



Criminal Aspects in the Alleged Seizure of Land Controlled by the Legal Entity of the Roman Catholic Church in Indonesia and In the Perspective of Gustav Radbruch's Legal Theory

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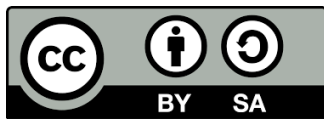
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Legal Protection, Agrarian Assets, Catholic Church Legal Entity, Agrarian Criminal Offense, Law Number 1 of 2023, Routine Activity Theory

Abstract

Land encroachment threatens the continuity of religious services and social activities conducted by Roman Catholic Church legal entities in Indonesia. Although land certification provides legal evidence of land rights, boundary manipulation and unauthorized occupation may persist. This study examines the criminal aspects of such disputes and formulates an integrated legal protection framework informed by Gustav Radbruch's values of legal certainty, justice, and utility. Prescriptive normative legal research was conducted using statutory and case approaches. Primary, secondary, and tertiary legal materials were collected through library research, systematically classified, and qualitatively analyzed using legal interpretation and juridical reasoning. The findings indicate that disputes involving church assets encompass interconnected civil, administrative, and criminal dimensions. Cases involving the Diocese of Surabaya demonstrate that land certification alone does not ensure the physical protection of church assets, while continued occupation after the expiration of contractual rights requires careful assessment against the constituent elements of applicable criminal offenses. The discussion emphasizes coordination among documentary verification, proportionate law enforcement, and the restoration of lawful possession, supported by situational crime prevention and institutional guardianship. The study concludes that effective legal protection requires the integration of administrative safeguards, preventive asset management, and criminal law enforcement where legally justified. Recommended measures include periodic asset audits, boundary verification, clear occupancy agreements, strengthened internal supervision, and initial dispute resolution through good-faith dialogue.



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INTRODUCTION

Land control is a crucial aspect of Indonesia's social, economic, and religious dynamics. According to Satjipto Rahardjo, as cited by I Made Suwitra, land control comprises two main elements: the factual element, referring to the actual relationship between the legal subject and the object, and the subjective element, referring to the intention or will to exercise control (Suwitra, 2014). In the context of religious legal entities, particularly the Roman Catholic Church in Indonesia, control over land serves not merely as an economic instrument but also as an essential spiritual and administrative foundation for ensuring the continuity of pastoral services and social activities (Suyadi, 2023). Therefore, positive law must provide adequate protection to ensure legal certainty, as mandated by Law Number 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Pokok Agraria or UUPA) and Government Regulation Number 18 of 2021 (Peraturan Pemerintah Nomor 18 Tahun 2021).

Land assets held by religious entities face significant legal vulnerability because of recurring disputes in practice. Specific cases include land conflicts involving the Diocese of Surabaya in East Java, unilateral boundary shifts at St. Paul's Parang Station in Blitar Regency, disputes over the use of assets by former employees at Garum Seminary in Blitar Regency, and the alleged encroachment on land belonging to Saint Joseph Parish Catholic Church in Apas Village, Sebuku, Nunukan Regency, North Kalimantan, which triggered community protests (Adiya, 2025; Fokus Borneo, 2025). This complexity demonstrates that civil and administrative remedies alone may be insufficient to address contemporary land-related crimes and organized land-mafia practices (Karli, 2014; Priyatno et al., 2023). Furthermore, land control by foreign parties that is inconsistent with its designated purpose may reflect regulatory manipulation and structured collusion, resembling patterns identified in studies of Chinese extractivism in Zimbabwe (Chiweshe et al., 2026). Such unlawful exploitation may contribute to social degradation, the loss of community control, and violations of the social function of land.

Ramelan (2018) examined aspects of legal certainty concerning church legal entities, whether established as foundations or associations, within the framework of civil and administrative law. Budiono (2025) explored the legal validity of religious legal entities as beneficiaries under testamentary inheritance law. Meanwhile, Salettia et al. (2025) focused on legal instruments governing land administration, the implementation of the Ministerial Decree of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) No. 21/2024, and bureaucratic obstacles to the certification of church assets. Based on these studies, the existing literature has predominantly addressed civil and administrative legal protection, whereas an in-depth examination of repressive criminal law protection, particularly under the new Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP), Law Number 1 of 2023, concerning the assets of religious legal entities remains limited and has not yet been comprehensively mapped.

Based on previous research, the novelty of this study lies in its multidimensional and integrative approach. Rather than limiting its analysis to civil or administrative law doctrines, this study integrates modern criminal law instruments under Law Number 1 of 2023, state administrative law and judicial mechanisms, Gustav Radbruch's legal theory as a philosophical analytical framework for examining the tension among legal certainty, utility, and justice (Al'anam, 2025), and the criminological approach of Situational Crime Prevention (SCP). This interdisciplinary approach is intended to formulate a risk-mitigation model and a law-enforcement framework that promotes judicial efficiency in protecting and managing land assets held by Roman Catholic Church legal entities in Indonesia.

METHOD

This study employed prescriptive normative legal research to examine and evaluate the coherence of positive legal norms concerning agrarian offenses involving religious legal entities. A statutory approach was used to examine the vertical and horizontal consistency of relevant legal norms, while a case approach was employed to assess their application in judicial decisions (Marzuki, 2005; Widiarty, 2024; Widodo, 2020a, 2020b).

Legal materials were collected through library research and comprised primary legal materials, including laws, regulations, and judicial decisions; secondary legal materials, including scholarly literature, journal articles, and legal doctrines; and tertiary legal materials,

including legal dictionaries and encyclopedias. The legal materials were inventoried, identified, classified, and systematized. They were then analyzed qualitatively using descriptive-prescriptive methods through legal reasoning, legal interpretation, and juridical construction to formulate legal arguments concerning the issues examined (Widiarty, 2024; Widodo, 2020a, 2020b).

RESULTS AND DISCUSSION

Research Results

The Catholic Church of the Diocese of Surabaya, St. Peter and Paul Wlingi Parish – St. Paul Parang Stasi is located at RT 01/RW 01, Parang Hamlet, Semen Village, Gandusari District, Blitar Regency. Based on the results of interviews, statement documents, and internal witness statements from the Stasi management represented by the Chairman of the Stasi Management, Dominikus Putut S., the Stasi suffered losses due to the alleged encroachment and shifting of land boundaries by external parties. The land used as the area of the Stasi Church initially did not have a certificate as the legal basis for formal ownership, but was still based on old land registration data in the form of Letter C Number 53/Cement Village, which was supported by the Land History Certificate Number 593.21/511/409.49.10/2023 dated September 6, 2023 (Putut, 2025).

In the process of registering land for the first time, a cadastral re-measurement was carried out by the Land Office to determine the actual boundaries and area of the land. On the basis of this measurement, an official ownership right was issued on behalf of the Catholic Church Body of St. Peter and Paul Wlingi Parish in the form of a Certificate of Ownership Number 02694 based on the Decree of the Head of the Blitar Regency Land Office Number 13/HM/BPN-35/XII/2023 dated December 5, 2023. Although the land rights have been legally registered in accordance with the area of the re-measurement, external parties directly adjacent to the church land are suspected of committing unlawful actions in the form of moving boundary markers and encroaching on part of the church land area. Based on the statement document dated August 21, 2025, this land boundary dispute has occurred repeatedly since 2017 and 2020, and reached its peak during the implementation of official land measurements on March 23, 2022, which included the removal of physical boundary markers such as andong trees and permanent stakes (Putut, 2025). The church management has taken strategic steps in the form of collecting ownership documents, strengthening juridical proof, physical security, and cross-structural coordination, but the steps taken are only limited to administrative-juridical settlement through the issuance of certificates and have not fully resolved physical boundary disputes in the field.

The Diocese of Surabaya also has land assets certified as Property Rights Number 1219/Garum Village located in Jurangmenjing Hamlet, Garum Village, Garum District, Blitar Regency. The land is intended to support the operational activities of the Intermediate Seminary of St. Vincentius a Paulo Garum, especially as a residential facility for employees who are actively working in the institution. The legal subject involved in the control of this asset is the Secondary Seminary of St. Vincentius a Paulo Garum which is dealing with a former employee, namely Andreas Rusiantoro. The land and building objects are legally owned by the Diocese of Surabaya based on the Permit Agreement to Occupy Yard Land, where the

land allocation is loan-to-use as long as the person concerned has the status of an active employee (Keuskupan Surabaya & Rusiantoro, 1999).

Legal problems arise because the object of the yard land is still controlled and inhabited by the party who has retired. Based on legal analysis, because Andreas Rusiantoro no longer has a functional working relationship with the Garum Seminary, the land use permit is automatically lost, so that the physical control that is currently maintained is categorized as possession without rights (Sukananda, 2021). Settlement efforts through non-litigation and persuasive deliberation taken by the Seminary have not resulted in the voluntary handover of assets.

The enforcement of criminal law against the act of controlling a building object belonging to a religious legal entity without a valid basis of rights is further reflected in the case of the Defendant Tony Setiabudi. The act fulfills the elements of the criminal act of being in the house illegally carried out jointly as stipulated in Article 167 paragraph (1) jo. Article 55 paragraph (1) 1 of the Criminal Code (KUHP) (Pengadilan Negeri Surabaya, 2019). The violation occurred because the Defendant continued to control the building object on Jalan Samratulangi Number 6 and 8, Dr. Sutomo Village, Tegalsari District, Surabaya City, even though the lease-lease legal relationship had ended. The ownership of the disputed object is registered in the name of the Diocese of Surabaya based on the Building Use Rights Certificate Number 1188. Through the Surabaya District Court Decision Number 2345/Pid.B/2018/PN SBY dated March 20, 2019, the Defendant was sentenced to 3 months in prison, which was then upheld at the appeal level through the Surabaya High Court Decision Number 1708/PID/2019/PT SBY, and strengthened at the cassation level through the Decision of the Supreme Court of the Republic of Indonesia Number 1290 K/Pid/2020 which rejected the Defendant's cassation application, thus providing a binding legal basis for the Public Prosecutor to carry out the criminal execution while restoring physical control to the Diocese of Surabaya (Mahkamah Agung Republik Indonesia, 2020).

In addition, based on the Decision of the Surabaya State Court Number 235/G/2022/PTUN. SBY Jo. Decision of PTTUN Surabaya Number 124/B/2023/PT. TUN. SBY, there was a land administration dispute between PT Kereta Api Indonesia against the Head of the Surabaya City Land Office I and the Diocese of Surabaya as the Defendant II Intervention, with the object of the dispute the Building Rights Certificate Number 486/Keputran Village used by Widya Mandala Catholic University (Pengadilan Tata Usaha Negara Surabaya, 2023). PT Kereta Api Indonesia postulated that the issuance of the certificate was procedurally defective because it was on the assets of Grondkaart Number A 127 of 1937. In response to this, the Diocese of Surabaya filed an exception regarding the grace period for filing a lawsuit, where the plaintiff is proven to have known the physical control of the land since April 13, 2022. The Panel of Judges of the Surabaya State Administrative Court granted the exception to the grace period and declared the lawsuit unacceptable. At the appeal level, the Surabaya State Administrative High Court strengthened all of these legal considerations, so that the status of the issuance of land rights and control on behalf of the Diocese of Surabaya was declared to remain legally valid administratively (Pengadilan Tinggi Tata Usaha Negara Surabaya, 2023).

Table 1. Classification of Land Delicts and Criminal Threats in Law No. 1 of 2023

No.	Legal Aspects/Categories	Article Provisions (Law No. 1/2023)	Delik Elements & Dimensions of Land Tenure	Sanctions & Criminal Threats	Referensi / Doktrin
1	Reform of Criminal Liability	Article 1 paragraph (1)	The application of liability is grounded in the principle of legality. The termination of the legal basis for possession (e.g., employment termination or the expiration of a loan-for-use permit) extinguishes the grounds for lawful possession. Physical possession continuing without a new agreement transforms the nature of the possession into one lacking legal right (constituting a pure criminal offense). It requires an element of culpability encompassing both cognitive (knowledge) and volitional (intent) dimensions.	Adjusted according to the criteria of the offense based on the principle of legality.	<i>Hasibuan et al. (2024); Sianipar (2025)</i>
2	Cluster of Land-Related Offenses (Encroachment)	Article 502	Ensuring legal certainty regarding the subjective rights of the Roman Catholic Church as a legal entity (private legal entity). Criminalization of agrarian fraud. Prohibition of the transfer of rights without valid authority. Prohibition of double-leasing practices.	Imprisonment for a maximum of 5 years or Category V fine (max. Rp500,000,000.00)	<i>Hiariej & Santoso (2025)</i>
3	Offense Involving Enclosed Premises	Article 257	Protecting the institutional privacy of the enclosed grounds of religious institutions (such as monasteries, rectories, and seminaries) against unauthorized seizure or access.	Graduated penalties (based on the severity/classification of the violation)	<i>Hiariej & Santoso (2025)</i>
4	Prohibition on the Unauthorized Use of Yard Space	Article 505	Covers unauthorized acts on land owned by another party that has been clearly marked with boundaries, including: • Bringing in livestock • Planting crops • Constructing a pond	A fine of up to Category II (maximum Rp10,000,000.00)	<i>Hiariej & Santoso (2025)</i>

In the rules in Indonesian criminal law, the analysis of criminal liability is adjusted through the paradigm of criminal law reform in Law Number 1 of 2023 (Statute Book of the Republic of Indonesia Number 1 of 2023, Supplement to Statute Book of the Republic of Indonesia Number 6842). The application of criminal liability is oriented to the principle of legality as stipulated in Article 1 paragraph (1) of the law (Hasibuan et al., 2024). Regulations governing the seizure of land by religious institutions are accommodated through the cluster of land crimes in Article 502, closed yard crimes in Article 257, and the prohibition of the use of yards without rights in Article 505 (Hiariej & Santoso, 2025). Article 502 of Law Number 1 of 2023 guarantees legal certainty over the subjective rights of the Legal Entity of the Roman Catholic Church as a private legal entity, with a maximum penalty of 5 years in prison or a Category V fine (at most IDR 500,000,000.00), which includes the prohibition of the transfer of rights without legal authority, the criminalization of agrarian fraud, and the prohibition of double tenancy practices (Hiariej & Santoso, 2025). The expiration of the basis for rights such as termination of employment or the expiration of the lease-use permit also decides the basis for legal land tenure, so that if the legal subject continues to maintain physical control without a new agreement. There is a change in the nature of ownership from originally legal to possession without rights that transmutes into a pure criminal act by requiring elements of error that include cognitive and volitive dimensions (Sianipar, 2025). In addition, Article 257 protects institutional privacy in closed yards such as monasteries, priests, and seminaries with the threat of tiered criminal penalties, while Article 505 covers unauthorized acts such as entering livestock, planting crops, or creating ponds on land owned by other parties that have been marked with clear boundary marks with a criminal threat of a maximum fine of Category II (a maximum of IDR 10,000,000.00) (Hiariej & Santoso, 2025).

Based on the results of the research, disputes and violations of the law over land assets belonging to the Legal Entity of the Catholic Church of the Diocese of Surabaya show the complexity of problems with civil, administrative, and criminal dimensions (Majid, 2025). These findings show that *de jure* legal certainty through the issuance of Property Rights Certificate Number 02694 at the Santo Paulus Parang Station does not necessarily solve the *de facto* problem in the field, where the act of shifting the stake and the removal of boundary markers by external parties reflects the existence of a post-certification legal vacuum that emphasizes that formal legality must be accompanied by strict physical security (Agung, 2020).

In the case of Garum Seminary, the termination of a contractual relationship or employment relationship automatically aborts the derivative rights of the relevant legal subject, so that physical control that is still maintained by former employees without a legal basis is categorized as an unlawful act (Kusnianto, 2024). Meanwhile, the Supreme Court of the Republic of Indonesia Decision Number 1290 K/Pid/2020 proves that past civil claims cannot be used as a justification for continuing to control buildings owned by religious legal entities (Mahkamah Agung Republik Indonesia, 2020), and the administrative dispute with PT Kereta Api Indonesia emphasizes the importance of compliance with the principle of procedural grace period to ensure the certainty of legal holders of valid certificates.

The application of criminal law instruments in Law Number 1 of 2023 provides a significant update to protect the property rights of the Legal Entity of the Roman Catholic Church through the provisions of Article 502 (Hiariej & Santoso, 2025). To clarify the dimensions of the act, the form of unlawful act (*wederrechtelijk*), the function of judicial

protection, and the threat of criminal sanctions accompanied by a nominal fine based on the classification of the National Criminal Code, the normative elaboration is presented through the following analysis table:

Table 2. Analysis of Article 502 of Law No. 1 of 2023 concerning Criminal Acts of Assets of Church Legal Entities

No	Dimensions of a Criminal Act	Article paragraph	Elements and Forms of Unlawful Acts (Wederrechtelijk)	The Function of Legal Protection for Church Legal Entities	Threat of Criminal Sanctions and Fine Amounts
1	Prohibition on Transfer of Rights Without Lawful Authority	Article 502 paragraphs (1) & (4)	Selling, exchanging, encumbering mortgage rights, pledging or renting out land/buildings belonging to other parties who have the right	Preventive: Prevents the abuse of authority by administrators and mandates written approval from the Church leadership hierarchy.	Imprisonment for a maximum of 5 years or a Category V fine (maximum of Rp500,000,000.00) (Undang-Undang Nomor 1 Tahun 2023)
2	Criminalization of Land Fraud	Article 502 paragraphs (2), (3), & (5)	Concealing the legal status of the land (collateral/pledge/lease) prior to a new transaction, including the falsification of documents regarding the asset's status.	Rehabilitative: Protecting good-faith third parties and safeguarding Church assets against the risk of illegal seizure in execution.	Imprisonment for a maximum of 5 years or a Category V fine (maximum of Rp500,000,000.00) (Undang-Undang Nomor 1 Tahun 2023)
3	Prohibition of Double-Leasing Practices	Article 502 paragraph (6)	Engaging in the subleasing of a plot of land without disclosing information to the owner or the subsequent lessee.	Internal Operations: Preventing social or educational facility managers from exploiting assets without authorization.	Imprisonment for a maximum of 5 years or a Category V fine (maximum of Rp500,000,000.00) (Undang-Undang Nomor 1 Tahun 2023)

The above provisions effectively bridge the law enforcement impasse against parties who refuse to return land assets after their permits expire by fulfilling the element of intentionality, thus turning protracted contract disputes into material crimes that can be acted upon repressively (Kusnianto, 2024). On the other hand, layered protection through Articles 257 and 505 (with the threat of a maximum fine of Category II worth IDR 10,000,000.00) protects the institutional privacy of monasteries, priests, and seminaries from physical disturbances, while providing instruments to prevent the escalation of conflicts through the threat of tiered criminal violations for the seizure of vacant land or reserve land (Hiariej & Santoso, 2025).

Theoretically, legal protection of land assets of the Catholic Church Legal Entity relies on the synchronization between legal certainty and substantive justice, where land certification provides formal certainty administratively, while criminal law instruments function as an ultimatum remedium shield to crack down on perpetrators of agrarian violations who ignore legitimate civil rights (Agung, 2020; Al'anam, 2025). In practice, this study recommends strengthening internal asset management by the hierarchy of church leaders through periodic audits and remapping of physical boundaries, administrative control of loan-use or lease-lease agreements by including a strict automatic vanishment clause if the validity period of the agreement or employment relationship has expired, as well as the optimization of deliberation-based non-litigation pathways as a first step supported by firmness in taking the criminal route based on the provisions of Law Number 1 of 2023 if the good faith of a third party is ignored (Rizki & Sutrisno, 2025).

CONCLUSION

Based on the research findings and discussion, the legal protection of agrarian assets held by Roman Catholic Church legal entities in Indonesia can be summarized in three main points. First, criminal law enforcement against unlawful land occupation may be pursued under Law Number 1 of 2023 concerning the Indonesian Criminal Code (Kitab Undang-Undang Hukum Pidana or KUHP), subject to the fulfillment of the constituent elements of the relevant criminal offense (*strafbaar feit*). This includes the offense of unlawful land occupation under Article 502, which carries a maximum penalty of five years' imprisonment or a Category V fine of IDR 500,000,000.00; the offense concerning unauthorized entry into an enclosed yard under Article 257; and the offense of destruction or unauthorized use under Article 505, which carries a maximum Category II fine of IDR 10,000,000.00.

Second, efforts to achieve substantive justice for legal entities as juridical persons can be grounded in the integration of Gustav Radbruch's legal theory and Routine Activity Theory. The validation of agrarian documents supports legal certainty, effective investigation that is not improperly obstructed by parallel civil litigation supports justice, and the restoration of lawful physical possession of land promotes legal utility. These three dimensions can be reinforced by strengthening the legal status of land assets through certification, enhancing internal supervision by responsible administrators as capable guardians, and ensuring effective law enforcement to deter motivated offenders.

Third, preventing unlawful occupation requires comprehensive preventive and protective strategies. These measures include accelerating the certification of land rights in the name of the appropriate legal entity, digitizing agrarian records, installing permanent boundary markers, establishing a cross-agency asset protection and advocacy team, and formalizing legal arrangements governing the use of assets through notarial deeds containing legally enforceable clauses requiring the surrender and vacation of the property upon termination of the relevant legal relationship.

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CONFLICT OF INTEREST

The author states that there are no conflicts of interest in this study, whether personal, commercial, or financial, that can affect the objectivity of the research results.

AUTHOR CONTRIBUTION

All authors contribute equally to the entire research process, starting from the formulation of ideas and concepts, data collection and analysis, to the preparation and editing of the final manuscript.

GENERATIVE ARTIFICIAL INTELLIGENCE USAGE STATEMENT

In the process of preparing this manuscript, the author uses the help of Artificial Intelligence (AI) on a limited basis, which is solely for the purpose of grammar examination and language refinement. AI is not used in the process of data collection, substantive analysis, or drawing research conclusions.

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