on Basic Regulations on Agrarian Principles, hereinafter abbreviated as UUPA. The agrarian reform implemented at that time was in a narrow sense called land reform. Land reform or agrarian reform is an effort to change the structure of land tenure and land use that is unfair and unequal. This objective later evolved into agrarian reform which not only includes solving land tenure problems, but also social and economic problems related to land use such as access to markets, credit, technology, and training. Agrarian reform is one of the efforts to reduce poverty, improve the welfare of farmers and accelerate sustainable developments in villages. However, the implementation of agrarian reform often faces challenges and obstacles, either from groups with an interest in land or policies and regulations that do not support the implementation of agrarian reform. This happened in Indonesia after the September 30 of 1965 Movement

rebellion, so the agrarian reform program became stagnant. Due to the impact of communism which is prohibited in Indonesia<sup>2</sup>, which has been independent for 76 years, the agrarian reform program is always running in place.

Japan is one of the most successful countries in implementing agrarian reform in Asia. Even though this country was devastated by the bombing of Hiroshima-Nagasaki by the Allies in the Second World War.<sup>3</sup> The pattern of agrarian reform in Japan is not much different from the pattern in Indonesia, but Japan managed to successfully implement it and is currently one of the Asian tigers. Based on a 2017 survey by the International Monetary Fund (IMF), Japan is ranked as the third industrialized country in the world and second in Asia. The question now is, why has Indonesia not been able to implement the right agrarian reform from the Old Order until today Indonesia has been independent for 77 years. For that, it is necessary to know the background and development of the concept of agrarian reform of the two nations, and then compare the agrarian reform programs between Indonesia and Japan.

Two previous research, First, conducted by Firman Muntaqo, with the title "Challenges of Globalization Aspects

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<sup>2</sup> Soedjarwo Soeromihardjo, *Mengkritisi Undang-Undang Pokok Agraria*, (Jakarta: Cerdas Pustaka Publisher, 2009), p. 207.

<sup>3</sup> Tsutomu Ouchi, "The Japanese Land Reform: Its Efficacy and Limitation," [https://www.ide.go.jp/library/English/Publish/Periodicals/De/pdf/66\\_02\\_01.pdf](https://www.ide.go.jp/library/English/Publish/Periodicals/De/pdf/66_02_01.pdf), accessed 26 Agustus 2022.

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in the Agrarian Sector in Indonesia". The results of this research stated that one of the failures of Indonesia's land reform since the Old Order and New Order as well as the 1998 Reform Era because government policies have strong indications of being influenced by the pressures of globalization of world trade, so that various government policies in the agrarian sector are more in favour of corporations, the private sector, and international financial institutions as well as large investors, and tend to sacrifice the interest of the community or place agrarian, particularly land as a commercial object, this is very contrary to the UUPA objectives and the mandate of the 1998 Reform Era.<sup>4</sup> The results of this research are politically acceptable as stated by Soekarno, Indonesia's first president, "The Indonesian government will not be politically sovereign as long as we are not able to prepare the basic needs of this nation".<sup>5</sup>

Second, research conducted by Darwin Ginting with the title, "Agrarian Reform in Supporting the Protection of Individual and Private Land Rights." The results of the research showed that agrarian reform is associated with encouraging and protecting the rights of

individual farmers who have not been able to improve their situation because of the lack of land owned, which is an average of 0.2 ha so that even though they work hard, they remain poor.<sup>6</sup>

There are differences in the focus of the study in this research with the previous one, this research focuses on analyzing the weaknesses of Indonesian agrarian reform compared to Japanese agrarian reform from various aspects. Therefore, the purpose of the research is to find positive matters regarding Japan's agrarian reform, so that it can be adapted in Indonesia by paying attention to cultural aspects, customary law and socio-economic aspects.

Furthermore, through comparison, a method not only finds out the similarities and differences but also finds out what causes the differences, to be able to see the advantages of Japanese agrarian reform in terms of the applicable principles and norms. Finally, the shortcomings or obstacles of Indonesian agrarian reform can be known to be updated according to the needs in the field.

From the description of the legal facts above, the purpose of this research is to comprehensively examine the ideal agrarian reform to be implemented

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<sup>4</sup> Firman Muntaqo, "Tantangan Aspek Globalisasi dalam Bidang Agraria Di Indonesia," *Jurnal Masalah-Masalah Hukum* 40, No. 4 (2011), p. 476.

<sup>5</sup> Elli Ruslina, *Dasar-Dasar Perekonomian Indonesia Dalam Penyimpangan Mandat Konstitusi UUD Tahun 1945*, (Jakarta: Total Media, 2013), p. xvi.

<sup>6</sup> Darwin Ginting, "Reforma Agraria Dalam Perlindungan Hak Atas Tanah Perorangan dan Penanaman Modal," *Jurnal Hukum Ius Quia Iustum* 18, No. 1 (2011), p. 65.

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in Indonesia, which has been almost immobile to achieving the distribution of land to the rightful people as mandated by the 1945 Constitution and UUPA. The main objective of agrarian reform is to organize control and land tenure by distributing it to the rightful people.

## **B. RESEARCH METHODS**

This research is descriptive with a normative juridical research type through a statutory and comparative approach. The approach is carried out through legislation (statute approach), history, and ideology of the legal system of the two countries which ultimately affect the form and pattern of land tenure in a country in general and agrarian reform in particular. Secondary data used from Indonesia, which are UUPA, Law No. 56/Prp/1961 and Presidential Regulation No. 68 of 2018 as well as other related regulations. Meanwhile, the data from Japan is the Agricultural Law (Farmland Adjustment Law Japan) of 1938 and updated in 1952. The comparative approach is used to examine the principles and norms in the agrarian reform of the two countries so that the advantages and disadvantages can be seen. However, from a pragmatic point of view, the purpose of comparative law is not merely to look for similarities and

differences, but rather to conduct legal improvement. This means, not merely looking for similarities and differences, but from the results of the comparison found elements of excellence, both in principles or norms of Japanese agrarian reform. Then, the superior excellence elements are tried to be added in the development or improvement of Indonesia's agrarian reform. The data used is secondary data from primary, secondary, and tertiary legal materials obtained through literature studies, and then the data is analyzed qualitatively.

## **C. RESULTS AND DISCUSSION**

The milestones of agrarian reform in the world started in Ancient Greece, Ancient Rome, England, France, and Russia. The agrarian reform program in the form of land distribution was historically first popularized by America in Japan by Mac Arthur who recommended the implementation of agrarian reform in Japan. The causes of the differences between legal systems in the world are the state of the land, climate and atmosphere; the way of thinking, outlook on life, and character of a nation; the history of the growth and development of different laws; and differences in political and cultural patterns.<sup>7</sup>

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<sup>7</sup> Oswar Mungkasa, "Reforma Agraria, Sejarah, Konsep dan Implementasi", *Buletin Agraria Indonesia* Edisi 1 Tahun 2014, (Jakarta: Direktorat Tata Ruang Pertanahan Bapenas, 2014), p. 4-5.

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The agrarian reform model of a country is highly dependent on the country's control system over land and the pattern of control arrangements is inseparable from the ideology, national culture, principles and norms that apply. Land tenure rights as a concrete legal institution, that is, if there has been a legal relationship with certain land as an object and a person or legal entity as the subject of the right holder.<sup>8</sup> As a result, if the land is made the object of agrarian reform, then the holder of land rights is entitled to compensation depending on the conception of land tenure by a country. For example, the taking of land as an object of agrarian reform controlled by the people in Indonesia and Japan must be accompanied by compensation of landowners because, in the concept of land tenure in Indonesia and Japan, the country only controls the land, not the owner. Conversely, in China, the taking of land controlled by the people as an object of agrarian reform does not receive compensation, because the country adheres to the principle that all land is state land.

### 1. Agrarian Reform in Indonesia

The conception of agrarian reform based on UUPA must be based on the

spirit of Pancasila so that there are at least 4 (four) guiding principles that need to be used in constructing the concept of agrarian reform, namely: First, the law must protect the entire nation and ensure the integrity of the Republic of Indonesia. Second, the law must guarantee social justice for all the nation. Third, the law must be built democratically by the mandate of the 1998 reform. Fourth, the law should not be discriminatory.

Concerning the above, the UUPA has laid the foundation for land distribution and land use that is considered spectacular and revolutionary for Indonesia, which brings an ideal concept of agrarian law regulation that shows the original identity of the Indonesian nation and strengthens the spirit of unity and affirms the right to control the country, all for the greatest prosperity of the Indonesian people.<sup>9</sup> Therefore, it is very logical and rational for A.P. Parlindungan to say that UUPA is the parent of Indonesia's agrarian reform.<sup>10</sup> The statement delivered by A.P. Parlindungan is true because the presence of the UUPA has regulated the norms of land restriction and tenure, equal opportunities for every Indonesian citizen, recognition of customary law, and foreign citizens are not entitled to property rights. Since the presence of

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<sup>8</sup> Budi Harsono, *op.cit.*, p. 26.

<sup>9</sup> Achmad Sodiki, *Politik Hukum Agraria* (Jakarta: Konstitusi Press, 2013), p. 13.

<sup>10</sup> A.P. Parlindungan, *Komentar Atas UUPA* (Medan: Mandar Madju, 1991), p. 66.

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the UUPA, an agrarian reform program has been initiated. This program was marked by land registration based on Government Regulation Number 10 of 1961 to provide legal certainty for landowners, then regulating restrictions on maximum land tenure, while excess maximum land was distributed to sharecroppers based on Law Number 56/prp/1961 on Land reform, including the determination of profit-sharing agreements on land use regulated in Law Number 2 of 1960.

The concept of agrarian reform in Indonesia has specific characteristics that are revolutionarily unique, as stipulated in the UUPA, among others: a. unification of agrarian law; b. customary law as the foundation of agrarian law; c. abolition of domain verklaring and book two of the Western Civil Code; d. principle of nationality; d. equality of status; and e. existence of a conversion institution.

In the substance of agrarian reform, several principles apply, including the principles of justice and legal certainty. Article 28A of the 1945 Constitution stipulates "Every person has the right to live, and the right to defend his life and livelihood". This article guarantees public access to land tenure rights. It is further strengthened by Article 28H clause (4): "Every person has the right to have private property rights and such property rights shall not be taken over arbitrarily by anyone". Meanwhile, the norms supporting the achievement of agrarian reform are regulated in Article 10 of the UUPA, providing an

opportunity for every person or legal entity to obtain agricultural land and its utilization must be optimized. Article 7 of the UUPA in conjunction with Article 17 of the UUPA emphasizes the need for restrictions on land tenure and control and mandates that arrangements for limiting the size of land tenure and control must be regulated by law. The principles and rules outlined above are the central points of agrarian reform in Indonesia.

The implementation of Article 7 of UUPA was Law Number 56 Prp of 1960 on the Determination of Agricultural Land Area. This law was the first agrarian reform norm in Indonesia, which contained, among others: a. the determination of the maximum area of tenure and control of agricultural land; b. the determination of the minimum area of tenure of agricultural land and the prohibition of splitting the land into small lots; and c. the method of returning and redeeming mortgaged agricultural land.

The above provisions, it was followed up with the issuance of Government Regulation Number 224 of 1961 in conjunction with Number 41 of 1964, which regulates the payment of compensation for excess maximum land and absentee land to be distributed to people in need. However, this regulation is no longer following the population density compared to the available land, so there are 26.14 million poor farmers, in other words, landless based on the Central Bureau of Statistics in 2013.



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This moment needs to be followed up by the government towards pro-people policies.<sup>11</sup>

The definition of absentee land is a land tenure that is located outside the sub-district where the owner lives, except for civil servants. However, the implementation of agrarian reform, which aims to improve the standard of living of the Indonesian people, cannot be carried out because the implementation does not take into account the readiness and ability of the implementing apparatus, and the weakness of the necessary data and the budget is not yet available. There are several activities carried out by the government that are part of agrarian reform, including the implementation of transmigration, printing paddy fields and people's core companies in the New Order regime that use land controlled by the country, but this implementation has not touched on the issue of equal opportunities for people to obtain land.

The implementation of agrarian reform did not work because land administration was poor and landlords were protected by opposition groups at that time. The above statement was corroborated by the Minister of Home Affairs, Amir Machmud, in a briefing on the implementation of land reform

in 1973, which mentioned several obstacles to the implementation of land reform, including a. the payment of compensation to excess and absentee landowners was not yet available in the budget; b. the government's attention was not yet total to this program; and c. the public was still of the view that this program was only political.

What happened around that year was probably very rational because the state budget was still very limited and depended on loans from foreign investors.<sup>12</sup> Thus, during the 32 (thirty-two) years of the New Order, agrarian reform can be said to have failed miserably, as evidenced by the fact that after the New Order government fell due to the prolonged economic crisis, the number of landlords increased. After that, there was the Reformation Era which demanded democratization, openness/transparency, a return to a populist economy, and the protection of human rights and all government regulations and actions must be fair.<sup>13</sup> This reform emphasizes efforts to make changes to the condition of the nation from the power of the old paradigm to a new paradigm in the political system, and government system, and prioritizes the people's economy. All sectoral content material

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<sup>11</sup> Fatimah, "Reforma Agraria Dalam Konteks Peningkatan Akses Petani Miskin Terhadap Penguasaan Tanah Di Indonesia," *Jurnal Hukum Samudra Keadilan* 10, No. 2 (2015), p. 1.

<sup>12</sup> Amir Mahmud, *Keputusan Hasil Rapat Kerja Publikasi Nomor: 10* (Jakarta: Direktorat Jenderal Agraria Departemen Dalam Negeri, 1973), p. 142.

<sup>13</sup> Darwin Ginting, *Hukum Agraria Pasca Reformasi 1998* (Bandung: Alfabeta, 2020), p. 23.

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in the agrarian sector must reflect the spirit of democratization, prioritize the people's economy, pay attention to the existence of human rights, and be fair.

In response to this, steps are needed to develop agrarian law or national land law, taking into account, among others:

- a. all sectoral content material in the agrarian sector must reflect the spirit of democratization, prioritize the people's economy, pay attention to the existence of human rights, and fair policies;
- b. efforts to overhaul the structure of control and tenure of land must be a priority policy, at least the hook substance is made in the Land Bill being discussed in parliament;
- c. Bappenas and the Coordinating Minister for Economic Affairs should make more conceptual, macro, and comprehensive policies in the context of national land policy, so as not to be trapped in technical matters; and
- d. agrarian law reform is not a culture of violence and dumbing down the people because it deviates from the ideals of agrarian law politics and the essence of the reform mandate of May '98.

This means that the government is required to organize a more equitable structure of land tenure and control as mandated by Law Number 17 of 2007 concerning the 2005-2025 Long-Term Development Plan so that Presidential Regulation Number 86 of 2018 concerning

Agrarian Reform was exist, which aims to reduce inequality in land tenure and ownership to create justice; handling agrarian disputes and conflict; creating agrarian-based sources of prosperity and community welfare through regulating the control, ownership, use, and utilization of land; creating jobs to reduce poverty; improving community access to economic resources; increasing food security and sovereignty; as well as improving and maintaining the quality of the environment. In other words, this agrarian reform has the essence of preventing the monopoly of a handful of capital owners who have been part of the land mafia.<sup>14</sup>

The agrarian reform institution consists of a national agrarian reform team with the Chairperson of the Coordinating Minister for Economic Affairs and 16 ministry-level members. To assist the national agrarian reform team, agrarian reform task forces were formed at the central, provincial, and district/city levels.

Judging from the agrarian reform organization, it consists of the central government, provinces, and districts/cities, so it is worried that the movement will be full of bureaucracy and rigidity. However, with synchronized and harmonized regulations from the central-regional level and all ministries willing

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<sup>14</sup> Subhan Zein, "Reforma Agraria Dari Dulu Hingga Sekarang," *Jurnal Ilmiah Hukum Dirgantara* 9, No. 2 (2019), p. 131.



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to abandon their sectoral ego, it should be able to support the achievement of agrarian reform goals.<sup>15</sup> This is different from Japanese agrarian reform institution that does not involve government agencies in the form of an independent committee with a team of only 10 (ten) committee members consisting of village committee members, selected separately by three different groups, namely 5 people from tenants, 3 people from landlords, and 2 people from landowning farmers, so they can act quickly and are not hampered by long bureaucracy.

The implementation of agrarian reform goes through the stages of asset and access structuring. Meanwhile, asset structuring comprises the distribution of agrarian reform object land to the rightful and legislation of assets. The legalization of these assets has been carried out by the government through complete systematic land registration (PTSL), which is the first registration of people's land so that a certificate is issued as the strongest evidence of the land. In Indonesia, agrarian reform land objects are taken from state land, abandoned land, and land rights that are not renewed by the holder, so the process of providing compensation is very complex. Meanwhile, the object of Japanese agrarian reform is the excess land tenure of landlords and absentee

land, so it is easier to be taken over by the committee with payment in the form of state debt securities (bonds).

Meanwhile, land distribution, which is the main function and task of the agrarian reform team, has not been implemented because the government has difficulty providing land for agrarian reform objects. In response to these conditions, the government formed the Job Creation Law, some of whose derivatives are known as land clusters. One of its derivatives is Government Regulation Number 64 of 2021, concerning Land Bank. The Land Bank functions and is tasked with planning the provision of land for development. Article 22 clause (2) of Government Regulation Number 64 of 2021, regulates that the Land Bank guarantees the availability of land for agrarian reform objects of at least thirty per cent (30%) of state land.

In the current context, there are 2 (two) problems in the implementation of agrarian reform related to the regulation of state land, first, is it legitimate to distribute land tenure to certain authorities, for example, the Ministry of Agrarian Affairs and Spatial Planning/ National Land Agency alone and related agencies? Second, the unclear status of state land. This can be seen from the conception of the relationship between

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<sup>15</sup> Yosia Hertharie, "Omnibus Law Sebagai Strategi Penataan Regulasi Pertanahan," *Jurnal Saniri* 1, No. 1 (2020), p. 41.

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the state and land which results in three land entities, namely state land, customary land, and land rights. There is a policy that places customary land and state land as “leftovers” from lands granted rights and licenses. For this reason, the policy of administering state land should be accelerated like the right of land.

## 2. Agrarian Reform in Japan

Japan is an archipelago consisting of 6,852 (six thousand eight hundred and fifty-two) islands. In the early Meiji period, the government built railroads and highways through land tenure reform. The government built factories and shipyards to sell to the private sector at low prices. From the above history, Japan’s agrarian reform started as an embryo in 1868-1912.<sup>16</sup>

Before the second world war, the land was controlled by landlords. This means that landowners dominated almost 50 per cent of the land in rural areas. There were 5.5 million households whose livelihood was farming. One-third of them were tenant farmers, who had to rent land from landlords.<sup>17</sup>

Before the second world war, poverty was the main cause of social unrest in Japan. Agrarian reform in agriculture in Japan began immediately after the second world war. This agrarian reform

is considered the most successful project in the history of agrarian reform in the world. The agrarian reform was carried out radically and comprehensively, so that the landlords who dominated rural society before the war, disappeared and brought equal distribution of land assets to rural people. The Gini coefficient of the population’s income distribution in the pre-war period was around 0.50, which dropped to 0.35 after the reform. As a result, landlords lost economic and political supremacy.

Japanese agrarian reform began on December 9, 1945, Supreme Commander of the Allied Powers (SCAP) General Douglas MacArthur ordered the Japanese Government to implement agrarian reform based on the Landreform Law after amending Farmland Adjustment Law, becoming the Owner Farmer Establishment Special Measures Law of 1946.

The goals were to restore civil rights, reform education, remove economic barriers, and change the structure of agricultural land tenure. According to SCAP, there are several causes of the unequal land tenure structure in Japan, namely: a. land area is very limited; b. land area under the lease is limited; c. high-interest rates on loans; d. discrimination between agricultural and industrial-trade fiscal policies; and

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<sup>16</sup> “Geografi Jepang”, [https://id.wikipedia.org/wiki/Geografi\\_Jepang](https://id.wikipedia.org/wiki/Geografi_Jepang), accessed 27 Agustus 2022.

<sup>17</sup> Dore. R.P., *Land Reform in Japan* (London: Oxford University Press, 1959), p. 34.

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e. the government has not protected farmers. From the above conditions, the agrarian reform included strengthening the rights of tenants by setting low rents paid in money, but the main program was the government's purchase of the leased land of landlords and subsequent sale to tenant farmers in interest-free instalments.

The content of the Land Reform Law was: a. all absentee land and leasehold land with an area of more than 5 hectares must be handed over to the country; b. land rents were lowered; and c. reorganization of farmland committees.

The characteristic of Japan's post-war agrarian reform is the distribution program of land titles to cultivators. This agrarian reform model is categorized as Asian agrarian reform. This radical agrarian reform is considered the most successful agrarian reform implemented after the second world war. Japanese agrarian reform was politically successful in preventing the emergence of land tenants and landlords, and there was an equal distribution of landowning farmers in the village. This agrarian reform was able to change old habits and traditions in the village so that agricultural production was able to prosper the village people. Agrarian reform has contributed to democratization and social and political stability in Japan. In fact, the conservative Liberal Democratic

Party was able to stay in power for 40 years after the reform because it was supported by rural communities.

There are some quite radical steps in the implementation of agrarian reform in Japan based on the Landreform Law as follows:

a. Compulsory land purchase by the government of all agricultural land that exceeded the provisions including absentee land.

The definition of absentee land is a landowner who does not live in the village where the land is located. All rented land by landlords in villages larger than 1 hectare (3 hectares in Hokkaido) must be sold to the government. Owners of agricultural land larger than 3 hectares, 12 hectares in Hokkaido will be bought out by the government if their use is deemed unproductive and inefficient.<sup>18</sup> The land tenure limit is based on households or families. The price at which the government purchases land is based on Landreform regulations. Payments to landlords must be made in the form of state bonds with an interest rate of 3.6 per cent for 30 years. If the buyer is a tenant, then the selling price of the land is agreed with the landlords. The payment is in cash or an annual instalment for 30 (thirty) years.

Through the above system, there has been an increase in the number of landowning farmers. Leasing a

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<sup>18</sup> Tsutomu Ouchi, *op.cit.*, p. 130.

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relatively large area of land can be done in two ways: First, the landlord takes back the leased land and cultivates it himself; Second, the landowner buys the land that he previously cultivated, thus becoming the owner. The success of agrarian reform is also due to the system used in land acquisition without compensation. A committee was assigned to supervise and control small-scale land tenants so that tenants could be protected from landlords who acted outside the applicable regulations. Indeed, it seems that the system imposed by the government to organize agrarian reform is unfair to landlords because it violates private rights or contradicts the constitution, so at first there were many lawsuits by landlords to the courts.

However, in 1956, the Japanese Supreme Court ruled that agrarian reform was not unconstitutional, so the lawsuit of landlords was rejected. As a result of the Supreme Court's decision, there were positive and negative points, which turned into a political movement. During these conditions, in 1965, political parties supporting the government decided that landlords whose land was taken by the country were compensated in the form of government bonds. This could work well because of the strict supervision of the government based on the orders of the Agriculture Law that were formed and passed after the agrarian reform succeeded in improving the welfare of the people. With the progress achieved in improving the welfare of farmers, there is no difference between landlords and

tenants who have become landowners. The positive impact of this action was that the agricultural industry became the mainstay sector after World War II.

According to the 1950 census, only 50 per cent of the Japanese population were farmers. The labour force in agriculture continued to decline due to industrial development, so, in 2007 only 21 per cent of farmers were entrepreneurs and there are currently very few young workers in agriculture. The success of Japanese agrarian reform is because it was organized with great care, so it is considered the most successful in the history of agrarian reform in Asia and the world through a system of cultivating proprietorship or the development of individual ownership;

b. Formation of committees

Agrarian reform monitoring committees or teams were formed at the village level, regional government (Prefecture) and central level committees. The committee consists of 10 (ten) members of the village committee, selected separately by three different groups, namely 5 people from tenants, 3 people from landlords, and 2 people from landowning farmers. The purchase of absentee land was determined by the village land committee, with the approval of the prefectural land committee and the direct purchase was carried out by the central government. This began in 1945 when the Land Reform Law was established and legalized. In addition, several regulations that have been established instruct the committee to

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exercise strict supervision over land lease relationships;

c. Effective implementation of agrarian reform

It was initially difficult to implement the Landreform Law given that the number of landowners including landlords and absentee land reached 6 million families, while more than 2 million families among them tried to obstruct the program.<sup>19</sup> The personnel involved in the implementation of the program were about 16,781 people.<sup>20</sup> The program required considerable manpower, either at the national or prefectural level. This manpower is available with trained individuals from the Ministry of Agriculture, as well as at the prefectural level, such as officers handling leases under the Land Tenancy Conciliation Law of 1924. In the first step of the program, the government (SCAP) gave orders to the Land Committee that agrarian reform should be achieved within two years. The first land purchases were made in 1947 and by the end of 1948 had reached 1,630,000 Ha (one million six hundred and thirty thousand hectares). The total cost of the program was one billion yen over the first three years. Through five years of radical agrarian reform, most of the farmland owned by

landlords that had been rented out was transferred to farmers. This meant that land tenure drastically shifted to former tenant farmers. By 1949, when the land reform program was almost complete, 13 per cent of rented land remained and continued to decline to 9 per cent by the end of 1955. Thus, the number of landowning farmers increased from 31 per cent in 1941 to 70 per cent in 1955. Meanwhile, landlord farmers decreased drastically from 28 per cent to 4 per cent during the same period.<sup>21</sup> In the end, the number of limited landowning farmers has decreased from 20 per cent to 5 per cent. Meanwhile, absentee landlords disappeared, as 80 per cent or 560,000 hectares has passed to other farmers. Furthermore, almost more than one million hectares of land leased by landlords or cultivated by themselves had passed to tenant farmers. Thus, landlords in agriculture were successfully abolished in Japan.

To secure the result of land reform and prevent the resurgence of landlords, a new Agricultural Law was established and passed in 1952. This law aimed to protect landowning farmers as owners of agricultural land. This law was a compilation of the Owner Farmer Establishment Special Measures Law

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<sup>19</sup> Dore. R.P., *op.cit.*, p. 149.

<sup>20</sup> Laurence I. Hewes, *Japan Land Reform Program* (Tokyo: General Headquarters, Supreme Commander for the Allied Powers, 1950), p. 792.

<sup>21</sup> Toshihiko Kawagoe, *Agricultural Land Reform in Postwar Japan* (Tokyo: World Bank Publication, 1999), p. 33.



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and the 1938 Farmland Adjustment Law. This law controls to prevent the transfer of agricultural land. This means that any transfer of agricultural land rights must be approved by the local government. Landlords were only allowed to sell their land to tenants. It also stipulates maximum ownership of agricultural land of 3 hectares (12 hectares in Hokkaido). The sale and purchase of agricultural land is only permitted by the government at market prices if the seller owns more land than the maximum. Farmers who own only 0.3 hectares of land (2 hectares in Hokkaido) are permitted as buyers. Lease rights are highly protected, meaning that landowners are prohibited from unilaterally terminating lease rights. Meanwhile, absentee land is prohibited. Thus, the ownership and use of agricultural land are maintained by the Land Reform Law.

The main key to the success of agrarian reform is the support of infrastructure, government finances and a strong commitment to implement the program. The motto in the implementation of agrarian reform “land for tenants” means that land must be optimized for the benefit of landowners or tenant farmers to improve people’s welfare. In addition to the keys of success mentioned above, the success of agrarian reform cannot be separated from the superior power of SCAP which has the intention and

motivation to change the very unequal agrarian structure after the war. The success of agrarian reform was also supported by several strengths, among others: a. Accurate data on land tenure had been accumulated after the revision of the land tax in the 19th century; b. Land tenure conditions were well surveyed and the strong social structure of rural Japan enabled them to identify existing land lease relationships; c. The reformist group in the government that dealt with land ownership issues had existed before the war, so there were sufficient experts available; d. There were educated human resources involved in the implementation of agrarian reform; e. The political and economic power of landlords was already weak due to several regulations enacted during the war; and f. There was a favourable political situation as the power and trust in the ruling elite were reduced due to the defeat of the war.<sup>22</sup> These conditions are crucial to the success of radical agrarian reform. Without accurate data and adequate expertise, it would be difficult to undertake such a large and complex project. But it should be noted that at the time, the conservative groups representing the landlords did not fight back, as the Japanese Supreme Court ruling rejected their lawsuit. The current population is 128 (one hundred and twenty-eight) million. Today, Japan as an

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<sup>22</sup> *Ibid.*, p. 391

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economically developed country has the second-largest gross domestic product after the United States. As a developed country, the Japanese population has a high standard of living and has the highest life expectancy in the world according to the United Nations. In the field of technology, Japan is an advanced country in telecommunications, machinery, and robotics.

### **3. Comparison of Agrarian Reform in Indonesia and Japan**

From the description above, based on the analysis, the similarities and differences between the two agrarian reforms in Indonesia and Japan can be found.

- a. Similarities between Indonesian and Japanese agrarian reform:
  - 1). The aim of agrarian reform in both countries is to bring about a fair distribution of the livelihoods of peasants on land, to bring about a fair distribution, by reorganizing the structure of land ownership and control;
  - 2). To end the landlord system by abolishing large-scale or unlimited land ownership and tenure, by organizing maximum and minimum limits for each family; and
  - 3). To change the traditions of the peasants in the village, so that agricultural production can bring prosperity to the villages.
- b. Differences between Indonesian and Japanese agrarian reform:
  - 1). Agrarian reform in Indonesia began in 1960, after the establishment of the UUPA, while in Japan it began after the Second World War in 1945;
  - 2). The concept of agrarian reform in Indonesia, every taking of excess land of landlords, absentee land is given compensation in the form of money, while in Japan, compensation is given in the form of bonds or state debt securities;
  - 3). The implementation of agrarian reform in Indonesia is carried out by agreement between the committee and the landowner, while in Japan the government is obliged to buy all excess land owned by landlords and absentee land;
  - 4). In the agrarian reform committee in Indonesia, most of its members are from the government, while in Japan an independent committee is formed with 10 members, consisting of 5 people from land tenants, 3 people from landlords, and 2 landowning farmers. Thus, the agrarian reform committee in Japan does not involve the government;
  - 5). Implementation of agrarian reform in Indonesia, the human resources have not been trained, while in Japan the number of human resources spread from the centre, region, and village

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and have the quality of educated, trained, and mastered the theory and practice;

- 6). Disputes between landlords and the agrarian reform committee in Indonesia once had a land reform court, but now it has been abolished, while in Japan the resistance to those who hinder agrarian reform through a lawsuit was rejected by the Supreme Court, with the reason that it was not against the constitution;
- 7). Funds to support the implementation of agrarian reform in Indonesia are not enough, while in Japan they have been set according to the needs in the state budget;
- 8). The target of agrarian reform implementation in Indonesia is unclear, while in Japan at the beginning of the implementation of agrarian reform, a period of 2 years must be completed, so that after 5 years agrarian reform in Japan has been successful so that landlords have been eliminated; and
- 9). The implementation of agrarian reform in Indonesia is not yet a political commitment of the government, while in Japan it is a radical action decided by the government.

## D. CONCLUSIONS

Based on the results of the research, the essence of agrarian reform from both countries is the same, which aims to organize a fair distribution of the livelihoods of peasants on land, by reorganizing the structure of land ownership and control and changing the traditions of peasants in the village, so that agricultural production can prosper the village people. To make Indonesia's agrarian reform a priority and strategic program, ideally, the agrarian reform team in Indonesia should be independent, and supporting funds should be available as needed to take over all surplus or absentee land with monetary compensation or in the form of bonds so that landowners willingly support the program. Finally, the agrarian reform team and the government should be able to determine a measurable timeframe for the program to be completed. This provides legal certainty for the people, the government, and investors. Thus, this program is the government's political commitment to completing and implementing the mandate of Presidential Regulation Number 68 of 2018.

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