

ABSTRACT**THE LIMITATIONS OF THE STATE'S RIGHTS TO CONTROL LAND IN RELATION TO ULAYAT RIGHTS AND INDIVIDUAL RIGHTS OVER LAND**

The aim of the research is to find the limitations of the broad rights of the state to control land. The findings of the research are: (1) The limitation of state's authority originated from state's rights to control land as set in Basic Agrarian Law (Act Number 5/1960): (a) The state's authority regulated in Chapter 2 article 2 is limited by content of the land-rights; (b) The state's authority regulated in Chapter 4 article 1 and Chapter 8 is limited by the giving of the land-rights or the other rights, and the exploitation of natural resources should not break individual and adat-law society's land rights; (2) The implementation of the state's authority originated from state's rights to control land in relation on ulayat rights: The giving of land rights or the other rights and exploitation of the natural resources in ulayat land should not break the adat-law society's land-rights; (3) The implementation of the state's authority originated from the state's rights to control land on individual rights: The land procurement for the development can only be carried out if agreed by the land-rights holders. (4) Ambiguous regulations regulating the existence of ulayat rights, meaning that, on one side the existence of ulayat rights is acknowledged and protected, on the other side it is denied. Of *de jure* in the concept, the ulayat rights are acknowledged and protected by The Constitution 1945, The National Assembly Decision and The Basic Agrarian Law, but in the *de facto* implementations, the ulayat rights are denied by Act Number 5/1967, Act Number 41/1999, Act Number 11/1967 and Act Number 22/ 2002.

Suggestions: The government should immediately take actions as listed below: (1) Synchronization of the agrarian law regulations; (2) Protecting the ulayat rights and individual land-rights; (3) Revising the Basic Agrarian Law (Act Number 5/1960): (a) Chapter 2 regulating the state's rights to control land are originated from the ulayat rights concept, taken from the highest level, covering the entire Indonesian territories. (b) The conditions of the implementation of ulayat rights should not conflict with Basic Agrarian Law and other regulations, in accordance with the national interests, and with Basic Agrarian Law and other regulations as regulated in Chapter 3, should be omitted. The condition is that adat law should not prevent/impede the goals of the state's rights to control land namely, to reach the prosperity of the people. (c) All of the adat law conditions used as the fundamental of national land laws as regulated in Chapter 5, should be omitted. The condition is that adat law should not prevent/impede the goals of the state's rights to control land namely, to reach the prosperity of the people. (d) Chapter 6 stating that: All of the land-rights have social function should be substituted with: All of the rights controlling natural resources have social function.

Key words: The state's rights to control land, ulayat rights, individual's rights over land