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Different Legal Origins, Equal Evidentiary Force: A Comparative Study of Redistribution and Sale-Based Land Certificates in Indonesia

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Abstract

In the unified land registration system of Indonesia, the land title certificates are the primary evidence of ownership. Certificates issued through land redistribution and private sale have the same legal validity under the same registration framework, but their different legal origins present unsolved concerns of legal certainty, property rights, and agrarian justice. There is a large number of literature on land redistribution, land markets, and tenure security in Vietnam, China, and the Philippines, but little study on how different acquisition mechanisms affect the evidentiary character of land certificates in a single registration system. This study aims to fill such a gap by legal research using statutory, conceptual, and comparative methods. The results reveals that redistribution and sale-based certificates have the same evidentiary strength as strong but rebuttable proof of ownership under Indonesian land law. But they vary considerably in terms of legal origin, transferability, administrative constraints, and policy purposes. The market-oriented certificates are meant to expedite the process of property sales, while the redistribution certificates have temporary transfer restrictions to maintain the aims of agrarian reform. The findings position Indonesia within the global debate on balancing market efficiency and social justice in land governance. This study claims that Indonesia's unified land registration system demonstrates how certificates with equal legal validity can embody different property rights while promoting legal certainty, equitable land distribution, and sustainable land governance.

I. Introduction

Land governance is an essential component in economic development, social stability and environmental sustainability and lies at a nexus of law, economics and social policy (Deininger & Jin, 2008; Deininger, Jin, & Nagarajan, 2009; Platteau, 1996). Throughout the world, land is a valuable resource, and its management in each country is governed by specific regulations (Ashley, 2016; Washim et al., 2014).

Effective governance is fundamentally based on a credible legal system capable of defining, assigning, and preserving land rights predictably and equitably. Such a system serves not just as a legal framework, but as an enabling infrastructure for economic activity, providing the certainty required for investment, the procedural clarity necessary for dispute resolution, and the transparency important for the efficient operation of land markets (M. Graziadei & Smith, 2017; Michele Graziadei, 2021; Harris, Cai, Murtazashvili, & Murtazashvili, 2020).

Within this institutional architecture, the legal documentation of rights, most obviously manifested in formal land titles or certificates, is more than just an administrative artefact. It transforms socially or historically based claims into legally recognised, enforceable, and transferable assets (Arribas, 2024; Nwaechefu, Adeleke, & Omidiji, 2024). The procedure not only brings land into the formal economy but also develops the evidential basis for ownership and the validity of transactions. The force of such legal proof is not absolute, however. Its authority is based on the procedural integrity and statutory legality of the legal path from which it springs. That is, the trustworthiness of a title is as much a function of the underlying legal process as it is of the document itself (Anrova, Suparman, & Kusmayanti, 2021; Li, Gao, Song, & Cui, 2024).

At the global level, two general mechanisms regulate the allocation and protection of land rights. These include market transactions and state redistribution. Each offers a different legal and philosophical approach to property and reflects underlying cultural ideals about equality, efficiency and the role of the State in managing economic resources. Market-based processes, especially land sales, are built on the premises of voluntary exchange and contract law, emphasizing individual autonomy, private property and freedom of transaction. In this paradigm, secure and transferable property rights are seen as the foundation of market efficiency, since they reduce transaction costs, encourage investment and enable the efficient allocation of land resources (Dimitruk, Du Plessis, & Du Plessis, 2021; Kimura, Otsuka, Sonobe, & Rozelle, 2011). Empirical evidence from East Asia, particularly Vietnam and China, supports this economic logic: tenure security improves land rental and sales markets, facilitating the transfer of land to more productive users and promoting larger structural reform within rural economies (Deininger et al., 2009; Kimura et al., 2011).

Land use rights and tenure systems are critical for sustainable agricultural production, poverty alleviation, conflict resolution, and social justice (GTZ, 2016). For example, land laws in the United States govern the recognition and promotion of private property ownership (Vicent et al., 2020), and all individuals' fundamental rights are expressly safeguarded. In Brazil, the bulk of land controlled by the government or the economic elite is frequently in the form of "great estates," also known as *latifundios*, a term borrowed from Spain (Aparicio et al., 2013; Ilana, 2015). Meanwhile, land tenure systems in other places, such as Africa, have evolved significantly, with a combination of customary agreements, religious practices, and legislation serving as important defining characteristics of land ownership (Cotula et al., 2004; Mwangi, 2006).

More diverse types of land tenure in Europe, particularly in Western European countries, may evolve to meet future needs (Johan, 2002). For example, land ownership has a greater scope and may include both the horizontal division of space and subsurface resources (Paul & Tommy, 1999). In the United Kingdom, land ownership is classified into three types: private ownership, state ownership, and communal ownership. In Asia, the ASEAN member states (Thailand, Malaysia, Indonesia, the Philippines, Cambodia, and Timor-Leste) have chosen a dual land tenure system (Marcus et al. 2013). Laos and Vietnam are two countries that still have a system of collective ownership. Only Myanmar operates a state-owned system (FAO, 2016). In China, all urban land is held by the State, which includes both State and collective ownership (Huang et al., 2017). In Vietnam, land is owned by the State and not by individuals. As a result, neither individuals nor groups are allowed to illegally gain possession of land. The State is the sole legal representative of the entire population, and it has the full ability to change land laws.

But the benefits of such arrangements are not equally shared. Market-oriented land governance, while theoretically efficient, often reproduces or exacerbates existing socioeconomic hierarchies. Even in countries that have formally recognised legal equality, women's economic involvement is nonetheless hampered by continued gender-based inequalities in access to land, loans and agricultural inputs (Dagdeviren & Oosterbaan, 2022; Ho, Tanyag, & Scalise, 2023). These disparities point to the fact that land markets are embedded in wider cultural and institutional frameworks in which social norms, power relations and customary practices mediate the realisation of formal rights. The market-based model of land distribution, while encouraging efficiency, may not be able to offer distributive justice unless accompanied by complementary policies to redress underlying structural disparities.

It is a conscious act of the State to redress the past inequalities in land ownership and to establish a more just and inclusive social order. It is a redistributive mechanism that tries not just to redistribute assets, but also to reconfigure the patterns of power and opportunity that have structured rural inequality for a long time. The Indian experience has shown that such policies, if well developed and implemented, can create substantial socio-economic advantages, including improved household income, capital formation and productivity (Deininger et al., 2009). However, the effectiveness of redistribution in accomplishing its revolutionary goals is frequently hampered by long-standing institutional and political hurdles. Elite capture, bureaucratic delay, and policy circumvention frequently undermine the redistributive purpose, shifting gains to powerful players rather than marginalized groups (Dy & Chau, 2023).

Cross-national data demonstrate that formal legal reform is insufficient to overturn entrenched social hierarchies. In Rwanda, despite progressive laws, gender and class inequities persisted, demonstrating the limited power of statutory change to transform deeply established sociocultural practices (Isaksson, 2015). Similarly, in

Zimbabwe, stiff and exclusionary formal frameworks triggered the formation of informal or "vernacular" land markets, adaptable local systems that allowed individuals to sidestep restrictive restrictions out of economic need (Chimhowu & Woodhouse, 2005, 2006, 2010). These trends show that land redistribution is more than just a legal or administrative activity; it is a deeply political and social process. Its consequences depend on how legal institutions interact with power relations, cultural traditions, and local agency to determine who eventually achieves control over land and the resources it represents (Peters, 2004).

In Indonesia, this dualism is sharply pronounced. Land sales are regulated through an established legal framework involving the Land Deed Official (*Pejabat Pembuat Akta Tanah* or hereinafter abbreviated to “PPAT”) and the execution of the Sale and Purchase Deed (hereinafter abbreviated to *Akta Jual Beli* or AJB). In contrast, land redistribution revitalised as a core element of national agrarian reform under Presidential Regulation Number 86 of 2018 follows an administrative route emphasising equity and historical correction. While both mechanisms culminate in the issuance of a land certificate as the highest proof of ownership under Indonesian law, their legal bases (rechtsfeit), procedural mechanisms, and transfer restrictions differ markedly (Afif Mahfud & Chin, 2024). This divergence carries critical implications: although both titles serve as authentic evidence, their juridical strength, potential for alienation, and vulnerability to challenge may vary (Anrova et al., 2021).

This discrepancy brings to the fore the subject of the legal nature, inherent restrictions and evidentiary authority of land title certificates, their differences with respect to those originating from redistribution and those from private sale and the ramifications for legal certainty and social fairness. The land markets have been studied in depth (Chimhowu & Woodhouse, 2006; Deininger & Jin, 2008) and redistributive programs (Deininger et al., 2009; Peters, 2004), few studies have comparatively analyzed the *legal evidence* in the title certificates that embody these distinct pathways. Thus, a fundamental jurisprudential question remains: does the difference in the origin of land rights create a hierarchy of legal status within Indonesia's unified land registration system under Government Regulation Number 24 of 1997? Resolving this issue requires addressing fragmented legal doctrines and disparities in the availability and accessibility of documentary evidence inherited from the two historical land administration regimes (Li et al., 2024).

Hence, this study tries to fill these theoretical and empirical gaps through two main objectives, namely: (1) comparing the legal and institutional framework regulating land title certificates issued through purchase and redistribution mechanisms systematically; and (2) analysing how the legal characteristics of land title certificates affect legal certainty, the operation of the land market, and the achievement of agrarian justice in the Indonesian legal system. This study is innovative in that it shifts the analytical attention from the process of land acquisition to the legal substance and evidential value of the certificates themselves. The study goes beyond comparing procedures and looks at the inherent legal features, official annotations, legal limits, and evidential force of certificates from different acquisition regimes. This analysis is based on the jurisprudence of the Supreme Court of Indonesia, namely Supreme Court Decision Number 4690 K/Pdt/2024, which states that land title certificates are strong but rebuttable evidence whose validity is still subject to judicial review; Supreme Court Decision Number 2064 K/Pdt/2014, which states that land title certificates are the strongest evidence of land rights according to the Basic Agrarian Law (UUPA); and District Court Decision Number 142/Pdt.G/2029/PN.MTR states that land title certificates do not constitute absolute or conclusive evidence of ownership and can therefore be reviewed by legal remedy. This paper compiles various judicial precedents to give a comparative examination of certificates obtained through acquisition and redistribution, to better understand the legal status and evidential consequences of different land tenure regimes in Indonesia.

By adopting this approach, this study provides a new analytical lens for understanding how different policy instruments are embodied in legal forms and how these forms, in turn, shape security of tenure, market participation, and justice. Ultimately, this study aims to contribute to both legal scholarship and policy discourse by elucidating the intersection between agrarian reform, market functionality, and the enduring principle of legal certainty in Indonesian land law.

This study employs legal research, a research design that is well suited to examining legal doctrines, principles, and norms as reflected in legislation, judicial decisions, and legal scholarship (Marzuki, 2017; Van Hoecke, 2011). The analysis is conducted primarily through the statutory approach, which involves a systematic examination and interpretation of legal instruments governing land registration, land redistribution, and the transfer of land rights. Particular attention is given to statutory provisions concerning the issuance, legal status, annotations, and evidentiary value of land certificates.

The study relies primarily on primary legal materials, which constitute binding sources of law. These include the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law (Law Number 5 of 1960), Government Regulation Number 10 of 1961 on Land Registration, Government Regulation Number 24 of 1997 on Land Registration, and Presidential Regulation Number 86 of 2018 on Agrarian Reform. The analysis is further supported by relevant ministerial regulations and decrees issued by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, as well as Supreme Court regulations and circular letters concerning evidentiary issues. In addition, selected landmark judicial decisions interpreting the legal force of land certificates and authentic deeds are examined to provide a comprehensive understanding of the applicable legal framework (Anrova et al., 2021).

II. Discussion

A. General Characteristics of the Certificates

In Indonesia, both the Certificate of Ownership issued through Land Redistribution (*Sertifikat Hak Milik atas Tanah Redistribusi*) and the Certificate of

Ownership issued through a Sale and Purchase Transaction (*Sertifikat Hak Milik atas Tanah Jual Beli*) are formally governed by the unified legal framework established under Government Regulation Number 24 of 1997 on Land Registration. Consequently, they are characterised by the same physical forms, structural arrangements, and standardised informational elements required by the rule. As a rule, each certificate comprises the following main elements: cadastral identification number, data on the right holder, land area and boundaries, kind of land right and date of registration. This consistency echoes the notion of administrative consistency within Indonesia's national land registration system, which aims to record all recognised land rights, regardless of their origin, through a single, consistent, evidentiary method.

In terms of outward form and administrative content, the two certificates have the same regulatory framework, but their juridical essence and policy purposes are fundamentally different. The certificate resulting from redistribution embodies the social role of the State's landownership, being a grant for equity and agrarian reform. Contrarily, the sale-based certificate is an expression of private liberty in the context of a civil transaction, which is governed by contract law. Thus, despite their visual and procedural homogeneity, these certificates are the embodiment of two fundamentally divergent legal logics: redistribution under public law and exchange under private law, each serving different facets of Indonesia's land governance system.

A deed of sale is constitutive in nature because it has the legal effect of formally creating, modifying, or terminating a legal relationship. When executed before a Land Deed Official (*Pejabat Pembuat Akta Tanah/PPAT*), the deed validly effectuates the legal act of sale and serves as the basis for the transfer of ownership rights from the seller to the purchaser, as regulated under Article 1459 of the Indonesian Civil Code (*Kitab Undang-Undang Hukum Perdata*). This constitutive character distinguishes a deed of sale from the obligatory nature of a preliminary sale and purchase agreement. A preliminary sale and purchase agreement merely creates contractual obligations requiring the parties to complete the transaction at a later stage. By contrast, a deed of sale evidences the completion of the transfer of rights (*levering*), thereby producing the legal effect of transferring ownership.

B. Similarities in Legal Evidence

The analysis shows that the land certificates from redistribution and sale have essential characteristics and form the legitimacy of legal evidence in the land administration system of Indonesia. Both certificates have different legal origins but contain all the elements that are essential for recognition under the Basic Agrarian Law (hereinafter abbreviated to "*UUPA*") and Government Regulation Number 24 of 1997 concerning Land Registration. The importance of certificates as powerful evidence is intimately related to the notion of legal certainty, which is the cornerstone of land registration. The notion of legal certainty says that the public needs to be sure that the state protects their rights and they cannot be violated by other people without a legal foundation (G.Radbruch, 1973). Each certificate grants the legal status of Ownership Right (*Hak Milik*), the most complete and highest type of land entitlement under Indonesian law. This status means full ownership, the owner having the right to use, enjoy and alienate the land, subject only to the limitations established by national legislation and public interest considerations.

Equally important is the shared foundation of registration. Both types of certificates are recorded within the National Land Registry System administered by the National Land Agency (*Badan Pertanahan Nasional/BPN"*). This institutional registration confers not only legal validity but also administrative certainty, ensuring that every land parcel is traceable within the centralized cadastral database. Through this mechanism, the Indonesian land registration system provides a formalized and transparent framework that upholds the principle of legal certainty as enshrined in the Basic Agrarian Law.

In terms of structure, the two certifications have the same mandatory elements, as required by law. The following documents shall be submitted: standardized cover page, *cadastre* map or spatial representation of the land parcel, full identity of the right holder, declaration of the legal basis for registration, official survey and measurement letter, date of issue and authenticated signature of the Head of the Land Office. The uniformity is a result of a purposeful administrative choice to achieve consistency and reliability in all sorts of registered land rights, irrespective of the path by which they are earned.

In evidentiary terms, both certifications have the same proving power as legitimate instruments. Each serves as convincing evidence of the land's physical qualities and the identity of its legitimate owner, as documented in the official land register (*buku tanah*). According to Article 32 paragraph (2) of Government Regulation Number 24 of 1997, the information contained in the certificate is deemed to be accurate and legally binding unless proven otherwise through judicial procedures. However, in many land dispute cases, the central issue is land title certificates issued by land agencies or offices, which are considered administrative decisions under Administrative Law and are the subject of lawsuits in Administrative Courts, particularly regarding the procedures for their issuance, as provided for in Article 53 paragraph 2 section (a), (b), and (c) of Law Number 5 of 1986 on Administrative Courts (Marwan Mas, 2016). Land disputes, on the other hand, frequently involve issues of ownership and land boundaries as stated in certificates, which can serve as the basis for a tort claim under Article 1365 of the Civil Code; thus, such cases are exclusively heard by District Courts within the General Judicial System (Abdurrahman, 2017). Thus, the strength of these certificates is based not only on their documented form, but also on the legal presumption of validity that comes with them. This circumstance makes them vital tools for securing property rights, simplifying transactions, and settling disputes within Indonesia's complicated land governance structure.

C. Critical Differences in Legal Evidence

Despite their similarities, the certificates are fundamentally distinguished by their legal origins, which manifest in critical differences in their content and legal status, as shown in Table 1.

No.	Analytical Category	Redistribution Certificate	Sale-Based Certificate	Legal Implication
1	Legal Origin	Derived from *state-led agrarian reform* under Presidential Regulation Number 86 of 2018.	Derived from *private transactions* based on contract law and the Land Deed Official (*PPAT*) system.	Reflects different foundational legal facts (*rechtsfeit*): administrative grant vs. civil contract.
2	Issuing Authority	National Land Agency (*BPN*) via redistributive allocation.	National Land Agency (BPN) upon a notarized sale deed (*Akta Jual Beli*).	Both have equal registration authority but different procedural bases.
3	Legal Basis	Presidential Regulation Number 86 of 2018; Basic Agrarian Law Number 5 of 1960; and Government Regulation Number 24 of 1997.	Government Regulation Number 10 of 1961; Government Regulation Number 24 of 1997; and Civil Code provisions on contract.	Distinct statutory foundations determine their classification and enforceability.
4	Nature of Right	*State grant* (administrative conferral).	*Transfer of existing right* (private exchange).	Redistribution rights originate from public law, while sale-based rights originate from private law.
5	Restriction on Transfer	Subject to a 10-year alienation restriction noted on the certificate.	Freely transferable without restriction after registration.	Redistribution emphasizes *social protection*; sale emphasizes *market freedom*.
6	Certificate Annotation	Contains special notation indicating origin and restriction.	Contains no special notation; standard ownership certificate.	Notations affect the marketability and valuation of land.
7	Evidentiary Power	Strong formal proof (*perfect evidence*) under Article 32 paragraph (2) of Government Regulation Number 24 of 1997, yet rebuttable in court.	Identical evidentiary power, also rebuttable if proven otherwise.	Equal formal validity, but material truth may be contested through legal challenge.
8	Underlying Policy Objective	Redistribution of wealth and social justice.	Market efficiency and transactional certainty.	Represents dual policy orientation within a unified legal registration system.

(**Table 1.** Critical Differences between Redistribution and Sale-Based Land Certificates in Indonesia. Source: Processed by the author based on statutory interpretation and doctrinal analysis (Anrova et al., 2021; Afif Mahfud & Chin, 2024; Government Regulation Number 24 of 1997).

An examination of the relevant statutory provisions confirms that both types of land certificates, those derived from redistribution and those resulting from sale, have the same legal force as perfect evidence (*alat bukti yang sempurna*), particularly in terms of the physical data of the land and the identity of the registered right holder, as articulated in Article 32 paragraph (2) of Government Regulation Number 24 of 1997. This section establishes a presumption of correctness, implying that the information recorded in the certificate and related land book is accurate and legally binding unless successfully challenged through court actions. In reality, this means that the State provides each certificate with an initial evidential presumption of validity, giving it a high level of official authenticity within Indonesia's land management system.

However, the extent of this presumption is not absolute. The certificate provides legal certainty primarily for administrative facts, which are factual details validated and registered by the property authority, such as parcel boundaries, size, and the documented owner's name. It does not necessarily include the material truth of possession or the substantive legitimacy of the underlying transaction that created the right. The contrast between formal and material validity is fundamental to Indonesian land law. Courts have emphasised that, while a certificate is strong formal evidence of registration, its probative value can be challenged by opposing evidence if it is demonstrated that the registration process was flawed, fraudulent, or based on invalid legal acts (Anrova, Suparman, & Kusmayanti, 2021). As a result, the evidential power of land certificates operates within a balanced framework that promotes administrative stability and predictability while preserving the option of judicial rectification to uphold substantive justice in times of dispute (Anrova et al., 2021).

Land-related legal disputes are initiated by parties who believe they have been harmed, whether individuals or legal entities, and raise claims regarding land rights, such as the status, priority, or ownership of the land. The defendant in such conflicts is the party judged to have violated the plaintiff's rights, with the goal of achieving an administrative decision in accordance with existing regulations (Sukardi, 2017). However, in many land dispute cases, an interesting aspect relates to the land title certificates issued by the National Land Agency, which can be considered administrative decisions and thus become the subject of lawsuits in the Administrative Court, especially regarding the administrative procedures for their issuance, as stipulated in Article 53 paragraph 2 section (a), (b), and (c) of Law Number 5 of 1986 on Administrative Courts (Marwan Mas, 2016). If a dispute arises regarding the ownership of land boundaries listed in the certificate, this may form the basis for a lawsuit alleging an unlawful act under Article 1365 of the Civil Code, which falls within the jurisdiction of the District Court within the General Court system (Abdurrahman, 2017).

The comparative analysis reveals striking parallels between Indonesia's framework and global patterns in land rights formalization:

1. Restrictive Clauses in Land Redistribution. In Indonesia, certificates of ownership issued through the land redistribution program are subject to a statutory restriction on alienation for a period of ten years. This restriction is expressly recorded as an encumbrance or special notation on the land certificate, prohibiting the transfer of the land—whether by sale, gift, exchange, or other legal remedy—during the restriction period. An exception is permitted only with prior written approval from the Head of the local Land Office (*Badan Pertanahan Nasional/BPN*), and only where the proposed transferee satisfies the eligibility criteria established for land redistribution beneficiaries. Any transfer undertaken without such approval during the ten-year prohibition period is legally invalid and has no binding legal effect. Comparable restrictions have been adopted in other jurisdictions to preserve the objectives of agrarian reform. In the Philippines, however, landowners have exploited Land Use Conversions (LUCs**)** to circumvent redistribution requirements, illustrating how market-based mechanisms can undermine redistributive policies when legal safeguards and regulatory oversight are inadequate (Dy & Chau, 2023). Similarly, in Rwanda, despite comprehensive legal reforms, persistent inequalities highlighted the limitations of titling alone in achieving social justice, underscoring the need for supportive measures beyond the certificate itself (Isaksson, 2015).
2. Market Efficiency *versus* Social Protection. Balancing the objective of creating freely alienable property rights with the need to protect vulnerable land beneficiaries remains a persistent challenge across jurisdictions. While unrestricted transferability may enhance market efficiency by facilitating land transactions and improving resource allocation, it may also expose economically disadvantaged beneficiaries to the risk of losing their land rights. The Indonesian ten-year restriction on the transfer of redistributed land reflects an effort to reconcile these competing objectives by preventing speculative transfers while preserving the long-term social goals of agrarian reform. Similar challenges have emerged elsewhere. In China, for example, the risk of land expropriation has been shown to significantly constrain the development of rural land rental markets, illustrating how tenure insecurity can undermine market efficiency and discourage productive land use (Kimura et al., 2011). Conversely, in Vietnam, both land sales and rentals were effective in transferring land to more productive producers, but secure rights were a prerequisite for this positive outcome. (Deininger & Jin, 2008; Deininger et al., 2009). This aligns with the Indonesian model, where the sale-based certificate is designed for market fluidity, while the redistribution certificate prioritizes social protection.
3. Gender and Social Norms: The finding that both Indonesian certificates ultimately vest rights in an individual holder, regardless of origin, must be tempered by international evidence. Agrarian reform is one of the policies expected to help address the issue of equality in land rights between men and women. The guarantee of equality in land rights achieved through agrarian reform is intended to work in synergy with efforts to reduce poverty and lower rates of violence against women and children (Megarani,

2022). The implementation of agrarian reform is essential for promoting equality in land rights between men and women. Beyond land redistribution, agrarian reform also encompasses the Agrarian Reform Access Management Program (*PARA*), commonly referred to as Community Land Empowerment (*Pemberdayaan Tanah Masyarakat/PTM*). PTM is an initiative implemented by the Indonesian Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (*ATR/BPN*) to strengthen the capacity of beneficiaries, particularly those who are economically disadvantaged or have limited knowledge and skills. Through capacity-building, access to resources, and institutional support, the program aims to enhance their ability to manage land productively, improve their livelihoods, and address socioeconomic challenges (*Penyuluhan Penanganan Akses Reforma Agraria*, 2021). Research in Tamil Nadu, India, showed that even when women participate in land purchases, their access to credit and agricultural input markets remains limited due to deep-seated social norms (Dagdeviren & Oosterbaan, 2022). This suggests that the egalitarian intent of Indonesia's registration system may be mediated by extra-legal factors, a phenomenon also observed in Sub-Saharan Africa, where customary and statutory systems interact (Chimhowu & Woodhouse, 2010; Whitehead & Tsikata, 2003).

4. Evidence and Legal Challenges: The Indonesian position that a certificate provides strong but rebuttable evidence mirrors challenges in other systems. The difficulty in applying traditional evidence rules to land disputes, as noted in China (Li et al., 2024), underscores a universal tension between the administrative finality of a title and the judicial pursuit of material truth. (see Table 2).

Land use rights and land tenure systems are crucial to sound agricultural production, poverty alleviation, conflict resolution, and social justice (GTZ, 2016). For example, land laws in the United States govern the recognition and promotion of private land ownership (Vicent et al., 2020), and all fundamental rights of citizens are explicitly protected. In Brazil, the majority of land controlled by the government or the economic elite is very often in the form of "great estates," also known as latifundios, a term derived from Spain (Aparicio et al., 2013; Ilana, 2015). Meanwhile, land tenure systems in other regions, such as Africa, have undergone significant evolution, characterized by a blend of customary agreements, religious practices, and legislation that serve as crucial defining features of land ownership (Cotula et al., 2004; Mwangi, 2006).

In Europe, particularly in Western European countries, more diverse forms of land tenure may adapt to future developments (Johan, 2002). For example, the scope of land ownership is broader, and such ownership may encompass the horizontal division of space as well as subsurface resources (Paul & Tommy, 1999). In the United Kingdom, land ownership is divided into three main categories: private ownership, state ownership, and community ownership (Robert, 2009). In Asia, the member states of the Association of Southeast Asian Nations (ASEAN) (Thailand, Malaysia, Indonesia, the Philippines, Cambodia, and Timor-Leste) have opted for a dual land tenure system (Marcus et al., 2013). Two countries maintain a system of ownership by the entire population: Laos and Vietnam (Michael, 2017; Nguyen, 2021). Only Myanmar has a state-owned system (FAO, 2016). In China, land is owned by the state, encompassing both state ownership and collective ownership, with all urban land belonging to the state (Huang et al., 2017). In Vietnam, land is state-owned and is not owned by any individual. Therefore, neither individuals nor groups are permitted to take control of land illegally. The sole legal representative of the entire population is the State, which has full authority to amend land laws.

Based on Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 1 of 2021 on electronic certificates, a shift in focus is emphasized: certificates are no longer merely paper documents signed by officials, but rather authentic data generated, stored, and managed within a standardized electronic land management system. In Malaysia, a path of gradual modernization is being pursued through a hybrid approach to amending the National Land Code (NLC), establishing a legal foundation for e-Tanah, a system integrating land offices, financing institutions, and the public, while also facilitating process tracking. In comparison, Singapore has established legal equivalence between electronic and physical certificates through the Land Titles (Electronic Lodgement) Rules 2007, wherein digital data managed by the Singapore Land Authority (SLA) holds the same legal standing as printed documents. Consequently, the establishment of new regulations of a *lex specialis* nature under Government Regulation Number 94 of 1997 is crucial to strengthen the validity of electronic land certificates. In Indonesia, this can realize legal certainty, protection of rights, and administrative accountability, as per the principles articulated by Hadjon and Radbruch (Philipus, 2006).

No.	Analytical Theme	International Context and Examples	Relevance to the Indonesian Framework
1	Restrictive Clauses in Redistribution	In the Philippines, landowners use Land Use Conversions (LUCs) to evade redistribution (Dy & Chau, 2023). In Rwanda, formal titling failed to overcome social inequality (Isaksson, 2015).	Reflects Indonesia's own 10-year transfer restriction, showing how redistributive safeguards can be both protective and limiting.
2	Market Efficiency vs. Social Protection	In China, expropriation risks reduce rental market efficiency (Kimura et al., 2011). In Vietnam, secure tenure enhances productivity through market transfer (Deininger & Jin, 2008; Deininger et al., 2009).	Mirrors Indonesia's duality: sale-based certificates enhance market liquidity, while redistribution certificates uphold social protection.
3	Gender and Social Norms	In India (Tamil Nadu), women face barriers to credit despite land ownership (Dagdeviren & Oosterbaan, 2022). In Sub-Saharan Africa, customary norms weaken formal ownership (Chimhowu & Woodhouse, 2010; Whitehead & Tsikata, 2003).	The text suggests that extra-legal social and cultural dynamics may still constrain Indonesia's egalitarian registration framework.
4	Evidence and Legal Challenges	In China, land dispute adjudication struggles with reconciling administrative records and material truth (Li et al., 2024).	Parallels Indonesia's stance that land certificates are strong but rebuttable evidence under Article 32 paragraph (2) of Government Regulation Number 24 of 1997.

(**Table 2.** Comparative International Perspectives on Land Title Formalization. Source: Compiled from Dy & Chau (2023); Isaksson (2015); Kimura et al. (2011); Deininger & Jin (2008); Deininger et al. (2009); Dagdeviren & Oosterbaan (2022); Chimhowu & Woodhouse (2010); Whitehead & Tsikata (2003); Li et al. (2024)).

III. Formal Equality and Substantive Differences in Indonesian Land Rights Certificates

1. The Illusion of Sameness: Formal Equality vs. Substantive Differentiation

The first key finding is that both certificates possess an identical physical format and are issued under the same regulatory framework established by Government Regulation Number 24 of 1997, thereby creating a strong appearance of legal uniformity. This formal similarity reflects the objective of Indonesia's unified land registration system, which seeks to provide equal legal certainty and protection to all holders of registered land rights. However, while the certificates appear identical in form and are subject to the same procedural framework, this outward uniformity does not necessarily guarantee substantive equality in the legal strength of the rights they represent, particularly when the underlying registration processes and evidentiary foundations differ (Arribas, 2024). However, this formal equality masks a profound substantive differentiation. The restrictive clause on the redistribution certificate is not a minor annotation; it is a legal mechanism that effectively creates a distinct, second-tier form of ownership for a decade. This finding resonates with global critiques of land formalization programs that often overlook how technical and legal instruments can encode and perpetuate social and economic hierarchies (Isaksson, 2015; Platteau, 1996). The certificate, therefore, becomes a tangible artifact of what Li et al. (2024) identified as the challenge of applying uniform evidence rules to land rights derived from fundamentally different sources (Li et al., 2024).

2. Legal Certainty for Whom? Balancing Social Justice and Market Efficiency

The 10-year alienation embargo on redistribution certificates is the major differentiating factor. From a social justice standpoint, this restriction is a sound policy tool. It attempts to prevent the immediate re-concentration of redistributed land and to guarantee that the advantages of agricultural reform are sustained, in line with findings from India that such policies can positively affect capital accumulation for individuals facing poverty (Deininger et al., 2009). However, from a pure property rights perspective, this restriction fundamentally limits the bundle of rights, specifically the right to dispose (*ius abutendi*) that defines full liberal ownership. (Harris et al., 2020). This creates a tension between two conceptions of legal certainty: State's certainty that its policy goals will not be immediately undermined, and the individual owner's certainty to freely exercise all attributes of ownership. This echoes the challenges observed in the Philippines, where policy design flaws allowed landowners to circumvent redistribution goals (Dy & Chau, 2023), and in Zimbabwe, where economic pressures rendered similar prohibitions ineffective (Chimhowu & Woodhouse, 2010).

3. The Market Fluidity of Sale-Based Certificates and Their Constraints

In contrast, the certificate from a sale transaction embodies the principle of market efficiency. Its lack of transfer restrictions facilitates the free circulation of land, which, as studies in Vietnam and China suggest, can lead to more productive land use (Deininger & Jin, 2008; Kimura et al., 2011). However, this study also implies a critical caveat: this market efficiency is predicated on the integrity of the chain of ownership. The administrative note referencing the previous certificate number is crucial for establishing this chain. Any weakness or dispute in the historical lineage of titles, as often happens in contexts with imperfect records, can threaten the very legal certainty the certificate is meant to provide (Nwaechefu et al., 2024). Furthermore, the study's international comparison suggests that even this "clean" title may not guarantee equal access to market benefits for all, as gendered social norms can persist despite formal legal equality (Dagdeviren & Oosterbaan, 2022; Whitehead & Tsikata, 2003).

4. Theoretical Implications: Beyond a Binary Understanding of Property

This study reveals a dichotomous perception of property rights as either formal and secure or informal and insecure. The redistribution certificate is entirely formal and legally safeguarded against third-party claims; yet, it is temporally vulnerable in terms of transferability. This endorses a more sophisticated, graded perspective on property rights, wherein the "bundle of rights" can be disaggregated and restructured by the State to fulfil certain policy aims (Grinlinton, 2023; Levi & Russell, 2025). The Indonesian case demonstrates that within a single national system, multiple, legally valid but qualitatively different forms of ownership can coexist. This finding contributes to the theoretical discourse on the evolution of land rights (Platteau, 1996) by showing that the path towards "full" ownership is not always linear and can be intentionally designed to be partial or delayed.

5. Limitations and Avenues for Future Research

This study, due to its normative legal nature, is limited to an examination of the law in books. It fails to capture the law in action, that is, how landowners, officials, and communities navigate, evade, or enforce legal distinctions in practice. For example, the requirement for official approval to transfer redistributed land during the moratorium period may generate chances for rent-seeking or be neglected in practice, resulting in informal transactions similar to those in Zimbabwe (Chimhowu & Woodhouse, 2010). Therefore, a critical avenue for future research is empirical socio-legal fieldwork to investigate the implementation and lived experience of these legal differences. Furthermore, a gendered analysis of how these two pathways impact men's and women's land security differently would provide a deeper understanding of the social justice outcomes. (Ho et al., 2023).

The study reveals that the Indonesian land administration system employs the land certificate as a technical tool to manage the inherent tension between the goals of social justice (achieved through restricted redistribution) and market efficiency (attained through freely alienable property). The two certificates are more than just administrative documents; they represent two distinct conceptual approaches to land control that exist under the same legal structure. The flawless evidentiary power afforded to both demonstrates the system's goal for consistency and clarity. However, the substantive legal disparities embedded in them testify to the State's active engagement in creating property relations to achieve broader societal purposes, revealing a complex and nuanced view of land rights that is both technical and intensely political.

IV. Conclusion

The study reveals that the land ownership certificates obtained through redistribution and sale have the same evidentiary force under the land registration system of Indonesia, but differ fundamentally in their legal origins, substantive rights and regulatory aims. Sale-based certificates are designed to promote market efficiency through the unrestricted transferability of the certificates. In contrast, redistribution certificates include transfer limits in order to promote the social goals of agrarian reform and prevent re-concentration of land ownership. The results show that Indonesia's unified land registration system is able to handle varied configurations of property rights without sacrificing legal certainty, indicating that formal equality of land certificates does not necessarily imply substantive equality of rights. Therefore, the Indonesian model is a conscious legal compromise between social justice and market efficiency and a significant example for the formulation of fair and sustainable land governance for jurisdictions undergoing agrarian reform.

The findings also affirm that equality in form does not equate to equality in substance. Certificates issued through redistribution derive from administrative State grants, are subject to a ten-year alienation restriction, and are designed to advance social justice by securing access to land for marginalised groups. Conversely, certificates from private sales arise from contractual relations in civil law, remain free from transfer limitations, and are intended to promote market efficiency and capital mobility. This dichotomy illustrates that land certification functions not as a uniform legal instrument but as a flexible mechanism through which the State balances the competing objectives of equity and economic growth.

References:

Afif Mahfud, M., & Chin, S. C. (2024). Incongruence in the Definition of Land Rights in National Agrarian Law: A Path to Legal Uncertainty. Law Reform: Jurnal Pembaharuan Hukum, 20(1), 22–33. https://doi.org/10.14710/lr.v20i1.49047

Anrova, Y., Suparman, E., & Kusmayanti, H. (2021). Proof Power of Authentic Deed Transfer of Land Rights in Legal Perspective of Civil Procedures. Jurnal Hukum Novelty, 12(2), 237–247. https://doi.org/10.26555/novelty.v12i2.a18604

Aparicio, M., Flores, M., Landeros, A., Mingorrıa, S., Ortega, D., & Tudela, E. (2013).

Land: Access and struggles in Andalusia, Spain. In J. Franco, & S. M. Borras, Jr. (Eds.), Land concentra-tion, land grabbing and people's struggles in Europe (pp. 34–61). Transnational Institute (TNI) for European Coordination Via Campesina and Hands off the Land network

Arribas, G. (2024). Property without law?Why land titling and adverse possession do not solve the problem of informal property. Iberoamerican Journal of Development Studies, 13(1), 188–210. https://doi.org/10.26754/ojs_ried/ijds.908

Ashley, J. M. (2016). Chapter six—Cross-cutting issues. In J. M. Ashley (Ed.), Food security in the developing world (pp. 141–191). Academic Press

Chimhowu, A., & Woodhouse, P. (2005). Vernacular land markets and the changing face of customary land tenure in Africa. Forum for Development Studies, 32(2), 385–414. https://doi.org/10.1080/08039410.2005.9666321

Chimhowu, A., & Woodhouse, P. (2006). Customary vs private property rights? Dynamics and trajectories of vernacular land markets in sub-Saharan Africa. Journal of Agrarian Change, 6(3), 346–371. https://doi.org/10.1111/j.1471-0366.2006.00125.x

Cotula, L., Toulmin, C., & Hesse, C. (2004). Land tenure and administration in Africa: Lessons of experience and emerging issues. International Institute for Environment and Development

Chimhowu, A., & Woodhouse, P. (2010). Forbidden but not suppressed: A "vernacular" land market in svosve communal lands, Zimbabwe. Africa, 80(1), 14–35. https://doi.org/10.3366/E0001972009001247

Creswell, J. W., & Poth, C. N. (2018). Qualitative inquiry and research design: Choosing among five approaches (4th ed.). SAGE Publications.

Dagdeviren, H., & Oosterbaan, L. (2022). Gender differences in effective use of land rights in South India. Land Use Policy, 119. https://doi.org/10.1016/j.landusepol.2022.106212

Deininger, K., & Jin, S. (2008). Land sales and rental markets in transition: Evidence from rural Vietnam. Oxford Bulletin of Economics and Statistics, 70(1), 67–101. https://doi.org/10.1111/j.1468-0084.2007.00484.x

Deininger, K., Jin, S., & Nagarajan, H. K. (2009). Land reforms, poverty reduction, and economic growth: Evidence from India. Journal of Development Studies, 45(4), 496–521. https://doi.org/10.1080/00220380902725670

Dimitruk, K., Du Plessis, S., & Du Plessis, S. (2021). De jure property rights and state capacity: Evidence from land specification in the Boer Republics. Journal of Institutional Economics, 17(5), 764–780. https://doi.org/10.1017/S1744137421000266

Dy, K. B., & Chau, K. W. (2023). Compulsory land redistribution from the perspective of the theory of price control. Land Use Policy, 131. https://doi.org/10.1016/j.landusepol.2023.106726

FAO. (2016). Formulation and operationalization of national action plan for poverty alleviation and rural development through agriculture (NAPA) (Working Paper 10). Land Tenure and Administration

Fittschen, G. (1998). Methodik der Gesetzesauslegung. Carl Heymanns Verlag.

Graziadei, M. (2006). Comparative law as the study of transplants and receptions BT -

The Oxford Handbook of Comparative Law. Oxford University Press.

Graziadei, M, & Smith, L. (2017). Comparative property law: Global perspectives. In Comparative Property Law: Global Perspectives. https://doi.org/10.4337/9781785369162

Graziadei, Michele. (2021). What Does Globalisation Mean for the Comparative Study of Law? J. Comp. L., 16, 511.

Grinlinton, D. (2023). The intersection of property rights and environmental law#. Environmental Law Review, 25(3), 202–218. https://doi.org/10.1177/14614529231193804

GTZ. (2016). Land in German development cooperation: Guiding principles, challenges and prospects for the future. Federal Ministry for Economic Cooperation and Development. https://www.giz.de/de/downloads/giz2016_eng_Land_in_German_Development_Cooperation.pdf

Harris, C., Cai, M., Murtazashvili, I., & Murtazashvili, J. B. (2020). Elements in Austrian Economics: The Origins and Consequences of Property Rights: Austrian, Public Choice, and Institutional Economics Perspectives. In Elements in Austrian Economics: The Origins and Consequences of Property Rights: Austrian, Public Choice, and Institutional Economics Perspectives. https://doi.org/10.1017/9781108979122

Ho, S., Tanyag, M., & Scalise, E. (2023). Women's land rights, gendered epistemic tensions, and the need for a feminist approach to land administration. Land Use Policy, 132. https://doi.org/10.1016/j.landusepol.2023.106841

Huang, D., Huang, Y., Zhao, X., & Liu, Z. (2017). How do dif-ferences in land ownership types in china affect land devel-opment? A case from Beijing. Sustainability, 9, 123

Ilana, W. (2015). Land tenure security in Brazil. Land Tenure Security in Selected Countries: Global Report, UN-Habitat

Isaksson, A.-S. (2015). Unequal Property Rights: A Study of Land Right Inequalities in Rwanda. Oxford Development Studies, 43(1), 60–83. https://doi.org/10.1080/13600818.2014.955466

Johan, F. M. S. (2002). Political reforms, rural crises, and land tenure in western Europe. Food Policy, 27(4), 371–394. https://doi.org/10.1016/S0306-9192(02)00045-3

Kimura, S., Otsuka, K., Sonobe, T., & Rozelle, S. (2011). Efficiency of land allocation through tenancy markets: Evidence from China. Economic Development and Cultural Change, 59(3), 485–510. https://doi.org/10.1086/649639

Levi, M., & Russell, E. (2025). Property Righting: The Politics of Rights Over Land and Labor. Annual Review of Political Science, 28(1), 37–56. https://doi.org/10.1146/annurev-polisci-033123-021046

Li, L., Gao, H., Song, B., & Cui, C. (2024). How to Use Evidence Rules Reasonably to Resolve Land Disputes: Analysis of Typical Land Dispute Cases from China. Land, 13(8). https://doi.org/10.3390/land13081187

Marcus, C., Sophie, C., Jonas, D., Su, M. T., Chan, K., Indrisas-wati, S., Mark, A. R., & Juan, P. (2013). Agribusiness large-scale land acquisitions and human rights in southeast Asia. Updated from Indonesia, Thailand, Philippines, Malaysia, Cambodia, Timor-Leste and Burma, Forest Peoples Programme

Marzuki, M. (2017). Penelitian Hukum: Edisi Revisi. Prenada Media.

Michael, D. (2017). Land and forest tenure in Laos: Baseline overview 2016 with options for community participation in forest management. UN-REDD Programme

Nguyen, T. T. (2021). Conversion of land use and household livelihoods in Vietnam: A study in Nghe An. Open Agricul-ture, 6, 82–92. https://doi.org/10.1515/opag-2021-0010

Nwaechefu, H., Adeleke, V. A., & Omidiji, T. (2024). Addressing the Impediments to the Perfection of Land Title In Nigeria: A Comparative Discourse With England. African Journal of International and Comparative Law, 32(4), 543–557. https://doi.org/10.3366/ajicl.2024.0504

Paul, M., & Tommy, O. (1999, October 24–27). Land tenure and land aministration for social and economic development in (Western) Europe [Conference session]. UN-FIG Confer-ence on Land Tenure and Cadastral Infrastructures for Sus-tainable Development, Melbourne, Australia

Peters, P. E. (2004). Inequality and social conflict over land in Africa. Journal of Agrarian Change, 4(3), 269–314. https://doi.org/10.1111/j.1471-0366.2004.00080.x

Platteau, J.-P. (1996). The evolutionary theory of land rights as applied to sub-saharan Africa: A critical assessment. Development and Change, 27(1), 29–86. https://doi.org/10.1111/j.1467-7660.1996.tb00578.x

Robert, H. (2009). Land ownership in the United Kingdom: Trends, preferences and future challenges. Land Use Policy, 26, S103–S108

Soekanto, S., & Mamudji, S. (2017). Penelitian Hukum Normatif: Suatu Tinjauan Singkat. Rajawali Pers.

Van Hoecke, M. (2011). Methodologies of Legal Research: What Kind of Method for What Kind of Discipline? Hart Publishing.

Vicent, C. H., Hanson, L., & Bermejo, L. (2020). Federal land ownership: Overview and data. https://fas.org/sgp/crs/misc/R42346.pdf

Washim, A., Danilo, A., Mekonnen, B. A., Uchendu, C., Lyn,D. R., Rui, D., Namikat, D. N., Jorge, E., Wambui, K. J., Samuel, M., Taufique, M., Anthony, M., Eri, N., &. Zhang, X. (2014). Lana tenure security in selected countries: Systhesis report. UN-Habitat. https://unhabitat.org/sites/default/files/download-manager-files/Land%20Tenure%20Security%20in%20Selected%20Countries_English_2014.pd

Whitehead, A., & Tsikata, D. (2003). Policy discourses on women's land rights in sub-Saharan Africa: The implications of the re-turn to the customary. Journal of Agrarian Change, 3(1–2), 67–112. https://doi.org/10.1111/1471-0366.00051