

# MARGINALIZED JUSTICE: THE URGENCY OF RECONSTRUCTING LAND SPECIALIZED CRIMINAL JUSTICE IN INDONESIA



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## ABSTRACT

The criminal justice system in Indonesia has not been able to optimally handle crimes in the land sector which are complex and multidimensional. The ineffectiveness of the public courts in resolving cases of falsification of land documents, land grabbing, and structural agrarian conflicts has led to increasingly evident inequalities in justice, especially for vulnerable groups such as farmers, indigenous peoples, and the poor. This research aims to examine the structural, normative and procedural weaknesses of the existing criminal justice system, and offer a conceptual model of special land criminal justice as a progressive institutional solution. Using a normative and empirical juridical approach, data was obtained through literature studies and interviews with legal officials and affected communities. The findings show that the absence of specialized judicial institutions has been a dominant factor in the failure of fair law enforcement processes. The proposed model includes a specialized institutional structure, strengthening the technical competence of legal officers, as well as a participatory-restorative approach. This research makes a theoretical contribution to the development of progressive law and offers a practical framework for institutional reform of criminal law that is more contextual and socially just

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## 1. INTRODUCTION

Land issues in Indonesia continue to be a source of complex, chronic and recurring conflicts <sup>1;2,3;4</sup>. According to the 2023 Year-End Note released by the Consortium for Agrarian Reform (KPA), there are at least 212 agrarian conflicts across Indonesia covering 654,000 hectares of land and involving more than 160,000 households <sup>5;6;7;8</sup>. Of these, most have led to the criminalization of civil society, especially farmers, indigenous peoples, and rural residents who defend their land rights <sup>9;10;11;12</sup>. Meanwhile, corporate actors and bureaucratic elements involved in illegal land takeovers are often untouched by the law (Bachriadi & Aspinall, 2023; Ginting, 2020). This

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<sup>1</sup> Afrizal and W Berenschot, "Land-Use Change Conflicts and Anti-Corporate Activism in Indonesia: A Review Essay," *Journal of East Asian Studies* 22, no. ue 2) (n.d.), <https://doi.org/10.1017/jea.2022.12>.

<sup>2</sup> D Bachriadi and E Aspinall, "Land Mafias in Indonesia," *Critical Asian Studies* 55, no. 3 (n.d.), <https://doi.org/10.1080/14672715.2023.2215261>.

<sup>3</sup> R Susman, A M Gütte, and T Weith, "Drivers of Land Use Conflicts in Infrastructural Mega Projects in Coastal Areas: A Case Study of Patimban Seaport, Indonesia," *Land* 10, no. 6 (n.d.), <https://doi.org/10.3390/land10060615>.

<sup>4</sup> R Wahanisa et al., "Problems of Disputes/Conflicts over Land Acquisition towards Development for Public Interest in Indonesia," *International Journal of Criminology and Sociology* 10 (n.d.), <https://doi.org/10.6000/1929-4409.2021.10.39>.

<sup>5</sup> B R Ghina, E A Jufri, and F H Hardian, "Legal Protection of Notary in The Eradication of The Land Mafia in Indonesia," *Asian Journal of Engineering, Social and Health* 2, no. 1 (n.d.), <https://doi.org/10.46799/ajesh.v2i1.36>.

<sup>6</sup> D Ginting, "Policies on Prevention and Eradication of Land Mafia: Agrarian Reform in Indonesia," *Utopia y Praxis Latinoamericana* 25, no. Extra2 (n.d.), <https://doi.org/10.5281/zenodo.3809387>.

<sup>7</sup> B F Sihombing, "Critical Studies of the Land Mafia Practices: Evidence in Indonesia," *Beijing Law Review* 14, no. 01 (n.d.), <https://doi.org/10.4236/blr.2023.141023>.

<sup>8</sup> V Wirawan, A S Yusriadi, and Y Widowaty, "Eradicating the Land Mafia in Indonesia: Challenges and Opportunities," *Migration Letters* 20, no. 7 (n.d.).

<sup>9</sup> A Artaji et al., "Resolution of Agrarian Conflicts on Plantation Land through Restorative Justice in Indonesia," *Lex Scientia Law Review* 8, no. 1 (n.d.), <https://doi.org/10.15294/lsr.v8i1.14060>.

<sup>10</sup> Musdodi Frans Jaswin Manalu, "Criminalization and Land Rights Conflict," *Indigenous Southeast Asian and Ethnic Studies* 1, no. 1 (n.d.): 35–53, <https://doi.org/10.32678/iseaes.v1i1.5>.

<sup>11</sup> A Muthallib, "Agrarian Conflict in Aceh: The Intersection of Corporate Interests, Farmers' Rights, and Government Governance. Jurisprudensi: Jurnal Ilmu Syariah," *Perundang-Undangan Dan Ekonomi Islam* 17, no. 1 (n.d.): 165–178, <https://doi.org/10.32505/jurisprudensi.v17i1.9884>.

<sup>12</sup> D Priyatno, A Kamilah, and A Mulyana, "Corporate Crime in Expropriating Land Rights through Intimidation and Criminalization," *Cogent Social Sciences* 9, no. 1 (n.d.), <https://doi.org/10.1080/23311886.2023.2187739>.

phenomenon reflects the asymmetry in criminal law enforcement in the land sector.

On the other hand, the legal instruments available within the framework of general criminal justice are considered insufficient to address the complexity of land crimes<sup>13</sup>. Cases such as falsification of land documents, embezzlement of certificates, land grabbing, and the involvement of the land mafia show that land crime issues have their own characteristics: involving many actors across sectors, requiring complex technical proof, and having a broad impact on the social and economic resilience of the community<sup>14</sup>; <sup>15</sup>; <sup>16</sup>. However, until now, these cases are still handled generally by criminal justice institutions that do not have the specialization or structural tools to understand the characteristics of agrarian conflicts.

The urgency of this research arises from the socio-legal reality where substantive justice for communities affected by land crimes is marginalized<sup>17</sup>. The partiality of the legal system towards weak communities has not been fully reflected in the practice of law enforcement. In fact, instead of being protective, legal institutions are often transformed into instruments that strengthen the dominance of capital owners and state actors. This results in the creation of legal inequality, where access to justice becomes the privilege of a few parties.

In academic studies, most of the literature discussing land issues emphasizes administrative aspects such as land redistribution, agrarian

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<sup>13</sup> M H Jayawibawa, "Unraveling Justice: The Evolving Landscape Of Criminal Law In The Modern Era," *Pena Law: International Journal of Law* 2, no. 2 (n.d.), <https://doi.org/10.56107/penalaw.v2i2.178>.

<sup>14</sup> H Altting et al., "Land Disputes and the Land Mafia Phenomenon in Indonesia: A Critical Analysis," *Journal of Lifestyle and SDGs Review* 5, no. 3 (n.d.): 4794, <https://doi.org/10.47172/2965-730X.SDGsReview.v5.n03.pe04794>.

<sup>15</sup> R Ramadhani, "Legal Protection for Land Rights Holders Who Are Victims of the Land Mafia," *International Journal Reglement & Society (IJRS)* (n.d.), <https://doi.org/10.55357/ijrs.v2i2.114>.

<sup>16</sup> A Tehupeyory, "Land Mafia Case Handling Through the Optimization of Land Mafia Task Force Role," *SASI* 29, no. 2 (n.d.), <https://doi.org/10.47268/sasi.v29i2.1185>.

<sup>17</sup> V Bhagat-Ganguly, M Finn, and M Parikh, *Sociolegal Challenges for the Social Justice Continuum* (Routledge India, n.d.), <https://doi.org/10.4324/9781003561217>.

reform, and certification<sup>18;19;20</sup>. Meanwhile, the aspect of criminal law enforcement in land conflicts remains a relatively neglected area<sup>21;22</sup>. The lack of in-depth studies on criminal justice institutions that specialize in the agrarian sector shows a significant research gap. There is no criminal justice design that is oriented to comprehensively handle crimes in the land sector, both in terms of structure, substance, and legal culture.

Based on the above background, it is appropriate to conduct a more in-depth study of the weaknesses of the general criminal justice system in handling land cases, as well as to develop alternative models of special criminal justice institutions that are able to ensure substantive justice and protection of community rights. This research is expected to make theoretical and practical contributions to the development of the national legal system, particularly in the context of the protection of equitable land rights.

## 2. RESEARCH OBJECTIVES

This research aims to answer systemic challenges in criminal law enforcement of land cases in Indonesia, which so far still relies on generalist general justice mechanisms. The absence of a special institution or criminal justice system that has substantive and technical competence in the field of agrarian causes many land cases not to be handled fairly, efficiently and proportionally. This situation not only impacts on the marginalization of victims, but also creates a crisis of public trust in legal institutions.

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<sup>18</sup> A F Burns, A Rajabifard, and D Shojaei, "Undertaking Land Administration Reform: Is There a Better Way?," *Land Use Policy* 132 (n.d.), <https://doi.org/10.1016/j.landusepol.2023.106824>.

<sup>19</sup> B P Herusantoso, "The Antinomy of Agrarian Reform Regulations After the Establishment of the Land Bank Authority," *Jurnal Ilmu Kenotariatan* 5, no. 1 (n.d.): 17, <https://doi.org/10.19184/jik.v5i1.46593>.

<sup>20</sup> O Medaline, F Rafianti, and R Sembiring, "Mapping Community Land in North Sumatra through the Implementation of Agrarian Reform," *Budapest International Research And*, n.d.

<sup>21</sup> Y Bustomi, "The Relevance of Behavior of Law Theory to Law Enforcement in Indonesia," *Jurnal Hukum Prasada* 9, no. 1 (n.d.), <https://doi.org/10.22225/jhp.9.1.2022.53-64>.

<sup>22</sup> W Yuan and Y C Chang, "Land and Sea Coordination: Revisiting Integrated Coastal Management in the Context of Community Interests," *Sustainability (Switzerland)* 13, no. 15 (n.d.), <https://doi.org/10.3390/su13158183>.

Specifically, this research aims to critically analyze various structural, normative and procedural weaknesses inherent in the general criminal justice system when handling land crimes. Through an interdisciplinary approach, this research further explores the empirical reality in the field regarding the practice of handling land crime cases, including the legal constraints experienced by law enforcement officials, the victim community, and the judicial institution itself.

Furthermore, this research also aims to formulate a conceptual model of reconstruction of special land criminal justice in Indonesia. This model is expected to be an alternative solution that is more adaptive and responsive to the needs of substantive justice, especially for vulnerable groups of people who have been victims of manipulative practices in the land sector. Thus, this research is directed to not only contribute to the theoretical framework of legal science, but also offer practical input for policy makers in designing a more inclusive and equitable national criminal law system.

### **3. RESEARCH METHODOLOGY**

This research uses a normative juridical approach combined with an empirical-qualitative approach<sup>23,24,25</sup>. The normative juridical approach is used to examine the positive legal instruments governing criminal offenses in the land sector and the criminal justice system applicable in Indonesia. Research was conducted on laws and regulations such as the Criminal Code (KUHP), Law No. 5/1960 on Basic Agrarian Regulations, Law No. 8/1981 on Criminal Procedure, as well as various sectoral regulations and relevant court decisions. This approach aims to identify normative gaps and juridical problems in handling land criminal cases.

Meanwhile, the empirical approach was carried out to obtain an objective picture of the practice of law enforcement on land cases that occurred in the field. Empirical data was obtained through in-depth interviews

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<sup>23</sup> T A Christiani, "Normative and Empirical Research Methods: Their Usefulness and Relevance in the Study of Law as an Object," *Procedia - Social and Behavioral Sciences* 219 (n.d.), <https://doi.org/10.1016/j.sbspro.2016.05.006>.

<sup>24</sup> Moh M Rohman et al., *Methodological Reasoning Finds Law Using Normative Studies (Theory, Approach and Analysis of Legal Materials)* (MAQASIDI: Jurnal Syariah Dan Hukum, n.d.), <https://doi.org/10.47498/maqasidi.v4i2.3379>.

<sup>25</sup> A.R.H.dkk Sheyla Nichlatus Sovia, "Ragam Metode Penelitian Hukum," *Sustainability (Switzerland)*, no. ue 1) (n.d.).

with stakeholders consisting of law enforcement officials (police investigators, prosecutors, judges), academics, agrarian activists, and victims of land crime. The purposive sampling technique was used to select informants who have competence and direct experience in handling or experiencing land crime cases. Interviews were conducted in two main locations, namely in Central Java and East Kalimantan, which are known as areas with high land conflict intensity.

The data collected was analyzed qualitatively-descriptively using Miles and Huberman's interactive analysis model which includes three main stages: data reduction, data presentation, and conclusion drawing/verification. In the analysis process, the researcher interpreted the field findings and related them to theories of progressive law, social justice, and comparative studies from countries that have implemented special criminal justice systems for agrarian crimes, such as Brazil and the Philippines.

To increase the validity and reliability of the data, method triangulation and source triangulation techniques were used. Method triangulation is done by comparing the results of normative analysis with empirical data obtained from interviews, while source triangulation is done by cross-checking data from various types of informants. The entire process of data collection and analysis was carried out with due regard to the ethical principles of legal research, including maintaining the confidentiality of informants' identities and obtaining approval before interviews were conducted. By using this method, this research is expected to provide a comprehensive picture, both from the normative aspect and empirical reality, regarding the needs and ideal design of special land criminal justice in Indonesia.

#### **4. RESULT**

Problems in law enforcement against land crimes lie not only in the weakness of legal substance, but also in the inaccuracy of the structure and procedures of the criminal justice system used today. Based on the results of field studies and normative analysis, it is found that criminal cases in the land sector tend to be handled sporadically, without a consistent pattern, and without a thorough understanding of the sociological and historical

characteristics of the agrarian conflict itself<sup>26,27,28</sup>. This leads to legal uncertainty and substantive injustice for the aggrieved parties.

In the institutional context, the generalist criminal justice system is not designed to handle highly complex cases such as land conflicts. The authority to investigate and prosecute often clashes with the administrative authority of the land agency (BPN) and local officials, who in some cases have conflicts of interest with the perpetrators. The unclear boundaries of this authority are often utilized by land mafia actors to avoid legal traps. This is in accordance with what Satjipto Rahardjo stated in progressive legal theory, that a legal system that is too legalistic without considering social reality will lose its essence as a means of justice<sup>29,30,31</sup>.

Empirical findings from interviews with law enforcement officials show that many investigators and prosecutors admit to having no technical expertise in reading land documents, analyzing land maps, or assessing agrarian forensic aspects. This has an impact on the weak evidentiary process in court, resulting in many cases not reaching the prosecution stage or leading to acquittals. This phenomenon shows that the justice system is not only problematic from an institutional perspective, but also in terms of the human resources and technical competencies required<sup>32,33</sup>.

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<sup>26</sup> A M Fuller et al., "Land to the Tiller: The Sustainability of Family Farms," *Sustainability (Switzerland)* 13, no. 20 (n.d.), <https://doi.org/10.3390/su132011452>.

<sup>27</sup> D Grasse, "Oil Crops and Social Conflict: Evidence From Indonesia," *Journal of Conflict Resolution* 66, no. 7–8 (n.d.), <https://doi.org/10.1177/00220027221084826>.

<sup>28</sup> B Z Tamanaha, "Legal Pluralism Explained: History, Theory, Consequences," in *Legal Pluralism Explained: History, Theory, Consequences*, n.d., <https://doi.org/10.1093/oso/9780190861551.001.0001>.

<sup>29</sup> Herlindah and Y Darmawan, "Development Legal Theory and Progressive Legal Theory: A Review, In Indonesia's Contemporary Legal Reform," *Peradaban Journal of Law and Society* 1, no. 1 (n.d.), <https://doi.org/10.59001/pjls.v1i1.22>.

<sup>30</sup> M R Hidayat, S Suteki, and J C G Mahoro, "Legal Wisdom in Indonesian Legal System: Toward Progressive Law Enforcement," *JUSTISI* 10, no. 3 (n.d.): 518–534, <https://doi.org/10.33506/js.v10i3.3198>.

<sup>31</sup> D A P Sitepu, H Hartiwingsih, and M Rustamaji, "Classical Thought and Legal Theory Underlying Progressive Judges to Achieve Justice," n.d., [https://doi.org/10.2991/978-2-38476-218-7\\_37](https://doi.org/10.2991/978-2-38476-218-7_37).

<sup>32</sup> A Fauzia, F Hamdani, and D Octavia, "The Revitalization Of The Indonesian Legal System In The Order Of Realizing The Ideal State Law," *Progressive Law Review* 3, no. 01 (n.d.), <https://doi.org/10.36448/plr.v3i01.46>.

<sup>33</sup> C Noval and A Saptomo, "Reconstruction of Law in Enhancing Human Resources of the Police to Realize an Integrated Criminal Justice System," *Journal of Social Research* 3, no. 12 (n.d.), <https://doi.org/10.55324/josr.v3i12.2341>.

Theoretically, this condition can be explained through the critical legal studies approach which states that laws formed and implemented by dominant structures tend to reproduce existing power imbalances. In the Indonesian context, land criminal law often does not favor indigenous peoples or small farmers, but rather accommodates the interests of capital owners and bureaucratic elites<sup>34,35</sup>. This is reflected in the practice of double standards in law enforcement: communities fighting for land rights can be quickly criminalized, while perpetrators of land grabbing with strong backgrounds are often immune from prosecution.

Furthermore, based on a comparative review of agrarian criminal justice practices in Brazil and the Philippines, it was found that these countries have developed specialized judicial models to deal with crimes related to agrarian<sup>36</sup>, environmental and indigenous peoples' rights. For example, Brazil established the Land and Environmental Court which has special jurisdiction to handle land conflicts and environmental violations with an interdisciplinary and participatory approach. The existence of such an institution has proven to be able to provide greater space for victims of land crimes to obtain justice, as well as facilitate coordination between law enforcement agencies and agrarian authorities.

Within this framework, the urgency of establishing a special land criminal court in Indonesia becomes increasingly apparent. This court will not only be a place to resolve legal cases, but also a vehicle for reconstructing substantive justice in agrarian conflicts. This institutional reconstruction should include the establishment of specialized judicial units within the general court system, the preparation of human resources with agrarian competence, and judicial procedures that are responsive to community rights to land.

As a reflection, criminal law enforcement in the land sector must return to the principles of social justice mandated in Pancasila and the constitution

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<sup>34</sup> J F McCarthy et al., "Land Reform Rationalities and Their Governance Effects in Indonesia: Provoking Land Politics or Addressing Adverse Formalisation?," *Geoforum* 132 (n.d.), <https://doi.org/10.1016/j.geoforum.2022.04.008>.

<sup>35</sup> J R Rush and N L Peluso, "Rich Forests, Poor People: Resource Control and Resistance in Java," *The Journal of Asian Studies* 52, no. 1 (n.d.).

<sup>36</sup> E T Hoddy, "Peasants' Rights and Agrarian Violence in Transitional Settings: From Transitional Justice to Transformative Agrarian Justice," *Journal of Human Rights* 20, no. 1 (n.d.), <https://doi.org/10.1080/14754835.2020.1850242>.

<sup>37</sup>,<sup>38</sup>,<sup>39</sup>. In this case, the law should not be a tool of power that marginalizes the people, but should be a medium of social transformation that guarantees the protection of the basic rights of citizens, including the right to a just and dignified land. Without a justice system capable of carrying out this function effectively and fairly, structural inequality in the land sector will continue and threaten the legitimacy of national law as a whole.

This condition reflects the failure of the legal system to carry out the distributive and corrective functions as proposed by John Rawls in *A Theory of Justice*<sup>40</sup>. According to Rawls, the legal system must give priority to the least advantaged parties in society in order to achieve justice as fairness<sup>41</sup>. In many land cases in Indonesia, indigenous groups, small farmers, and the urban poor have become victims of a proceduralistic and power-biased legal system.

The progressive law approach developed by Satjipto Rahardjo is also relevant to be used in this analysis. Progressive law rejects rigid legal positivism and offers the view that law must be subject to the values of substantive justice<sup>42</sup>,<sup>43</sup>. In this context, the establishment of a special land criminal court is seen as a form of legal innovation oriented towards liberating society from oppressive legal structures.

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<sup>37</sup> F B Alfian, "Reconstruction of Law Enforcement in Indonesia Through Strengthening the Embodiment of Pancasila Values of Justice to Realize Humane Law Enforcement," *Pancasila and Law Review* 3, no. 2 (n.d.): 131–142, <https://doi.org/10.25041/plr.v3i2.2739>.

<sup>38</sup> S Arief, F Y Hasibuan, and L Mulyadi, "Reflecting Pancasila in Environmental Crimes Enforcement: Diffusing Values to Indonesia's Laws," *Pancasila and Law Review* 5, no. 1 (n.d.): 19–30, <https://doi.org/10.25041/plr.v5i1.3457>.

<sup>39</sup> M Y Fathoni and A F Vasalo, "Establishment of Land Court in Indonesia: An Effort to Realise Justice Based on Pancasila," *Journal of Law, Environmental and Justice* 1, no. 2 (n.d.), <https://doi.org/10.62264/jlej.v1i2.6>.

<sup>40</sup> B C Zipursky, "Corrective Justice Theory," in *Encyclopedia of the Philosophy of Law and Social Philosophy* (Springer Netherlands, n.d.), 1–8, [https://doi.org/10.1007/978-94-007-6730-0\\_944-1](https://doi.org/10.1007/978-94-007-6730-0_944-1).

<sup>41</sup> M Y Said and Y Nurhayati, "A Review On Rawls Theory Of Justice," *International Journal of Law, Environment, and Natural Resources* 1, no. 1 (n.d.), <https://doi.org/10.51749/injurlens.v1i1.7>.

<sup>42</sup> S Amelia, "Progressive Legal Approach to Modern Community Law Enforcement in Indonesia," *Pancasila and Law Review* 4, no. 1 (n.d.), <https://doi.org/10.25041/plr.v4i1.2729>.

<sup>43</sup> N Rahmad and W Hafis, "Hukum Progresif Dan Relevansinya Pada Penalaran Hukum Di Indonesia. El-Ahli," *Jurnal Hukum Keluarga Islam* 1, no. 2 (n.d.), <https://doi.org/10.56874/el-ahli.v1i2.133>.

In the theoretical framework of critical legal studies, law is not a neutral entity, but is often a tool for reproducing political and economic domination. Criminal law in land cases, if not reformed, will only continue to be an instrument to protect the interests of the elite and harm marginalized communities. Therefore, structural reconstruction of criminal law institutions is needed in order to reflect the principles of social justice and substantial democracy.

## **5. DISCUSSION**

Institutional reconstruction of criminal law in the land sector is a must if the state wants to present a fairer, more effective and accountable justice system. Based on field findings and theoretical readings of the weaknesses of the current legal system, a conceptual model of special land criminal justice is designed as a solution to overcome stagnation and structural bias in the resolution of agrarian cases with criminal dimensions.

This model is built on the understanding that land crimes are not merely conventional criminal offenses that can be handled procedurally through the general justice system. The characteristics of land crimes include elements of technical complexity, involvement of cross-institutional actors (government, corporations, land mafia), and broad socio-economic impacts. Therefore, a special judicial design is needed to accommodate this uniqueness.

First, this model emphasizes institutional specialization, namely the establishment of a special chamber in the district court or a semi-autonomous institution under the coordination of the Supreme Court. This court should have exclusive jurisdiction over criminal land cases, such as forgery of land documents, embezzlement of property rights, transfer of rights without consent, and other forms of land grabbing that have been difficult to handle thoroughly by the general courts. With a clear and focused institutional structure, the effectiveness of case resolution can be significantly improved.

Second, the technical and juridical competence aspects are crucial in this model. Judges, prosecutors and investigators handling land criminal cases must have adequate training and scientific background in agrarian affairs, land mapping, and related material and formal criminal law. This is important to ensure that the case handling process is not merely formalistic, but also understands the social and justice essence behind every agrarian conflict.

Capacity building of human resources in this judiciary should be a priority in the reconstruction process.

Third, this conceptual model adopts a participatory and restorative approach to case resolution. In many cases of land conflicts, settlements that only focus on punishing perpetrators are not sufficient to restore the losses and social trauma experienced by victimized communities. Therefore, special land criminal justice must also open space for the process of penal mediation, the involvement of local communities, and the restoration of substantive land rights. This approach is in line with the principle of restorative justice which places the restoration of social relations and community balance as the main goal of law enforcement.

Institutionally, strengthening the synergy between this special criminal court and agrarian institutions such as ATR/BPN, Komnas HAM, and local customary institutions is also part of this model. The synergy aims to present a judicial process that is not only legally valid, but also socially and morally valid in the community.

Thus, this conceptual model of reconstruction of special land criminal justice is a concrete manifestation of the transformation of the legal system towards a more progressive and contextual direction. This model not only answers the institutional vacuum that has caused stagnation of law enforcement in the land sector, but also offers a framework based on substantive justice, community participation, and respect for land rights as basic rights of citizens.

The scientific contribution of this research is the development of an applicable conceptual framework regarding the structure, jurisdiction, function, and working principles of a special land criminal court. This model can be used as an initial basis for the development of further in-depth studies on institutional design, agrarian law policy evaluation, and reformulation of a more contextual and equitable national criminal justice system.

Practically, this research provides an important contribution for policy makers, especially in the Ministry of Law and Human Rights, the Supreme Court, and the Ministry of ATR/BPN, in designing alternative judicial institutions that are more responsive to the dynamics of land crimes. By presenting empirical evidence and systemic analysis, this research can serve as a strategic reference to encourage the establishment of specialized judicial

chambers or institutions that can handle land cases in a more focused, efficient and fair manner.

In addition, the participatory and restorative approach model proposed in this research also contributes to a paradigm shift in law enforcement from a retributive and formalistic approach, towards a more humanistic and contextual approach. This is in line with the direction of national legal policy that increasingly prioritizes the principles of social justice in various sectors of life, including in the agrarian sector that concerns the livelihood of many people.

Thus, this research is not only present as a critique of the existing legal system, but also as a constructive offer based on theory, data, and social needs. The reconstruction of land-specific criminal justice as intended in this research is expected to be the initial foundation towards a legal system that is more just, inclusive, and in favor of the victims of agrarian inequality.

## **6. CONCLUSION**

Based on the series of normative analysis and empirical findings previously described, it can be concluded that the general criminal justice system in Indonesia has not been able to answer the complexity, depth and dimensions of substantive justice in land crime cases. The absence of a special institution that specifically handles agrarian crimes has created an empty space in justice law enforcement, as well as opening a gap for the domination of strong actors in the legal process that should favor the victim community.

Land crimes such as document forgery, embezzlement of property rights, and land grabbing, are forms of legal violations that have huge social implications. However, the general criminal justice system is stuck in a formalistic approach, which often fails to reach the root of the problem and does not provide substantive justice for vulnerable groups. In many cases, indigenous peoples, small farmers and the poor are criminalized, while perpetrators with access to power and capital are left untouched by the law.

This research concludes that institutional reconstruction through the establishment of a special land criminal court is an urgent need in the context of national legal system reform. The special court model designed in this research offers structural, substantive and procedural solutions to various weaknesses that have hindered the handling of land cases. The model not only

focuses on the prosecution aspect, but also integrates restorative and participatory approaches to ensure the restoration of land rights, social recovery, and strengthening legal legitimacy in the community.

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