



The Crime of Land Grabbing from a Criminological Perspective

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Abstract: This research aims to determine the factors behind the criminal act of land grabbing in the jurisdiction of the Gorontalo Regional Police. The type of research used is empirical legal research with a qualitative approach. The results of the research show that the factors behind the occurrence of criminal acts of land grabbing in the jurisdiction of the Gorontalo Regional Police are; *Firstly*, economic problems that force someone to commit acts of seizing and taking away the rights of other people, whether they are close or related or not. *Second*, the condition of abandoned land, namely people's ignorance of the assets they own. *Third*, lack of legal awareness, and *fourth*, land remains fixed while the population increases, which indicates a condition where population growth is increasingly rapid so that numbers increase and production of fixed land areas even decreases. Conflicts in the land sector are driven by interests so one of the parties even commits criminal acts in the land sector.

Keywords: Criminology; Criminal act; Land Grabbing

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How to cite (Chicago Style):

Ahmad, M.N.S, Puluhulawa, M.R.U, Achir, N. " The Crime of Land Grabbing from a Criminological Perspective" *Estudiante Law Journal*, 6 (1), (February 2024): 110-120.

1. Introduction

Land is a gift from God Almighty which is an element in all activities of human life. All human life activities in this world require land. As a natural resource, land has economic value and social functions, so land policy must be an inseparable (integral) part of national development policy.¹ As a basic human need, humans need land as a place to live and as a source of life. The imbalance between the amount and area of available land which does not increase with the increasing need for community use causes land to have a very important meaning, so that state intervention through its officials in the land law order is an absolute necessity.²

Realizing that land has a function for every human being, both individually and in groups, the State entrusts a mandate through Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia to the rulers of the Republic of Indonesia to regulate natural resources including land to increase the prosperity of the Indonesian people. Land resources and other natural resources do not belong to one particular group but belong to all of us as a nation. The state as an organization of national power is charged with the mandate to regulate land use for the prosperity of all components of the nation and not certain groups.

Furthermore, awareness of the special position of land in the minds of the Indonesian people is also contained in the Basic Agrarian Law (UUPA) Number 5 of 1960, wherein the Basic Agrarian Law it states that there is an eternal relationship between the Indonesian people and the land. Agrarian reform was launched with the publication of the Basic Agrarian Law Number 5 of 1960, but in reality, it is still very difficult to implement in the field due to various legal and non-legal issues.³

It cannot be denied that humans have a very close relationship with land. Without land, it would be impossible for humans to live in society. With land being so valuable for a person's life, quite a few people are willing to sacrifice their lives to fight to defend their land and there is also quite a bit of bloodshed due to land disputes.⁴

Community land-grabbing activities have very broad dimensions they are a reflection of collective dynamics or collective behavior.⁵ One of the basic components is a push/trigger caused by the feasibility of facilities and situations. The feasibility of a

¹ Satria Sukananda, "Analisis Hukum Bentuk Penanggulangan Tindak Pidana Penyerobotan Tanah Di Indonesia," *Indonesian Journal of Criminal Law and Criminology (IJCLC)* 2, no. 3 (20 November 2021): 160–69, <https://doi.org/10.18196/ijclc.v2i3.12466>.

² Bagus Perwira Siregar, "Komperasi Putusan Hakim Pengadilan Negeri Nomor: 220/Pid.B/Pn.Sgi/ Pada Putusan Mahkamah Agung Dalam Penyerobotan Tanah Secara Tidak Sah," *Jurnal Ilmiah Mahasiswa Hukum [JIMHUM]* 1, no. 3 (24 November 2021), <https://jurnalmahasiswa.umsu.ac.id/index.php/jimhum/article/view/166>.

³ Robert Weku, "Kajian Terhadap Kasus Penyerobotan Tanah Ditinjau Dari Aspek Hukum Pidana Dan Hukum Perdata," *Lex Privatum* 1, no. 2 (2013): 153454.

⁴ N Kurniati, *Hukum Agraria Sengketa Pertanahan Penyelesaian Melalui Arbitrase Dalam Teori dan Pratik* (Bandung: Rafika Aditama, 2016)., 3

⁵ N.J. Smelser, *Theory of Collective Behavior* (New York: The Free Press, 1962)., 1-2

facility is something that stimulates/encourages collective dynamics or collective behavior. In this case, it takes the form of land grabbing.⁶

Land grabbing can be defined as the act of taking rights or property arbitrarily or without paying attention to laws and regulations, such as occupying someone else's land or house that is not their right. The act of illegal land grabbing is an unlawful act, which can be classified as a criminal act.⁷ Land grabbing itself is not something new that has happened in Indonesia. The word invasion itself can be interpreted as the act of taking rights or property arbitrarily or without paying attention to laws and regulations, such as occupying someone else's land or house, which is not their right.⁸

In the context of criminal law⁹, referring Article 2 of Law Number 51 PRP of 1960 concerning the Prohibition of Using Land Without the Permission of the Entitled Person or His/Her Power of Attorney stipulates: "It is prohibited to use land without the permission of the rightful person or his/her legal representative". If this provision is violated, "you can be punished with imprisonment for a maximum of 3 (three) months and/or a fine of up to Rp. 5,000,- (five thousand rupiah)", as referred to in the provisions of Article 6. The provisions of Article 6 also apply to acts of (1) interfering with the rightful person or their legal representative in exercising their rights over a plot of land; (2) ordering, inviting, persuading, or recommending orally or in writing to carry out the acts referred to in letters a and b; (3) provide assistance in any way to carry out the acts mentioned in article 2 or letter b.

In the investigation and investigation process, investigators often use Article 167 paragraph 1 of the Criminal Code (hereinafter referred to as the Criminal Code) which states: Whoever forces entry into a house, room or closed yard used by another person in violation of the law or being there against the law, and at the request of the person entitled or ordered not to leave immediately, is threatened with imprisonment for a maximum of 9 (nine) months or a fine of a maximum of Rp. 4,500,- (four thousand five hundred rupiah), so Article 167 of the Criminal Code is categorized as an article that regulates land grabbing.¹⁰

Furthermore, if it turns out that the land grabbing was carried out by the suspect to control it and then sell or exchange it to another party, then the suspect (the occupier) can be threatened by investigators under Article 385 paragraph (1) of the Criminal Code, with a maximum penalty of four years, where: to unlawfully benefit oneself or another person, selling, exchanging or encumbering with a creditor band a land right

⁶ Sunarto, *Kebijakan Penanggulangan Penyerobotan Tanah* (Lampung: Universitas Lampung, 2007)., 3

⁷ Muhammad Ridwan Lubis, "Tindak Pidana Penyerobotan Tanah Dalam Perspektif Hukum Pidana," *Jurnal Hukum Kaidah: Media Komunikasi Dan Informasi Hukum Dan Masyarakat* 20, no. 2 (23 Maret 2021): 242-60, <https://doi.org/10.30743/jhk.v20i2.3661>.

⁸ Margie Gladies Sopacua, "Penyerobotan Tanah Secara Tidak Sah Dalam Perspektif Pidana," *Jurnal Belo* 4, no. 2 (28 Februari 2019): 204-17, <https://doi.org/10.30598/belovol4issue2page204-217>.

⁹ *Ibid.*

¹⁰ Sukananda, "Analisis Hukum Bentuk Penanggulangan Tindak Pidana Penyerobotan Tanah Di Indonesia." *Op.cit*

that has not been certified, even though he knows that another person has the right or also has the right to it.

In cases of land grabbing, other criminal acts can also occur, such as:

- a) Fraud and embezzlement related to the process of acquiring and transferring rights to land and buildings may be subject to Articles 363, and 365 of the Criminal Code;
- b) Entering and occupying other people's yards, buildings, and land can be subject to Article 167, Article 389 of the Criminal Code;
- c) Damage to goods, fences, beds, signs, buildings, and so on, can be subject to Article 170, Article 406, and Article 412;
- d) Forgery of documents/deeds/letters relating to land may be subject to Articles 263, 264, 266 of the Criminal Code;
- e) Occupying someone else's land without rights can be subject to Article 167 and Article 389 of the Criminal Code.

Based on the description of several criminal provisions above, shows that there are quite a lot of alternatives for applying criminal sanctions to acts of unlawful land grabbing. Which articles of criminal law the investigator wishes to apply depends on which actions concretely fulfill the elements of the violated criminal law article.¹¹

Furthermore, in Gorontalo Province itself, there are cases of criminal acts of land grabbing as observed by prospective researchers at the Gorontalo Regional Police, as follows:

Table 1. Recap of Data on Criminal Cases of Land Grabbing at the Gorontalo Regional Police, 2018-2022.

Tahun	Jumlah
2018	43
2019	48
2020	42
2021	34
2022	22
Total	189

Source: Gorontalo Police General Criminal Investigation Directorate, 2022.

Based on this data, it shows that there are still high cases of land grabbing in Gorontalo. Meanwhile, Muhadar¹² believes that there are several aspects to reviewing crime, one of which is a criminological review. Furthermore, according to him, criminology in a narrow sense includes the study of crime to find out the reasons why

¹¹ Sopacua, "Penyerobotan Tanah Secara Tidak Sah Dalam Perspektif Pidana." *Op.cit*

¹² Muhadar, *Viktimisasi Kejahatan Pertanahan* (Yogyakarta: LaksBang PRESSindo, 2006)., 25

people commit crimes. Starting from this idea, the focus of this article is to examine the causes of criminal acts of land grabbing in the jurisdiction of the Gorontalo Regional Police.

2. Method

The type of research used in this article is Empirical Legal research with a qualitative approach. Empirical legal studies themselves are studies that view law as reality, including social reality, cultural reality, and empirical studies of the world of *das sin* (what is reality).¹³ Furthermore, the data that has been collected will be analyzed using a qualitative approach, which is a research procedure that produces descriptive data, namely stated by respondents in writing or orally, and real behavior that occurs in the field related to the description or presentation of research subjects and objects as the results of the research carried out. This description will be compiled systematically to then conclude the criminological review of criminal acts of land grabbing in the jurisdiction of the Gorontalo Regional Police.

3. Factors Behind the Occurrence of Criminal Acts of Land Grabbing in the Legal Area of the Gorontalo Regional Police

In general, the term land grabbing is defined as the act of controlling, then occupying, or taking over land belonging to another person unlawfully, to the point of violating applicable regulations. Land grabbing is a type of criminal act that occurs in society, and can be carried out either individually or in groups on land belonging to other parties to control it or even take it over arbitrarily, so that this act can be sued under civil law or even prosecuted under the applicable criminal law.

Land grabbing is not something new that has happened in this country. Infringement itself can be interpreted as the act of taking rights or property arbitrarily and without paying attention to laws and regulations, for example occupying someone else's land or house that is not their right. The act of grabbing land is an unlawful act, which can be classified as a criminal act. In general, the causes of land cases are very varied, including increasing land prices, people becoming increasingly aware of their rights, and the dynamics of development. This certainly has a positive impact, but it also has a negative impact, where land conflicts arise in various modes.

Land cases occur because of conflicts of interest in the land sector between individuals and involve legal entities and so on. Meanwhile, among cases regarding land, there is also trespassing, namely the act of taking rights arbitrarily and ignoring laws and regulations. Based on the case data presented by previous researchers and to answer the first problem formulation, the factors behind the criminal act of land grabbing in the Gorontalo Regional Police Legal Area are:

1. Economic Problems

¹³ Achmad Ali dan Wiwie Haryani, *Menjelajahi Kajian Empiris Terhadap Hukum* (Jakarta: Kencana Prenada Group, 2012)., 2

The main cause of land grabbing based on researchers' findings is economic problems. This situation forces someone to carry out actions to seize and take away other people's rights, usually with people closest to them or related to them. Based on the current realities and difficult conditions, it forces a handful of people to take actions that can lead to conflict and are forced to face the state and the law. This action will ultimately have a social impact, for example, there will be estrangement between residents and family relationships. For example, land grabbing involves transferring rights and building buildings on land belonging to other people. This happens because the situation does not allow one of the parties as the perpetrator to feel that they have rights because of their family relationship with the land owner and feel that they have a right to the land.

Apart from that, this encroachment does not only involve using land for development but also involves issuing certificates and then selling the land. This factor is also accompanied by an increase in population which increases needs for daily life, giving rise to actions to look for opportunities and opportunities to free oneself from existing difficulties. Not only that, the current situation with very high economic value which is related to increasing prices and housing needs certainly has an impact on development. The demands for this development, especially about infrastructure and residential housing, are increasing, so that policies, especially regarding land, can no longer accommodate and prosper the people, and have even become development assets for the state and other private parties to pursue economic growth, which ultimately has a detrimental impact on the community itself.

In this situation, the social function becomes sidelined, because everything is business-oriented, which gives rise to various cases relating to land disputes, both civil and criminal, which are starting to happen frequently now. This is based on previous data that researchers have presented on the background of the problem, where many problems have emerged since people began to feel land shortages.

This was explained in previous research, where the poverty experienced by many residents is certainly a complex problem that affects various interconnected things, such as income levels which have less impact on access to education, and also concerns the need for other goods and services which ultimately causes ownership disputes. land, especially between families, including with other parties. Poverty is not only understood due to economic incompetence but also failure to fulfill a person's basic rights in living his life, such as simply owning land on which to live.

In connection with meeting land needs, poor communities also face problems regarding structural inequality in land control and ownership, and uncertainty in control and ownership. Apart from that, limited access to land is also one of the factors causing poverty, such as limited assets and productive resources that

can be accessed by the poor due to the development of infrastructure and other development facilities.

2. Abandoned land conditions

People's indifference to the assets they own means that cases involving land can occur. For example, because the land owner entrusts someone else to manage his land, then he makes a new land deed without the land owner's knowledge. Based on this, indirectly, land owners as victims also have a role in influencing land grabbing. Apart from the landowner's indifference, land-grabbing crimes also often occur due to the community's lack of knowledge in safeguarding assets.

Apart from that, unlawful acts such as trespassing by someone are also caused by opportunities and opportunities for the perpetrator due to the length of time the land has been abandoned by the owner. This is confirmed by Brigadier Defri Ruru's statement that this dispute was caused by the land being vacated by the owner, which ultimately led to certain parties taking over the land in question. It is not uncommon for people to lack knowledge regarding the process of transferring land rights according to applicable regulations, which often results in negligence and is then exploited by irresponsible parties to commit unlawful acts.

This criminal act of land grabbing was reported to the Gorontalo regional police, where the object was abandoned by its legal owner for a certain and quite long period, which was then exploited by certain parties who forced their way in and then took control of it, even carrying out activities on the land for years. -years without ownership rights. According to the police, after the legal process was carried out, the perpetrator did not leave the land object at all, so legal action was needed in the form of a civil process to vacate the land so that it could be fully controlled by the rightful owner. This is also due to the condition where there are still many people who take land objects for granted and leave them alone without any activity, which then gives rise to the intentions of certain individuals and institutions who are irresponsible and look for loopholes in controlling these land objects.

This was stated by Mrs. Irawati when she was forced to report Saiful, who was still related because his land had been mortgaged to another party without his knowledge. Irawati herself admitted that she had left her hometown for 7 years and was selling outside the city, so she was forced to leave the land her parents had given her.

Not only that, the reason why this land grabbing occurred was due to the victim's ignorance regarding the ownership of the land that had been sold or given to someone else by the victim's parents. The victim and a land owner found out that their land was controlled by someone else after being informed by their family, taking into account the ownership certificate that was already owned by

someone else, where the land had been sold or transferred to another party. meaning, the sale of the parents' land used to be based on a trust system, so there was no evidence regarding the transfer of land rights in question.

3. Lack of legal awareness

Based on the results of interviews between researchers and the police, it is also clear that many people are involved in various violations that lead to criminal acts, for example:

- a) wanting to control other people's land by grabbing it which is a form of deviation from legal behavior,
- b) broken promise,
- c) fraud regarding the sale and purchase of land, both administratively and involving land boundaries.

The lack of public legal awareness and inadequate legal knowledge have resulted in an increase in law-breaking behavior accompanied by pressure from economic needs and factors of individuals and groups of society who are not aware of the rules. Therefore, this reason then becomes an opportunity for criminal acts to occur so it needs to be considered and handled seriously to minimize the factors that cause these criminal acts to occur. For example, by disseminating tools that can strengthen a person's morals so that they can avoid the desire to do evil. Next, try to prevent the growth of evil desires and eliminate factors that can cause opportunities and opportunities to commit unlawful acts. Such as improving the economy to reduce unemployment, increasing the welfare of the lower middle class, as well as other efforts to reduce allegations of criminal acts of land grabbing.

The lack of legal knowledge in the community itself according to the results of researcher interviews such:

- a. being careless or not careful in carrying out land sale and purchase transactions,
- b. lack of attention to documentation on land which should be free from disputes when carrying out transactions,
- c. abandoning or abandoning the land they own, resulting in encroachment on the land object.

Based on the results of the researcher's interview with Brigadier Defri Ruru, when presented in general terms, the factors that caused the perpetrator to commit the alleged crime of land grabbing in the jurisdiction of the Gorontalo Regional Police were mostly dominated by the community's lack of legal knowledge regarding the control of land rights, both formally and juridically. For example, in terms of proof of ownership or grounds of rights that can be legally accounted for, as well as *de facto* control of rights, namely activities carried out by those entitled to land objects, for example erecting boundary marks or

fences around objects, erecting signs of land ownership and establishing residences in that object.

Meanwhile, based on information from the Gorontalo BPN¹⁴, the causes of criminal acts of land grabbing include:

- a. high economic value,
- b. the amount of land remains constant, while the population increases,
- c. some people rent land with levies,
- d. difficulty in proving land boundaries,
- e. lack of supervision, and
- f. public ignorance.

According to the police, law enforcement for the criminal act of taking possession of land was previously carried out by holding summons and deliberations as well as mediation. If this effort fails, a lawsuit will be filed.

4. Land remains fixed while the population increases

As time goes by, population growth becomes faster so that the population increases and the production of fixed land areas or even decreases due to the large amount of land changing and changing function. The government continues to promote projects and development in various sectors so that a shortage of land for the community cannot be avoided. The unavailability of a plot of land that is needed can also give rise to conflict due to different interests. Development problems that are in direct contact with land use have had implications, especially in the lack of availability of land as a source of food and for farmers' livelihoods, thereby increasingly narrowing community land ownership, and starting to cause problems, especially related to land boundaries. If this cannot be overcome, it will certainly have a very detrimental impact in the future. The unavoidable change in land use requires local governments as policymakers to maintain the availability of land both for development and agricultural land, so it requires the participation of all parties, especially the surrounding community.

According to Sivac, the existing problems are also caused by regional expansion, which is one of the factors that results in overlapping ownership of land rights. This problem often occurs, because a lot of data has changed and is not resolved properly when regional expansion takes place. Therefore, this then gave rise to the recognition and processing of new letters of administration with new ownership, some of which were even related to land boundary issues.

Meanwhile, according to the BPN, currently, the government is trying to continue to promote land mapping through a program called PTSL (Complete Systematic Land Registration Program), which aims to legalize community-

¹⁴ Interview with Mr. Sivac Jahja Poliyama as Land Law Analyst at BPN Limboto

owned land plots so as not to result in double certificates (there is only one certificate). If there is another certificate, then it can be ascertained that it is fake or there are indications of administrative defects.

“BPN itself can cancel fake certificates or administrative defects, which are preceded by carrying out a very strict investigation first and involving many parties. This can also be related to land administration issues and so on which do not only involve BPN, for example, if there is a case involving state land assets, then we need to coordinate with the relevant agencies. Likewise, when there is a court decision, we carry out the court decision. Regarding overlapping certificates or indications of falsification of certificates, a material review and administration of proof of land rights certificates will be carried out”.

Based on the researcher's analysis, this is due to the increase in population and rising prices, which means population growth is so fast that it gives birth to a process of migration and urbanization, while the availability of land remains constant, and makes land an economic commodity whose value is very high at every inch and is maintained in such a way. by each person, including using methods prohibited by law, such as trespassing. Apart from population growth which was quite high, the policies issued by the government in the past, such as the implementation of land tax policies and private government, were detrimental to residents' rights to plots of land. The implementation of regulations that give freedom to foreign private companies causes an increase in population, and creates a shortage of land, both agricultural and for residential construction.

In general, land-grabbing crimes do not occur because land prices are high which causes people to start looking for land to work on or live in using the wrong methods. Apart from the factors above, this land grabbing is also due to negligence or neglect by the landowner. The victim allowed his land to be used by other people. So the victim has an important role in the occurrence of a crime, whether consciously or unconsciously, directly or indirectly. Without victims, there can be no crime. This means that the role of the victim has consequences and influences on the victim himself, other parties, and his environment.

Criminal acts, especially land grabbing, must be immediately addressed by enforcing the law in society because society without law will never be good. Moreover, in traditional societies, there are legal forms with other models that suit the level of civilization of a particular society. Conflicts in land matters are driven by interests so that one of the parties can even commit criminal acts or actions in the land sector. Therefore, continuous participation from the community and law enforcement is needed to overcome this problem.

4. Conclusion

The factors behind the criminal act of land grabbing in the jurisdiction of the Gorontalo Regional Police are; *first*, economic problems that force someone to commit acts of seizing and taking away the rights of other people, whether they are close or related or not. *Second*, the condition of abandoned land, namely people's ignorance of the assets they own. *Third*, lack of legal awareness, and *fourth*, land remains fixed while the population increases, which shows a condition where population growth is increasingly rapid so that numbers increase and production of fixed land areas even decreases. Conflicts in the land sector are driven by interests so one of the parties even commits criminal acts in the land sector.

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