

ENFORCEMENT OF CRIMINAL LAW IN THE LAND SECTOR IN GIVING GUARANTEE OF LEGAL CERTAINTY

NASRULLAH ARSYAD¹, TAJUDDIN RACHMAN², SUFIRMAN RAHMAN³, SYAHRUDDIN NAWI⁴

¹³⁴⁵faculty Of Law, Universitas Muslim Indonesia, Indonesia

²doctor Student Of Law, Universitas Muslim Indonesia, Indonesia

Author Correspondent: Nasrullah.Arsyad@Umi.Ac.Id

Abstract - *The phenomenon of uncertainty over rights and the lack of law enforcement in the land sector is striking and unsettling for justice seekers and local investors who hope to do business in peace—enforcement of criminal law in the land sector in providing guarantees of legal certainty. This study's research type is normative legal research, statutory approach, and conceptual approach. The factors that are very important in enforcing the law on land crimes are the factors of legislation, law enforcement, facilities and infrastructure, and the characteristic of community legal awareness. To avoid criminal acts of land, the community should have valid certificates of land rights to provide legal certainty and legal protection to holders of rights to a plot of land.*

Keywords: *Criminal; Land; Legal certainty.*

INTRODUCTION

UU no. 2 of 2012 concerning Land Acquisition for Development in the Public Interest. This acquisition procedure stipulates that land acquisition for public purposes is carried out through waiver of the legal relationship between the right holder and the land by means of providing compensation based on an assessment made through deliberation between the acquisition committee and the land owners based on the local common price. Prior to that, the government had issued Presidential Instruction No. 9 of 1973 which regulates the criteria for public interest that must be referred to in every land acquisition plan for development in the public interest. This Presidential Instruction determines certain types of activities that are included in the public interest, in addition to these specific matters, the president can also add them based on his own considerations. In Presidential Decree 55/93, then changed again with Presidential Decree 36 of 2005 and Presidential Decree no. 65 of 2006, also Law no. 2 of 2012 the definition of public interest is also clarified.¹

Social conflicts related to land issues actually existed since the feudal era. However, the intensity of the conflict is not like that which occurred during the reign of the New Order regime. The *patron client* social institution that regulates the relationship between large landowners and the people functions as a damper for land conflict problems that arise. During the reign of the Old Order "Populist Politics" and " *nation building politics* " tended to divert people's attention to the issue of people's rights to land.

While during the New Order government, land conflicts were rife and experienced an increase both in terms of frequency and intensity. Land conflicts are not only confined to rural areas, but have spread to suburban areas, even to big cities. Conflicts involving the judiciary can develop into acts of mass violence and often result in fatalities. This phenomenon is a legal reflection that the people's sense of justice over their land rights has been slashed.

As a result, there have been land cases that have attracted public attention. Among other things, a number of state-owned lands in Makassar, South Sulawesi, have been sued by residents. The assets being sued by the residents include the land of PT Pelindo, PT PLN, the Toll Road, the Al Markaz Mosque, and Hasanuddin University. Head of the Regional Office for Agrarian Affairs and Spatial Planning/South Sulawesi National Defense Agency Bambang Priono said the same two people were suing the assets. "The value is estimated at Rp 1 trillion, because the land is in a strategic location and belongs to a BUMN." He said the lawsuit was filed based on a detailed land certificate. However,

¹Syahrudin Nawi, Rahman Syahrudin. 2020. *Capita Selecta Agrarian Law*, Makassar: Kretakupa Print, p. 96-97.



the South Sulawesi ATR/BPN Regional Office doubted the letter, because it was in the form of *eigendom verponding*.²

Attracting attention is that in the ranks of the bureaucracy, Hamid Awaluddin, former Minister of Law and Human Rights of the Republic of Indonesia, asked the Regional Office of the South Sulawesi National Land Agency or BPN Sulsel not only to reveal the many land mafias to the public. However, you must also have the courage to report it to the police. Hamid Awaluddin said that any institution or institution that discloses the existence of a land mafia should report it to the police. So don't just complain. Must have the courage to report to be punished.³

The South Sulawesi rail project has been hampered by land acquisition problems (land) in Maros covering an area of 3,197 m² in Marumpa village, Marusu sub-district, Maros district, because the landowners do not agree with the price set by the government.⁴ Land dispute case between PT. Semen Bosowa against Ir. Rusmanto Mansyur Efendi.⁵ Land dispute leads to death in Gowa Regency.⁶ The South Sulawesi provincial government lost the land dispute at the Central Point Of Indonesia.⁷ The Makassar District Court won the Barayya residents in a land dispute.⁸ 127 Hectare Land Dispute in Pattalassang Gowa.⁹

From the cases described above, it is clear that the phenomenon of uncertainty over rights and the lack of law enforcement in the land sector is very striking and unsettling for justice seekers and local investors who hope to work quietly and develop the region of South Sulawesi. is why the Criminal Law in the Land sector is not upheld and why there is also no guarantee of legal certainty in the Land sector as illustrated by the cases described above.

The land issue has apparently not been resolved under the current law. We can see for ourselves that the judiciary is still corrupt by the remnants of the New Order regime. Court decisions are often not in favor of the truth. This accumulated to a deep disillusionment with society. As a result, the people became hungry for land and carried out land grabbing. So now there must be a land certificate, because so far the boundaries have been very blurred. Based on the fact that the most cases and irregularities involved fake documents and land grabbing and destruction of fences. Therefore, land management carried out by the National Land Agency must be more transparent and *accountable*. To achieve this goal, it is necessary to develop *performance standards* that are *accountable* and controllable.

Based on data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the phenomenon of conflict in the land sector has received 732 complaints regarding land issues since the Investigation Inspectorate was formed. In detail, 17 cases of abuse of authority, 201 cases of community service, 11 cases of corruption or extortion. Then, there were 3 cases of employment or employment, 493 cases of disputes and conflicts, and 7 other cases.¹⁰

Likewise, land conflicts historically have also had a changing character. Day by day the land issue is becoming more and more complicated. More or less three decades ago, land conflicts were more local in nature and characterized by unequal land ownership. On the one hand there is a group of

²<https://epaper.mediaindonesia.com/detail/warga-juang-lahan-asset-bumn-di-sulawesi-selatan>, accessed on 21 June 2022

³<https://makassar.tribunnews.com/2021/10/27/mantan-menkumham-hamid-awaluddin-bpn-harus-berani-laporkan-mafia-tanah-ke-polisi>, accessed on 21 June 2022

⁴<https://www.liputan6.com/regional/read/4767767/whena-project-kereta-api-sulsel-terkendala-hasil-pembebasan-lahan-di-maros>, accessed on 21 June 2022

⁵<https://www.liputan6.com/regional/read/4649849/when-saksi-kases-sengketa-lahan-pt-semen-bosowa-vs-seorang-insinyur-kebingungan>, accessed on 21 June 2022

⁶<https://news.detik.com/berita/d-988670/sengketa-tanah-berujung-maut-di-kabupaten-gowa>, accessed on 21 June 2022

⁷<https://sulsel.voice.com/read/2021/11/25/074447/sengketa-lahan-pemprov-sulsel-kalah-di-cpi>, accessed on 21 June 2022

⁸<https://www.mongabay.co.id/2020/03/17/sengketa-lahan-pengdinding-makassar-menangkan-warga-bara-barayya/>, accessed on 21 June 2022

⁹<https://koran.tempo.co/read/makassar/290580/sengketa-lahan-122-hektare-di-pattalassang-selesai>, accessed on 21 June 2022

¹⁰<https://www.kompas.com/properti/read/2021/10/19/140000721/ada-732-kases-pertanahan-terbanyak-soal-sengketa-dan-konflik?page=all>, accessed 21 June 2022



people who own large tracts of land, while on the other hand a large number of people own narrow land or do not own it at all, for example oil palm plantations, mining lands and others.

It is not surprising that the people often do not go through legal channels to resolve disputes, because it is certain that the judicial method taken takes quite a long time and uses a lot of money, because the law in this country has not been on the side of the truth. At the grassroots level, trust in legal institutions no longer exists. This is due to the fact that during the New Order government, law was no longer a tool of power and a commodity for business. This experience influenced them in *reclaiming*. So in the end they use non-legal means, as happened in South Sulawesi in 2019.

As many as six people were injured as a result of clashes between residents and a group of people who came from the heirs of the Antang Bittoa field land, Jalan Antang Raya, Manggala District, Makassar, South Sulawesi, Friday (11/22/2019). The incident started when hundreds of Antang residents wanted to stage prayer mats at the Antang Bittoa field to protest the ban on activities in the field issued by Sanga Daeng Caya. Sanga Daeng Caya claims the land in the field belongs to him. The action that the residents wanted to take after the Friday prayers never materialized, because the field was guarded by a group of people suspected of being hired by Sanga. Finally a commotion ensued. In addition to the six people injured, a motorbike was also burnt in this incident.¹¹

The proof is that the tendency of people to take over land through violence is increasing. UU no. 5 of 1960 concerning Basic Agrarian Regulations, hereinafter abbreviated as UUPA, as the legal basis in the land sector is no longer relevant to the changing times and is no longer able to accommodate various land affairs and is no longer suitable for the needs of society. Because a certificate that is a sign of rights does not guarantee legal certainty for the owner. This is because certificates can be canceled if there is a legal defect in the issuance process. How is the enforcement of criminal law in the land sector in providing guarantees of legal certainty?

RESEARCH METHODS

The type of research used in this research is normative legal research. The research approach can help researchers to obtain information from various aspects according to the legal issues studied.¹²The statutory approach (*Statute Approach*) is carried out to examine legal material from laws and regulations relating to regulations in the land sector in South Sulawesi, and a conceptual *approach*. This approach is used to understand and study the concepts of regulatory authority in land affairs.

DISCUSSION

Law enforcement is the process of carrying out efforts to uphold or function legal norms in a real way as a guide for actors in traffic or legal relations in the life of society and the state. Law enforcement is an effort to realize the ideas of justice, legal certainty and the benefits of legal concepts that the people expect to become a reality. Law enforcement is a process that involves many things¹³. Law enforcement in a broad sense, namely the enforcement of all norms of social life, while in a narrow sense law enforcement is defined as the judicial practice of implementing the law in people's daily lives has a very important meaning, because what is the purpose of the law lies in the implementation of the law. The definition of law enforcement can be formulated as an effort to implement the law as it should, supervise its implementation so that violations do not occur, and if a violation occurs, restore the violated law so that it is re-enforced.¹⁴

Law enforcement associated with the protection of society against crime is certainly related to the problem of criminal law enforcement. The purpose of establishing criminal law is as a means of criminal politics, namely for "public protection" which is often also known as "*social defense*"¹⁵, so that criminal law enforcement can be interpreted as a concrete application of criminal law by law

¹¹ <https://regional.kompas.com/read/2019/11/22/18185031/sengketa-lahan-berujung-bentrok-di-makassar-6-orang-terluka-1-motor-dibakar?page=all>, accessed at June 21, 2022

¹²Peter Mahmud Marzuki, 2013. *Legal Research*, Jakarta: Kencana Prenada Media Group. p. 133

¹³Dellyana Shant. 1988. *Concept of Law Enforcement*, Jakarta. Liberty, p. 32

¹⁴Jimly Asshiddiqie, 2020. *Law Enforcement, Justice and Human Rights*, Jakarta. Journal of Justice, Vol 2, No 2

¹⁵Barda Nawawi Arief, 1998. *Several Aspects of Criminal Law Enforcement and Development Policy*, Bandung: PT. Citra Aditya Bakti, Pg. 11



enforcement officials. In other words, law enforcement is an effort to deal with crime rationally, fulfill a sense of justice and be efficient.

Land crimes cannot be allowed to go unpunished if a country wants to achieve its goals, because if allowed to continue, it will get used to and become fertile and will lead to the mental attitude of someone who is always looking for easy shortcuts and justifies any means (the end *justifies the means*). For this reason, it is necessary to thoroughly and responsibly eradicate criminal acts of land, this requires the support of law enforcement.¹⁶

Soerjono Soekanto, in his book *Factors Affecting Law Enforcement*, states that the main problem of law enforcement actually lies in the factors that might influence it, namely:

1. Regulatory factors

Land crimes can occur physically, or non-physically. Serious crimes involving parcels of land include expropriation, possession without rights, and even no right to use the parcels. Meanwhile, non-material crimes include violations of land management regulations. Relating to crimes or criminal acts in the land sector in the criminal provisions stipulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) and the Criminal Code.

Legal protection in the land sector contained in the BAL in the form of;

Provisions in Article 15:

"Maintaining the land, including increasing its fertility and preventing damage to it is the responsibility of every person, legal entity or agency that has a legal relationship with the land, taking into account those who are economically weak"

Provisions in Article 15

- (1) To ensure legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated by Government Regulations.
- (2) The registration in paragraph (1) of this article includes:
 - a. land mapping and bookkeeping measurement;
 - b. registration of land rights and the transfer of said rights;
 - c. granting of letters of evidence of rights, which are valid as a strong means of proof.
- (3) Land registration is carried out taking into account the condition of the State and society, the need for socio-economic traffic and the possibility of its implementation, according to the considerations of the Minister of Agrarian Affairs.
- (4) The government regulation regulates the costs associated with the registration referred to in paragraph (1) above, with the provision that people who cannot afford are exempt from paying these fees.

Provisions in Article 22

- (1) The occurrence of property rights according to customary law is regulated by government regulations.
- (2) Apart from the method referred to in paragraph (1) of this article, property rights occur because:
 - a. Government stipulation, according to the method and conditions stipulated by Government Regulation;
 - b. statutory provisions.

Provisions in Article 24

The use of land owned by non-owners is limited and regulated by law.

Provisions in Article 26

- (1) Buying and selling, exchange, grants, gifts with wills, gifts according to custom and other acts that intended to transfer ownership rights as well as supervision is regulated by Government Regulation.

Provisions in Article 46.

- (1) The right to clear land and collect forest products can only be owned by Indonesian citizens and regulated by government regulations.

¹⁶Enni Merita. 2023. *The Role of Law Enforcement in Criminal Actions in the Land Sector*. Justice . Vol 15 No 1.



- (2) Using the right to collect forest products legally does not automatically result in the ownership of the land.

Provisions in Article 49

(1) Land ownership rights for religious and social bodies as long as they are used for business in the religious and social sector, are recognized and protected. These agencies are also guaranteed to obtain sufficient land for buildings and businesses in the religious and social fields.

In order to ensure the best possible implementation of the regulations and actions that constitute the implementation of the BAL, it is necessary to have criminal sanctions as specified in Article 52.

The provisions of Article 52 UUPA state that:

(1) Whoever intentionally violates the provisions in Article 15 shall be punished with imprisonment for a maximum of 3 months and/or a maximum fine of Rp. 10.000,-

(2) Government regulations and laws and regulations referred to in articles 19, 22, 24, 26, paragraphs (1), 46, 47, 48, 49, paragraphs (3) and 50 paragraphs (2) can provide criminal threats for violations of the regulations with imprisonment a maximum of 3 months and/or a maximum fine of Rp. 10.000,-.

(3) The criminal acts in paragraphs (1) and (2) of this article are violations.

Based on the elucidation of Article 52 of the UUPA, these criminal sanctions are necessary to ensure the best possible implementation of the provisions of these articles. For example, the provisions of Article 15 of the UUPA stipulate that every person, legal entity or institution having relations with the land, taking into account those who are economically weak, is obliged to maintain the land, including increasing its fertility and preventing damage to it. Here it is clear that the BAL seeks to maintain a balance in fulfilling the needs/interests of society and the interests of individuals, so that the main objectives will be achieved, namely prosperity, justice and happiness for all people.

Whereas at the time this dissertation proposal was written, it turned out that on December 6, 2022, the Indonesian Parliament and the Government of the Republic of Indonesia had passed Law No. 1 of 2023 concerning the Criminal Code (KUHP). The articles that may be related to criminal law provisions in the land sector in Law No. 1 of 2023 concerning the Criminal Code (KUHP), are as follows:

a. Crimes against land grabbing

The word expropriation itself can be interpreted as an act of taking rights or assets arbitrarily or by ignoring laws and regulations, such as occupying other people's land or houses, which are not their rights. Unlawful land grabbing is an act against the law, which can be classified as a criminal act.¹⁷

Article 257 reads:

(1) Any person who unlawfully forces entry into a house, a closed prohibition, or a closed yard that is used by another person or who is already in it unlawfully, does not immediately leave the place at the request of an entitled person or his envoy, shall be punished with a crime imprisonment for a maximum of 1 (one) year or a maximum fine of category II.

(2) Considered forcing entry as referred to in paragraph (1), Everyone who enters by way of, destroys, or climbs, uses fake keys, fake orders, or fake official clothes, or without the prior knowledge of the entitled party and not because of an oversight Entered and was found at the venue at Night.

(3) If Everyone as referred to in paragraph (1) and paragraph (2) issues a threat or uses a means that can frighten, shall be punished with imprisonment for a maximum of 2 (two) years or a maximum fine of category III.

(4) In the event that the crime referred to in paragraph (1) and paragraph (3) is committed by 2 (two) or more people in partnership and together, the sentence can be increased by 1/3 (one third).

Article 365 reads:

¹⁷Hardjoko. 2022. *Effectiveness of Criminal Law Enforcement Against Seizure of Land Rights in Makassar City*. Macassar. Journal of Lex Generalis (JLS). Vol 3, No. 1. page 38



- a. Sentenced to a maximum imprisonment of 4 (four) years or a maximum fine of category V, Everyone who damages, destroys, renders unusable, or loses: Items used to convince or serve as evidence for the Authorized Official; or
- b. deeds, letters or registers which are permanently or temporarily kept by order of the authorized official or which are handed over to the official or to another person for the benefit of public office.

During investigations and investigations by investigators it was found that there had been unlawful acts committed by people who carried out seizures of people's land by forcing their way in, so the investigators immediately named the person as a suspect as referred to in Article 257 of the Criminal Code which was then made a Minutes of Examination (BAP).¹⁸ And if it turns out that the land grabbing was carried out by the suspect with the intention of controlling and then selling or exchanging it, to another party, then the suspect (trafficker) is subject to the Criminal Code (KUHP) and is subject to imprisonment for a maximum of 1 (one) year or a maximum fine of category II. , in the case of expropriation where there is an element of issuing threats or using means that can be frightening, it is punishable by imprisonment for a maximum of 2 (two) years or a maximum fine of category III, and if it is committed by 2 (two) or more people in partnership and together, the penalty can be added 1/3 (one third).

- b. Crime against giving false information

Land registration is carried out systematically and sporadically, where the implementation of systematic land registration is carried out by the National Land Agency (BPN). Meanwhile, sporadic land registration according to Article 1 point 11 of Government Regulation No. 24 of 1997 is a land registration activity for the first time concerning one or several objects of land registration within an area or part of a village/kelurahan individually or en masse. Criminal law enforcement, especially related to the criminal act of falsifying documents in the registration of land rights today, is increasingly losing direction and is even considered to have reached its lowest point.

Article 394 reads:

"Any person who requests to insert false information into an authentic deed regarding a matter whose truth should be stated by the deed, with the intention of using or asking other people to use it as if the information is in accordance with the truth, if such use can cause harm , shall be punished with imprisonment for a maximum of 7 (seven) years or a maximum fine of category VI".

In the two Decisions above what is meant is a letter based on Article 263 of the Criminal Code discussing forgery of letters in general or letters made by the parties that should have been. However, faked by interested parties. The letters referred to in the provisions of Article 394 of the Criminal Code include those that make letters that can give rise to a right, agreements, letters that can erase receivables, letters that can prove a fact that is made as if the contents of the letter are true or not falsified by those who interested. This relates to falsification of documents or letters in the registration of land included in a letter that can prove a fact against an object or object or land in the contents of the falsified letter and use it as if the contents were genuine or true and not fake. So, each of these people can be said to have committed the crime of forging letters . However, the faked letters meant are only letters that can cause a loss, both material and immaterial.

- c. The crime of forging documents

Forgery of letters is a crime in which there is a system of untruth or falsification of an object, everything is true from the outside.¹⁹

Government Regulation no. 24 of 1997, Article 1 Paragraph 1, defines land registration as "a series of activities carried out by the Government continuously, continuously and regularly, including collection, processing, bookkeeping, presentation and physical maintenance of land". and legal data

¹⁸Lubis, MR 2021. *The Crime of Land Acquisition in the Perspective of Criminal Law* . Journal of Rule of Law: Communication and Information Media for Law and Society, 20(2), 242-260

¹⁹Nazilah Maghfiroh, Sri Setyadji. 2023. *Legal Consequences of Forging Letters Against Land Crimes in Land Registration*. Tangerang, Banten. Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance. Vol 3. No 1. Pg 69



in the form of maps and lists of plots and residences, including issuance of certificates for registered land.

Article 400 reads:

Sentenced to a maximum imprisonment of 4 (four) years or a maximum fine of category IV, Everyone who:

- a. make incorrectly or falsify a statement from an official authorized to make information about ownership rights or other rights to an object, with the intention of facilitating the transfer or guarantee or to mislead law enforcement officials about the origin of said object or
- b. use the certificate as referred to in letter a, as if the letter is true or not fake.

The consequences of a criminal act in the form of document forgery can be seen from two perspectives. First, apart from direct losses, material losses can be measured by the amount of money borne by the community. Parties who are harmed indirectly as a result of costs incurred during the criminal justice process include parties involved in court, police, prosecutors, and correctional institutions. While immaterial losses are people who experience threats of fear, distrust of law enforcement, and loss of sense of security.

It can be seen in article 400 of the Criminal Code above that there are two crimes each of which are described in paragraph 1 and paragraph 2. In paragraph (1) it has elements in the form of, Objective/objective elements, which are divided into two parts. First, the act involved counterfeiting. Second, said object or object is a letter that can give rise to a right, give rise to debt repayment, and is intended as evidence of a right to facilitate transfer or guarantee or to mislead law enforcement officials about the origin of said object.

The subjective element where the intention is to use or order other people as if the contents are true and not contrived. Article 400 paragraph (2) of the Criminal Code, on the other hand, contains elements. First, the element of purpose, which includes the act of using, objects (forged letters and forged letters), and usage, can result in losses. The two subjective elements are intentional, they compose and falsify letters, and the two terms have different meanings. The difference between making a fake letter and making a fake letter in part or in whole is made before the act is committed.

- d. The crime of embezzlement of rights to immovable property, such as state land, houses, plantation businesses or nurseries on land where people use the land rights.

The word embezzlement of land rights itself can be interpreted as taking rights or assets arbitrarily or by ignoring laws and regulations, such as occupying other people's land or houses, which are not their rights. The act of illegally occupying land is an act against the law, which can be classified as a criminal act. As we know, land is a very valuable asset, considering that land prices are stable and continue to rise with the times²⁰. Illegal land tenure can be detrimental to anyone, especially if the land is used for business purposes. There are various problems of illegal land grabbing that often occur, such as physical land occupation, land cultivation, sale of a land right, and so on.

Article 502 reads:

- a. Sentenced to a maximum imprisonment of 5 (five) years or a maximum fine of category V, Everyone who with the intention of unlawfully benefiting himself or another person: selling, exchanging, or encumbering with credit ties a right to use state land or a house, plant or nursery business on land where people use rights over said land, even though other people are entitled or share rights over said land or goods;
- b. selling, exchanging, or encumbering with a credit bond a right to use state land or a house, a plant or nursery business on the land where a person uses the said land right, even though the land or goods have been encumbered with a credit bond, but do not notify the party about this another;
- c. encumber with a credit bond a right to use state land by hiding it from other parties, even though the land where people use said right has been guaranteed;
- d. guaranteeing or renting out a plot of land where people use rights over said land, even though other people are entitled or share rights over said land;

²⁰Property Law, Unlawful Land Appropriation in a Criminal Perspective, accessed via <http://www.Hukumproperti.com/2011/02/22/serobot-an-tanah-dalam-illegitimate-in-perspective-criminal>, accessed on the 7th may 2022.



- e. rent, sell or exchange land that has been mortgaged without notifying the other party that the land has been mortgaged; or
- f. leasing a plot of land where people use the land rights for a certain period of time, even though the land has also been leased to other people.

The crimes contained in Article 385 of the Criminal Code are commonly called *stellionat crimes*, which mean embezzlement of rights over immovable goods (*onroerende goederen*) immovable items, for example land, rice fields, buildings and others.

This article has two important elements, namely subjective elements and objective elements. The subjective element is "with intent" while the objective element is the act of possessing land/buildings or other immovable objects, then mortgaging them or renting them out. This article requires that there be two actions to be carried out so that the objective elements are fulfilled, namely the act of controlling the land and the second after the land is owned then mortgaged or leased. Meanwhile, from a subjective point of view, the act must be done deliberately, meaning that there is an evil will to control land or buildings and there is an evil will to rent it out or take advantage of other parties for oneself.

- e. The crime of embezzlement against the destruction of legal land rights

Article 505 reads:

Any person who with the intention of unlawfully benefiting himself or others, damages, destroys, moves, disposes of, or makes it unusable. Items used to determine the boundaries of yards or the boundaries of legal land rights, shall be punished with imprisonment for a maximum 3 (three) years or a maximum fine of category IV.

When viewed from the elements of the article, the criminal act of destroying goods can be interpreted as an act openly or in a public place and damaging, destroying, moving, throwing, using or committing violence against people or goods, the goods referred to in this article are intended or intended for use as the determination of legal land rights boundaries.

- 2. Law enforcement factors, namely the parties that form and apply the law.

A law enforcer, like other citizens, has a position and role at the same time. Thus it is not impossible that between positions and roles conflicts arise (*status conflict and conflict of roles*). If in reality there is a gap between the role that should be and the role that is actually carried out or the actual role then there will be a role gap. The discussion about law enforcement is actually more focused on discretion.²¹

Law enforcement apparatus includes the notion of law enforcement institutions and law enforcement officials (persons), while law enforcement officials in a narrow sense start from the police, prosecutors, judiciary, legal advisers and wardens of correctional institutions. Each officer and apparatus is given the authority to carry out their respective duties, which include the activities of receiving reports, investigations, investigations, prosecutions, evidence, imposition of sentences and imposition of sanctions, as well as efforts to re-develop convicts.

The legal structure relates to the implementing apparatus and institutions authorized to apply criminal penalties to perpetrators of land grabbing. The Makassar Polrestabes, as investigators who can enforce criminal law against perpetrators of criminal acts of land grabbing, have handled many cases and have seen their progress increasing and it is difficult to stop them.

The law enforcement component is the institution created by the legal system with various functions in order to support the work of the system. This component makes it possible to see how the legal system provides services for the regular processing of legal materials.

Thus the law enforcement factor is an instrument that can be measured quantitatively. The law enforcement factor referred to is more oriented towards transparency in making and/or forming laws and making legal decisions. While what is meant by law here, as a human work, where more emphasis will be placed on written law because written law is considered more open and more promising for

²¹Soerjono Soekanto, 2005. *Factors Affecting Law Enforcement*. Jakarta. PT Raja Grafindo Persada. p.21



guarantees of legal certainty, Polrestabes as state apparatus is given the function to realize the application of criminal penalties against perpetrators of land grabbing.

3. Facility factors or facilities that support law enforcement.

The third factor, namely the factor of facilities or facilities that assist law enforcement, according to Soerjono Soekanto himself stated that it is impossible for law enforcement to take place smoothly without adequate facilities or facilities.

4. Community Legal Awareness Factor, namely in the environment where the law applies or is applied.

Every citizen has more or less legal awareness, the problem that arises is the level of legal compliance. Citizens must know and understand applicable law, and comply with applicable law with full awareness of the importance and necessity of law for people's lives. The degree of public compliance with the law is an indicator of the functioning of the relevant law.

Legal awareness has decreased in an alarming manner, which inevitably results in a decline in the authority of the Makassar Polrestabes. Legal awareness relates to human beings, not to law. It is not the law that must be reformed. Therefore, what must be improved or improved is the human or human resources. Moral, mental and intellectual must be improved. Based on the fact that the public has low trust in the police institution, it is a difficult task for the Makassar Polrestabes to rebuild the image of the police to be useful and respected by the community .

CONCLUSION

The factors that are very important in enforcing the law on land crimes are the factors of legislation, law enforcement, facilities and infrastructure, and the characteristic of community legal awareness. Because if the law is stringent in imposing sanctions on perpetrators of land crimes, the public will be afraid of committing land violations and criminal acts, and the law enforcement factor itself requires law enforcement officers who are trained, honest, with integrity, and professionalism, law enforcers should be paying more attention to the substance of the law relating to criminal acts in the land. So that law enforcement officials can dismantle cases of land crimes and dare to take action against anyone who is at fault. To prevent criminal acts of land from occurring, the community should have valid certificates of land rights to provide legal certainty and legal protection to holders of rights to a parcel of land so that they can easily prove themselves as holders of ownership to the ground in question, to the government to carry out counseling about the land which aims to increase legal awareness in the community.

REFERENCES

- [1] Barda Nawawi Arief, 1998. *Several Aspects of Criminal Law Enforcement and Development Policy*, Bandung: PT. Image Aditya Bakti.
- [2] *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*. Vol 3. No 1.
- [3] Dellyana Shant. 1988. *Concept of Law Enforcement*, Jakarta. liberty.
- [4] Enni Merita. 2023. *The Role of Law Enforcement in Actions Against Crime in the Land Sector*. Justice. Vol 15 No 1.
- [5] Hardjoko. 2022. *Effectiveness of Criminal Law Enforcement Against Seizure of Land Rights in Makassar City*. Macassar. *Journal of Lex Generalis (JLS)*. Vol 3, No. 1.
- [6] *Property Law, Unlawful Land Appropriation in a Criminal Perspective*, accessed via <http://www.Hukumproperti.com/2011/02/22/serobot-an-tanah-in-law-in-perspective-criminal>.
- [7] Palullungan, I., & Asmah, Y. B. (2023). *The Authority Of Regional Government To Regulate Construction Services*. *Russian Law Journal*, 11(3).
- [8] Irwansyah, 2020, *Legal Research*, Yogyakarta, Mirra Buana Media.
- [9] Jimly Asshiddiqie, 2020. *Law Enforcement, Justice and Human Rights*, Jakarta. *Journal of Justice*, Vol 2, No 2
- [10] Lubis, MR 2021. *The Crime of Land Acquisition in the Perspective of Criminal Law*. *Journal of Rule of Law: Communication and Information Media for Law and Society*, 20(2).
- [11] Muliaty, B. A. (2023). *Analysis Of Hate Speech Perpetrators On Social Media Through Criminological Perspective*. *Russian Law Journal*, 11(3).

- 
- [12] Nazilah Maghfiroh, Sri Setyadji. *Tangerang 2023. Legal Consequences of Forging Letters Against Land Crimes in Land Registration.*
- [13] Peter Mahmud Marzuki, 2013. *Legal Research, Jakarta: Kencana Prenada Media Group.*
- [14] Putra, A. D., Saputra, I. E., Prasetya, M. D., & Rahman, A. (2023). *Legal Analysis On Deliberate Tax Evasion In Indonesia. Jurnal Meta-Yuridis, 6(1), 72-84.*
- [15] Soerjono Soekanto, 2005. *Factors Affecting Law Enforcement. Jakarta. PT Raja Grafindo Persada.*
- [16] Syahrudin Nawir, Rahman Syahrudin. 2020. *Capita Selecta Agrarian Law, Makassar: Kretakupa Print.*
- [17] Winarsi, S., P rihatiningtyas, W., W ahyuni, i., F itriana, z. M., & Rahman, A. (2023). *The Current Position Of Environmental Approval Post-Job Creation Law: Ensuring The Indonesian SDGS Achievement. Russian Law Journal, 11 (2).*
- [18] <https://epaper.mediaindonesia.com/detail/warga-juang-lahan-asset-bumn-di-sulawesi-selatan>.
- [19] <https://koran.tempo.co/read/makassar/290580/sengketa-lahan-122-hektare-di-pattalassang-selesai>.
- [20] <https://makassar.tribunnews.com/2021/10/27/mantan-menkumham-hamid-awaluddin-bpn-harus-berani-laporkan-mafia-tanah-ke-polisi>.
- [21] <https://news.detik.com/berita/d-988670/sengketa-tanah-berujung-maut-di-kabupaten-gowa>.
- [22] <https://regional.kompas.com/read/2019/11/22/18185031/sengketa-lahan-berujung-bentrok-di-makassar-6-orang-terluka-1-motor-dibakar?page=all>.
- [23] <https://sulsel.voice.com/read/2021/11/25/074447/sengketa-lahan-pemprov-sulsel-kalah-di-cpi>.
- [24] <https://www.kompas.com/properti/read/2021/10/19/140000721/ada-732-kases-pertanahan-terbanyak-soal-sengketa-dan-konflik?page=all>.
- [25] <https://www.liputan6.com/regional/read/4649849/when-saksi-kases-sengketa-lahan-pt-semen-bosowa-vs-seorang-insinyur-kebingungan>.
- [26] <https://www.liputan6.com/regional/read/4767767/when-project-kereta-api-sulsel-terkendala-hasil-pembebasan-lahan-di-maros>.
- [27] <https://www.mongabay.co.id/2020/03/17/sengketa-lahan-pengdinding-makassar-menangkan-warga-bara-barayya/>.