

Regulatory Challenges in Absentee Land Ownership: Critical Lessons from Sawarna Village, Lebak, Banten

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DOI: <https://doi.org/10.36348/sijlcj.2025.v08i03.001>

| Received: 22.01.2025 | Accepted: 27.02.2025 | Published: 01.03.2025

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Abstract

The persistence of absentee land ownership underscores a critical challenge in Indonesia's agrarian system. The research aims to evaluate the effectiveness of the legal prohibition on absentee land ownership in Sawarna Village and its implications for the rights and welfare of local farmers. Utilizing an empirical juridical approach with a structural approach, the study collects primary data through interviews with key stakeholders, including local farmers, community leaders, and officials from the National Land Agency. The findings reveal that absentee land ownership in Sawarna Village persists due to weak enforcement of agrarian laws, economic vulnerability of local farmers, and speculative land acquisitions by external investors. These practices have reduced agricultural land availability, marginalized local farmers, and disrupted community cohesion. Furthermore, the study highlights gaps in institutional coordination and limited community involvement in land governance, which exacerbate the problem. This research underscores the need for stronger legal enforcement, community empowerment, and collaborative policy reform to ensure sustainable and equitable land use in rural areas. By addressing absentee land ownership, the government can advance the principles of agrarian reform and foster inclusive economic development.

Keywords: Absentee Land Ownership, Agrarian Reform, Land Reform, Land Governance

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1. INTRODUCTION

Land serves as a critical asset for development, carrying a significant social function. This function implies that land use must align with its characteristics and legal rights, ensuring benefits for the owner, society, and the state. Given the high value of land for the community—not only as a basic need for housing but also as a legacy for future generations and a foundation for agriculture—it is imperative that its acquisition, ownership, and utilization are clearly regulated by positive law [1]. Such regulation aims to prevent harm, promote equity, and enhance national prosperity.

The 1945 Constitution of Indonesia mandates that all matters related to land, as part of the nation's natural resources, must be managed and utilized for the maximum benefit of the Indonesian people. This underscores the pivotal role of land in the lives of

Indonesians. In response, the government has established legal frameworks to ensure proper, efficient, and orderly use of land so that all citizens can share in its benefits [2].

The Basic Agrarian Law (hereinafter, UUPA) is the cornerstone of Indonesia's land reform program. Land reform refers to restructuring land ownership—not just in political terms but also in technical execution. The UUPA aspires to fundamentally transform agrarian relations, ensuring greater equity and meeting the needs of small-scale farmers. Its objectives include improving farmers' incomes and living standards, laying the foundation for economic development, and advancing a just and prosperous society based on Pancasila. This vision is realized through fair distribution of land and agricultural yields, the principle of "land for farmers," the abolition of feudal landlord systems, and protections for economically vulnerable groups [3].

¹ Handayani, Sri Wahyu, and Prasasti Utami. "How to Overcome Agricultural Land Ownership Absentee in Boro Wetan Village?." In *3rd International Conference on Law, Governance, and Social Justice*, pp. 233-240. Atlantis Press, 2023.

² Urip Santoso, *Hukum Agraria dan Hak-hak Atas Tanah*, Kencana: Jakarta, 2015, p.60.

³ Sadyohutomo. "The benefits of an agrarian reform model in Indonesia." In *IOP conference series: Earth*

Within this context, absentee land ownership refers to land owned by individuals who live outside the region where the land is located. This form of ownership often leads to inefficient land use, challenges in management, and exploitative practices. For instance, absentee landowners may lease or sharecrop their land to local residents, perpetuating inequalities and denying residents access to landownership in their area.

Absentee ownership, where agricultural land is owned by individuals who reside outside the area, is explicitly prohibited under the Basic Agrarian Law. However, weak enforcement mechanisms and administrative inefficiencies have allowed the practice to thrive, resulting in social, economic, and legal disparities [4]. This study emphasizes the urgency of addressing absentee land ownership as it undermines agrarian reform objectives, displaces local farmers, and fosters speculative land use that diminishes agricultural productivity.

A pertinent example of such issues can be found in Sawarna Village, Lebak Regency. Known for its stunning natural beauty and popularity as a tourist destination, Sawarna Village has attracted significant interest from outsiders seeking to purchase land for business ventures. This surge in demand has led to challenges, including the emergence of "land mafias" exploiting legal loopholes for profit. These practices create legal disparities that deviate from the principles of the Basic Agrarian Law and its derivative regulations concerning land reform.

Despite its goals, the implementation of land reform often falls short. Many farmers in Indonesia do not experience the prosperity promised by the nation's laws. For example, as of 2018, Indonesia had approximately 8.08 million hectares of paddy fields, yet many farmers still work land they do not own. This issue is exacerbated by population growth, which increases agricultural demand and further strains the welfare of rural communities, many of whom live below the poverty line.

Absentee land ownership remains a persistent issue in Sawarna Village, Lebak Regency, a region renowned for its fertile agricultural land. The area's agricultural potential has attracted significant interest from investors and entrepreneurs outside the village. Unfortunately, rather than utilizing the land for

agricultural purposes, these external parties often acquire it as an investment asset, intending to resell it at higher prices when market conditions are favorable. This speculative behavior has contributed to the gradual reduction in the availability of farmland in Sawarna Village, as much of it is converted to other uses.

The practice of absentee land ownership directly contradicts national agrarian reform objectives, as outlined in Indonesia's Basic Agrarian Law (UUPA). This law prohibits absentee landownership because it undermines the goals of land reform, particularly in promoting equity and improving the livelihoods of local farmers. Agricultural land, by its nature, should be actively utilized to ensure productivity and contribute to the broader national economy. However, absentee ownership prevents this, disproportionately affecting local farmers who rely on these lands for their livelihoods.

A key factor driving absentee land ownership is economic pressure on local farmers. Many landowners, facing urgent financial needs, choose to sell their land, often to wealthy investors or entrepreneurs [5]. This transaction results in the land being removed from productive use by local farmers and instead being held as speculative assets. Consequently, the role of the National Land Agency (BPN) is critical in ensuring the effective implementation of existing legal provisions to prevent absentee landownership, particularly in cases where such practices have persisted over time.

The evolution of land policies that increasingly align with market mechanisms is often linked to neoliberal ideologies, which emphasize the market's role in making significant social and political decisions [6]. This approach has led to policies that favor corporate expansion and economic liberalization. However, these policies often neglect the social and economic protections required by vulnerable groups, such as smallholder farmers. As a result, the diminishing role of the state in regulating land ownership exacerbates inequalities and marginalizes local communities.

While existing studies have explored the socio-economic impacts of absentee landownership, there remains a critical gap in understanding how local regulatory bodies, such as the BPN in Lebak Regency, can effectively address this issue. Research is needed to evaluate the enforcement of legal frameworks against

and environmental science, vol. 202, no. 1, p. 012030. IOP Publishing, 2018.

⁴ Sumarja, Fransiscus Xaverius, Bayu Sujadmiko, Tien Dung Nguyen, and Dianne Eka Rusmawati. "Transfer of Land Ownership and Marginalization as Impact of Tourism Industry." *Hasanuddin Law Review* 9, no. 2 (2023): 197-210.

⁵ Petrzalka, Peggy, and Andrea Armstrong. "Absentee landowners of agricultural land: Influences upon land

management decision making and information usage." *Journal of Soil and Water Conservation* 70, no. 5 (2015): 303-312.

⁶ Idris, Siti Hafsyah, and I Wayan Kartika Jaya Utama. "Control and Empowerment of Abandoned Land for Agrarian Reform." *Sociological Jurisprudence Journal* 1, no. 2 (2018): 87-94.

absentee landownership in Sawarna Village, the extent of speculative land use, and the socio-economic consequences for local farmers. Additionally, there is limited analysis of how neoliberal policies influence land governance and the potential strategies for balancing market-driven land policies with equitable agrarian reforms [7].

This article delves into the complexities of absentee land ownership and its impact on legal protection efforts for the residents of Sawarna Village, exploring how effective current regulations are in addressing these challenges. This research aims to bridge these gaps by analyzing the role of BPN in combating absentee landownership, assessing the long-term effects on agricultural productivity and local livelihoods, and proposing solutions to align market mechanisms with social justice in land use governance.

2. METHOD

The study employs an empirical juridical approach, utilizing field research based on interviews with several key informants. The research relies on both primary and secondary materials as its foundational sources. The methodological approach adopted in this study is the structural approach, which examines the functioning of law within society based on the structural elements present in the community. The use of the Structural Approach in this context focuses on evaluating the effectiveness of legal provisions prohibiting absentee land ownership in Sawarna Village, Lebak Regency, Banten. This approach involves analyzing specific cases related to the issue, aiming to understand how these legal provisions are implemented and their impact within the societal framework.

3. Empirical Landscape and Regulatory Challenges in Absentee Land Ownership

Land ownership has always played a pivotal role in shaping social and economic dynamics within rural communities. In Indonesia, where agriculture remains a primary source of livelihood for many villagers, land is not just a resource—it is a symbol of wealth, security, and heritage. However, the increasing prevalence of absentee land ownership threatens to disrupt these traditional structures. Absentee landowners, often urban elites living far from the agricultural lands they own, are reshaping the rural landscape in ways that raise important questions about equity, local empowerment, and economic justice. This phenomenon, particularly visible in Sawarna Village, highlights the growing divide between those who own the land and those who cultivate it.

Theoretically, the absentee land ownership typically applies to agricultural land located in rural villages, while the landowners themselves often reside in

urban areas far from the land's location. This regulation does not apply to owners living in neighboring districts close to the agricultural land. The restriction on absentee land ownership specifically targets owners whose registered domicile, as stated on their identification cards, lies outside the district where the land is situated. According to the law, these owners must either relocate to the same district as the land within six months or transfer their land rights to someone residing within the district—unless the proximity allows for efficient land management due to bordering districts.

Despite legal prohibitions dating back to the 1960s, absentee land ownership remains prevalent in Sawarna Village. Interviews with local sources reveal that several agricultural plots are still owned by individuals from outside the village, including residents of cities such as Sukabumi, Bogor, and Jakarta. These owners reside and conduct their daily activities in these urban areas, with their official addresses registered outside Sawarna. Nonetheless, they legally possess agricultural land in the village, often substantiated by land ownership certificates.

Further evidence gathered through questionnaires indicated that 33 respondents acknowledged that much of Sawarna's agricultural land is owned by outsiders, with 31 confirming that these owners live outside the district. The names and locations of these absentee landowners are listed in a table, with residences including Jakarta, Rangkasbitung, and Sukabumi.

Interviews with key informants suggest that the land acquisition process follows legal procedures, often facilitated by local notaries or Land Deed Officials (PPAT). These acquisitions occur for various reasons, including inheritance, gifts, or direct purchase from Sawarna residents. The sale of land by locals usually stems from financial needs. According to the research findings, supported by respondent statements, transactions are formalized through a sale and purchase deed signed before a legally authorized land official, granting strong legal standing to the transaction. Most absentee-owned lands in Sawarna consist of rice fields, dry land, or coconut plantations, with ownership predominantly classified as freehold titles, as confirmed by 27 respondents.

The findings of this study reveal the multifaceted challenges surrounding absentee land ownership in Sawarna Village. Despite the clear prohibition outlined in Indonesia's Basic Agrarian Law, its implementation remains fraught with weaknesses. Enforcement mechanisms in the village are inconsistent, and the National Land Agency (BPN) faces significant administrative hurdles, such as overlapping land

⁷ Tana, Efraim, Anwar Borahima, Nurfaidah Said, and Winner Sitorus. "Legal Standing of Absenteeism

(Afwezigheid) to the Guarantee of Civil Rights Protection." *JL Pol'y & Globalization* 102 (2020): 57.

registrations and unclear ownership records. These gaps create opportunities for violations, as land transactions often occur informally and evade regulatory oversight. Judicial processes further complicate matters, as cases of absentee ownership brought to court frequently face delays or lack sufficient evidence for resolution.

Economically, the issue is deeply rooted in the vulnerability of local farmers. Many sell their land under financial pressure, prioritizing immediate needs over long-term considerations [8]. This economic fragility is exacerbated by external investors who acquire land not for agricultural purposes but for speculative gains, driven by the increasing value of land due to Sawarna's growing tourism potential. The speculative nature of these acquisitions reduces the availability of agricultural land, which is critical for sustaining the livelihoods of local farmers. Rising land prices, influenced by external demand, create a further divide, making it nearly impossible for farmers to retain ownership or reclaim previously sold land.

The social impact of absentee land ownership is equally significant. Local farmers, who are essential to the agrarian economy, are increasingly marginalized. They lose access to agricultural resources, pushing them further into poverty [9]. As absentee owners prioritize profit over community well-being, many local residents face displacement, disrupting long-standing social networks and community cohesion. The benefits of land development are unequally distributed, with external investors reaping profits while the local population gains little or nothing from these economic activities [10].

Structurally, the barriers to effective agrarian reform in Sawarna Village are entrenched. Weak coordination among key institutions—such as the BPN, local governments, and judicial authorities—results in fragmented enforcement of policies. Existing agrarian laws, while well-intentioned, lack comprehensive measures to address absentee land ownership effectively. Furthermore, the exclusion of local communities from decision-making processes surrounding land governance has led to policies that fail to reflect their needs or address the challenges they face.

These findings underscore that absentee land ownership in Sawarna Village is not just a legal issue but a systemic problem intertwined with economic and social inequities. The persistence of this practice undermines

the fundamental goals of agrarian reform, which aim to promote equitable land distribution and productive use of agricultural land for the benefit of all. Addressing this issue requires not only strengthening legal enforcement and revising agrarian policies but also empowering local communities and fostering collaboration among institutions to ensure sustainable and just land governance.

Economically, absentee land ownership has transformed fertile agricultural land into speculative assets, driven by external investors seeking profit rather than productive use. This shift disrupts the livelihoods of local farmers, many of whom are forced to sell their land due to financial hardship. The speculative nature of these transactions not only diminishes the availability of agricultural land but also deepens economic inequality within the community [11]. Rising land prices have made it increasingly challenging for farmers to reclaim or retain their land, perpetuating a cycle of displacement and marginalization.

The social implications of this phenomenon are equally troubling. Absentee land ownership disrupts the fabric of local communities, displacing residents and eroding social cohesion. While external investors profit from land development, the local population is left to contend with reduced access to resources and limited opportunities for economic growth. The resulting inequality undermines the fundamental goal of agrarian reform to promote social justice and equitable development, particularly in rural areas like Sawarna Village.

These absentee-owned lands are generally managed by local villagers, as distant owners often find it difficult to oversee their land directly. Consequently, they employ local residents under a sharecropping agreement, with profit-sharing terms set by mutual agreement. However, respondents noted that these arrangements tend to favor landowners, granting them a larger share of the profits.

This practice mirrors the landlord-tenant dynamics that once existed during Indonesia's colonial period under Dutch rule, where indigenous farmers worked land owned by Dutch landlords without fair compensation. A similar system appears to be re-emerging, as absentee land ownership becomes increasingly common in contemporary Indonesian

⁸ Djakaria, Mulyani. "Aspek Hukum Administrasi Kependudukan Dihubungkan Dengan Kepemilikan Tanah Secara Absentee." *Bina Hukum Lingkungan* 1, no. 1 (2016): 125-133.

⁹ Ngazis, Muhammad, Riyanto Riyanto, Adi Sulistyono, and Umar Ma'ruf. "Reconstruction of Agricultural Absentee Ownership Regulation based on Justice Value." *Saudi Journal of Humanities and Social Sciences* 8, no. 06 (2023): 162-169.

¹⁰ Pravitasari, Ajeng Savira. "Role of National Land Board Office in Implementation of Prohibition of Absentee Land Ownership." *Sultan Agung Notary Law Review* 3, no. 3: 1108-1119.

¹¹ Sukmana, Oman. "Konsep dan Desain Negara Kesejahteraan (Welfare State)." *Jurnal Sospol* 2, no. 1 (2016): 103-122.

society, potentially reviving socio-economic disparities reminiscent of the colonial era.

4. Reconstructing Absentee Land Ownership Regulations: Strengthening Legal Certainty in Land Ownership

In the heart of Indonesia's rural landscapes, land remains not just a means of survival but a crucial asset for national food security and economic stability. Yet, an unsettling pattern threatens this balance—absentee land ownership. This occurs when individuals who live far from agricultural lands legally own vast plots without directly managing them. Often, these owners reside in urban areas, leaving local farmers to manage the land under informal and sometimes exploitative arrangements. The growing dominance of absentee landlords is not only distorting the purpose of agricultural land but also intensifying socio-economic inequality across the nation [12].

Despite clear regulations, such as Article 33(3) of the 1945 Constitution of Indonesia, which asserts state control over land use for the prosperity of the people, absentee land ownership continues unchecked. The Basic Agrarian Law of 1960 was designed to protect local farmers and ensure equitable land distribution, yet enforcement remains weak. Legal gaps allow absentee landlords to exploit legal loopholes, facilitated by inadequate oversight from land officials and local authorities.

The theory of utilitarianism by Jeremy Bentham provides a relevant lens here: land should serve the greatest good for the greatest number of people. Unfortunately, in practice, absentee land ownership benefits the wealthy few while sidelining local farmers from their rights and livelihoods.

The persistence of absentee land ownership in Indonesia reflects deeper systemic issues within the nation's land governance framework. Despite existing laws designed to prevent land concentration among non-resident owners, enforcement remains inconsistent due to administrative loopholes, weak oversight, and, at times, complicity among local authorities. The consequences are twofold: first, local farmers are denied fair access to agricultural resources, and second, land that could be used for productive farming remains underutilized or mismanaged, weakening national food security. The existing legal framework, while theoretically robust, has failed to prevent absentee ownership from proliferating, particularly in rural areas like Sawarna Village.

One of the most concerning aspects of absentee land ownership is the economic imbalance it fosters. Wealthy urban landowners continue to benefit from the passive accumulation of wealth through rent or profit-sharing agreements with local farmers [13]. These arrangements often disproportionately favor landowners, leaving farmers with minimal earnings despite being responsible for the labor-intensive task of cultivating the land. This economic inequality reinforces social hierarchies and echoes the colonial-era landlord-tenant systems, where indigenous farmers worked lands owned by foreign elites without reaping equitable benefits from their labor.

International comparisons highlight how other countries have successfully curbed absentee land ownership to promote social equity and agricultural productivity. Japan's Agricultural Land Act (1949) and Korea's Land Reform Act (1950) provide effective models of land redistribution that ensure land remains in the hands of those who actively cultivate it. In contrast, Indonesia's enforcement mechanisms lack both the punitive measures and administrative efficiency necessary to deter absenteeism [14]. Strengthening the legal framework with clear penalties, including land confiscation or compulsory transfers, could help reverse the concentration of land ownership among absentee landlords.

The introduction of technology for land monitoring could also play a transformative role in closing the enforcement gap. By creating a centralized, digitized land registry accessible by local governments and national land offices, Indonesia can track absentee ownership in real time. This system could prevent illegal transactions and ensure land usage aligns with national development goals, such as improving agricultural productivity and food security. The integration of technology would also promote transparency and reduce the likelihood of corrupt practices among local officials.

Field studies conducted in Sawarna Village reveal a stark reality. Despite existing legal restrictions, many plots of agricultural land are owned by individuals living in distant cities like Jakarta, Bogor, and Sukabumi. These landowners, equipped with official land certificates, lease their lands to local farmers under profit-sharing agreements that disproportionately favor the owners. This modern form of landlordism echoes colonial-era systems, where indigenous farmers worked

¹² Anitasari, Rahayu Fery. "Agrarian law: perspective of Indonesian agricultural policies." *South East Asia Journal of Contemporary Business, Economic and Law* 20, no. 4 (2019): 1-4.

¹³ Falah, Annisa Thalassa, Nur Adhim, and Mira Novana Ardani. "Kebijakan Kantor Pertanahan Terhadap

Larangan Kepemilikan Tanah "Absentee/Guntai" Di Kabupaten Sleman." *Diponegoro Law Journal* 11, no. 3 (2022): 1-11.

¹⁴ Otsuka, Keijiro. "Strategy for Transforming Indonesian Agriculture." *Bulletin of Indonesian Economic Studies* 57, no. 3 (2021): 321-341.

lands they did not own, often under exploitative conditions [¹⁵].

To address these injustices, Indonesia must adopt a multi-faceted approach. *First*, stricter enforcement of land laws is necessary, including penalties for both absentee owners and complicit local officials. Lessons from international examples like Japan's Agricultural Land Act and Korea's Land Reform Act provide valuable frameworks for redistributing land to those who actively cultivate it. *Second*, leveraging technology is essential for transparent land management. Local governments should be required to maintain digital databases of absentee-owned lands, synchronized with national land records. Such systems would prevent illegal transactions and enable real-time monitoring of land status.

Village and district officials play a critical role in regulating land transactions, yet many are complicit in facilitating illegal sales. Independent oversight bodies must be established to monitor local governments, ensuring compliance with land ownership laws. Regular training and legal education for these officials would also strengthen enforcement and reduce instances of corruption.

Indonesia stands at a crossroads in addressing absentee land ownership. By adopting stricter legal measures, leveraging international best practices, and utilizing technology for monitoring, the nation can move toward equitable land distribution. This shift will not only promote justice for local farmers but also reinforce national food security and economic resilience. Ultimately, ensuring fair land ownership practices will fulfill the constitutional mandate to maximize the prosperity of all Indonesians, not just a privileged few.

5. CONCLUSION

Indonesia stands at a crossroads in addressing absentee land ownership. By adopting stricter legal measures, leveraging international best practices, and utilizing technology for monitoring, the nation can move toward equitable land distribution. This shift will not only promote justice for local farmers but also reinforce national food security and economic resilience. Ultimately, ensuring fair land ownership practices will fulfill the constitutional mandate to maximize the prosperity of all Indonesians, not just a privileged few. Strengthening enforcement mechanisms, learning from international best practices, and introducing modern digital land monitoring systems are crucial steps toward equitable land distribution. Moreover, empowering local farmers through land ownership will not only enhance their economic well-being but also contribute to national food security and social justice.

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¹⁵ Widowaty, Yeni, and Dimas Amanda Wahid. "Law enforcement of land transfer from agricultural land to

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