

**LEGAL ASPECTS OF DIGITALIZATION IN LAND REGISTRATION****Risky Andes Syaputra**

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**Abstract**

In order to carry out land registration, it is necessary to have an institution that serves affairs related to land, the institution in question is the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN). The research used *isnormative legal research*, namely research conducted by reviewing the laws and regulations that apply or are applied to a particular legal problem. Legal sources in this study include primary legal sources obtained from legislation and other regulations related to research problems and secondary legal sources obtained from law books, journals and other scientific works related to research. From the results of the research, it is concluded that the regulation of digital services in land registration is currently only regulated in part or separately from regulations related to information technology and land registration regulations. The regulations for digital land registration services have not been specifically regulated in one regulation, even though computerized services and service innovations with digital systems in land services have been implemented. The impact of this digital service can be related to the protection and legal certainty of the community for their land rights, so the digital land registration service must be regulated in a complete regulation, so that the community is not harmed. The procedure for implementing digital registration is not in accordance with the land registration regulations, as well as the protection of employees who provide these services is not regulated in special regulations so that currently in addition to digital services with KKP the service process and manual data at the Land Office are still in use, the problem is if there are Differences in data between digital and manual data that are not known by implementing employees will cause fatal errors, so it can be said that the digital registration service process has not fully guaranteed legal certainty and protection.

Keywords: Legal Aspects, Digitalization, Land Registration

## INTRODUCTION

The Basic Agrarian Regulation (UUPA) in it stipulates that the state guarantees the rights of the community to their land and provides recognition of existing land rights. Article 1 point 9 Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration, states that land registration is a series of activities carried out by the Government continuously, continuously and regularly including collection, processing, bookkeeping, and the presentation and maintenance of physical data and juridical data, in the form of maps and lists, regarding plots of land, above ground space, basement and apartment units, including the issuance of certificates of proof of their rights for land parcels, space Over land, basements that already have rights and ownership rights to the Flats Unit as well as certain rights that burden it.<sup>1</sup>

In the context of carrying out land registration, an institution that serves affairs related to land is needed, the institution in question is the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN) which is given the authority to manage Government affairs in the land sector. The Ministry of ATR/BPN will continue to face challenges as a result of increasing demand for public needs, both in terms of quality and quantity. This is in line with the increasing population, economic growth, increasing community welfare, and environmental changes that continue to grow, so that the number of land services will increase and increase.<sup>2</sup> The following diagram illustrates the increasing number of services of the Ministry of ATR/BPN:



Figure 1. Number of Land Certificates (Legalization of Assets) throughout Indonesia

<sup>1</sup> Article 1 point 9 of the Government Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration.

<sup>2</sup>Recapitulation of BPN RI data,[www.bpn.go.id](http://www.bpn.go.id), accessed on 20 May 2014, at 12:10 WIB.

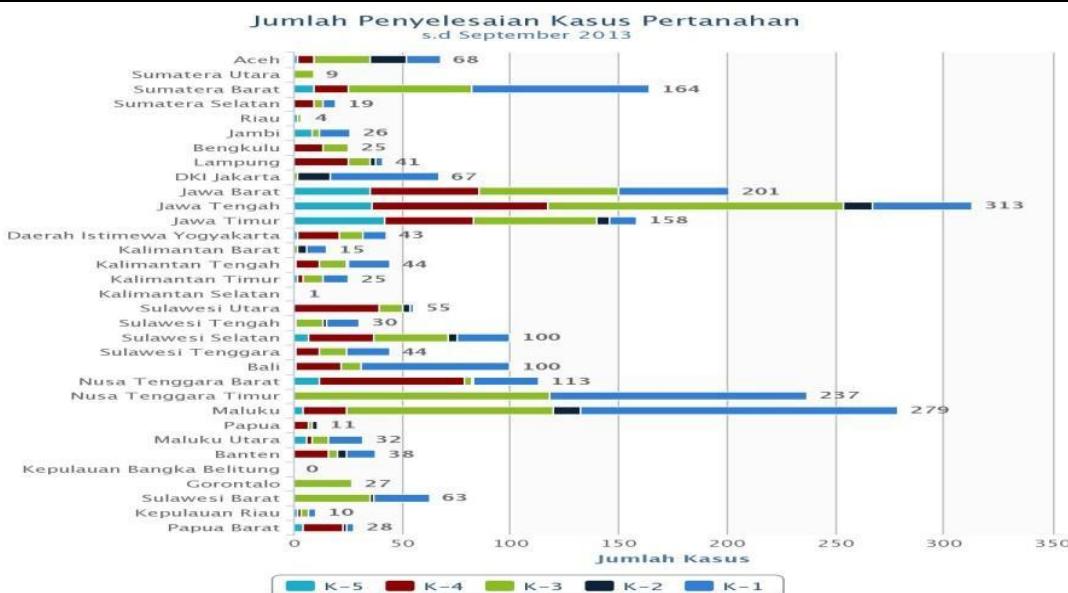


Figure 2. Number of Land Cases in Indonesia

From With the development of the increasing number of land services, manual service methods using tools, materials, and simple storage can no longer be maintained, because they are prone to recording errors, damage or loss of files, documents, maps, and other important documents which mean the purpose of registration. land in Government Regulation No. 24 of 1997 is difficult to realize. To face this challenge, better methods are needed so that land services can keep up with developments and community needs. The method of service in the land sector is information technology.<sup>3</sup>

The use of information technology aims to create orderly land administration, improve and accelerate services in the land sector, improve the quality of land information, to facilitate the maintenance of land data, save *space/storage* for storing land data in digital (*paperless*) form, improve the capacity of the Ministry's human resources. ATR/BPN in the field of information technology/computers, standardize data and information systems in order to facilitate the exchange of land information and create a reliable land information system.<sup>4</sup>

The Ministry of ATR/BPN In 2010 has started overhauling the system, application and database. adoption of the *Land Administration Domain Model* application architecture *N-Tier*-based user interface *web*, a centralized database at the Head Office of the Ministry of ATR/BPN, maintenance and maintenance of the application is carried out independently and one database for textual and spatial data. Until 2010 the implementation of Computerized Land Offices (KKP) in 430 Land Offices with funding through the State Budget. With the implementation of the KKP, there has been a transformation of public services in the land sector at the Land Office, there is no longer a manual application for land rights certificates, the process for applying for land rights certificates can be monitored via a computer, the process for applying for land rights certificates can be carried out in an orderly and sequential manner. (*first in first out*), the establishment of a land database that is always *up to date* and can be used in land information service activities.<sup>5</sup>

Along with the implementation of the KKP in various Land Offices throughout Indonesia, a land database was also built through the conversion or digitization of land data,

<sup>3</sup> Ahmad Ali, *Uncovering the Veil of the Law*, Second Edition, (Bogor: Ghalia Indonesia, 2008

<sup>4</sup> <http://www.bpn.go.id/Publikasi/Inovasi/Komputerisasi-Layanan-Pertanahan>, accessed on 20 May at 14.05 WIB.

<sup>5</sup> Ilmar Aminuddin, *Governance Law*, (Makassar: Hasanuddin University Press, 2013), p. 10.

both textual data (land books) and spatial data (measurement letters and land registration maps). The problem that arises is to what extent the law accommodates regulations regarding the procedure for digitizing land registration, lest this digital service create legal uncertainty and weak legal protection to the public because digital land registration services still have shortcomings such as the unintegrated digital service from the Head Office level to the The Land Office, *database* is still not good, the service innovation is not uniform throughout Indonesia as well as *database* the wrong *input* or wrong *entry* in the form of spatial data or textual data, who is responsible for this kind of negligence.

## **RESEARCH METHOD**

The research used *isnormative legal research*, namely research conducted by reviewing applicable laws and regulations or applied to a particular legal problem.<sup>6</sup> In this paper, it is focused on aspects of the legal regulation of electronic system operators in land services which are carried out in a descriptive-analytic manner with a qualitative approach. Legal sources in this study include primary legal sources obtained from legislation and other regulations related to research problems and secondary legal sources obtained from law books, journals and other scientific works related to research.

## **RESULTS AND DISCUSSION**

### **A. Legal Accommodating Administration of Digital Services in Land Registration**

#### **1. Definition of Digital Services in Land Registration The**

development of the national law of the Republic of Indonesia is structured in laws and regulations, the last amendment being the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Legislations. In the statutory provisions it is explained that statutory regulations are written regulations that contain legally binding norms in general and are established or determined by state institutions or authorized officials through the procedures stipulated in the statutory regulations.<sup>7</sup>

The land registration service at the Ministry of ATR/BPN is one of the mandates of the legislation, and in its development now land registration services are carried out in digital form. As for digital services in land registration, including the following:

- a. Computerized Land
- b. Services Types of Electronic Land Information Services according to Ministerial Regulation ATR/BPN Number 5 of 2017 which includes checking Land Rights Certificates, Land Registration Certificates, Textual data information and/or or spatial, Land Value Zone Information, coordinate point information, *Global Navigation Satellite System (GNSS)/Continuously Operating Reference System (CORS)*, Land map information, Spatial information and other information services to be determined later.
- c. Community Service Program for Land Certificate (Larasita)
- d. *One Day Service*
- e. Quick
- f. Service Seven Minute
- g. Service Community Member Service;
- h. Etc.

<sup>6</sup> Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2005), p. 76

<sup>7</sup> Sahya Anggara and Ii Sumantri, *Development Administration*, (Bandung: Pustaka Setia, 2016), p. 91

## 2. Laws and Regulations Regulating Digital Services for Land Registration

- a. Law Number 11 of 2008 concerning Information and Electronic Transactions  
Law Number 11 of 2008 concerning Information and Electronic Transactions is a legal umbrella for procedures for utilizing information technology because the conventional legal system approach has no longer relevant to use. The use of this information technology causes the world to become *borderless*, considering that its activities can no longer be limited by the territory of a country, access can easily be done from any part of the world.
- b. Law Number 14 of 2008 concerning Public Information Disclosure (UU-KIP)  
This law states that Electronic Information is one or a set of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, *electronic data interchange (EDI)*, electronic mail (*electronic mail*), telegram, telex, *telecopy* or the like, letters, signs, numbers, access codes, symbols, or perforations that have been processed which have meaning or can be understood by people who are able to understand them.<sup>8</sup>
- c. Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flat Units, and Land Registration  
Regulations for digital data management, namely in article 35 paragraph (5) which states that gradually land registration data is stored and presented using electronic equipment and microfilm and paragraph (6) which states that the recorded document produced by an electronic device or microfilm as referred to in paragraph (5) has the power of proof after being signed and affixed with an official seal by the Head of the relevant Land Office.
- d. Presidential Decree Number 34 of 2003 concerning National Policy in the Land Sector  
In Paragraph (1) letter b, assigns the National Land Agency to build and develop the National Land Information and Management System (SIMTANAS) number 2 regarding the preparation of textual and spatial data applications in registration services land and the preparation of a database of land tenure and ownership, which is linked to *e-government*, *e-commerce* and *e-payment*. This provision is used as the basis for the National Land Agency in preparing electronic systems for the widespread use of computer systems which include hardware, software, and communication networks.
- e. Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration, which describes the storage media and procedures for storing land data and documents.
- f. Regulation of the Head of BPN RI Number 1 of 2010 concerning Service Standards and Land Regulations.  
This regulation is a guideline in the context of implementing Land Service Standards and Regulations within the Ministry of ATR/BPN, the purpose of this regulation is to realize legal certainty, openness and accountability of public services.
- g. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 5 of 2017 concerning Electronic Land Information Services.  
This regulation describes land information services, land information services

<sup>8</sup>Article 1 paragraph (1) of Law 14 of 2008 concerning Openness of Public Information.

can be provided electronically through an electronic system in the form of a Land Information Service application provided by the Ministry.

- h. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 9 of 2019 concerning Electronically Integrated Mortgage Services.
- i. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 7 of 2016 concerning the Form and Content of Land Rights Certificates.
- j. Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 3 of 2019 concerning the Application of Electronic Signatures.

Based on the rules relating to digital land services above, the position of digitizing or in this case is a digital application. Computerization of the Land Office is only tools, while SOPs and products remain valid and comply with other land registration rules. Only the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 9 of 2019 concerning Electronic Integrated Mortgage Services is truly an electronic service product, while the 1-sheet certificate is regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the Land Agency. National Law Number 7 of 2016 concerning the Form and Content of Land Rights Certificates has not been implemented until now.

## **B. Aspects of Legal Certainty in the Land Digital Service Process and Products Produced**

In the land digital service process there are various weaknesses that can result in legal uncertainty and legal protection for applicants (community) and employees within the Ministry of ATR/BPN, as for these weaknesses, namely

### 1. Hackable data

Regulations or legal aspects in the procedure for digital land registration services have not been specifically considered, especially regarding *database* from hackers, there are no regulations that protect digital land data which is a living document or directive regulations if digital land data is hacked, changed, bugged, or bugged.

### 2. Error in *entry* data

Negligence and errors of these officers can be fatal and will increase the number of land disputes so it is necessary to make clear regulations regarding this matter to ensure legal certainty and protection of land rights certificates for the community.

### 3. There are differences in the work process between KKPWeb and the work process based on regulations.

From the sequence of service processes for the KKPWeb application, researchers found differences in the process of the KKPWeb application with the procedures regulated in Government Regulation No. 24 of 1997 concerning Land Registration, which according to Article 14 PP 24 of 1997, measurement and mapping includes:

- a. Preparation of registration base maps
- b. Determination of boundaries of land parcels
- c. Measurement and mapping of land parcels and preparation of registration maps.
- d. Making land registers
- e. Making measuring documents

While the measurement and mapping work in the KKPWeb application is only:

- a. Determination of boundaries of land parcels
- b. Measurement of land parcels
- c. Making maps

4. The service process that has not been accommodated in KKPWeb

Computerization of the Land Office as the name implies has only accommodated services at the Land Office level or Regency/City level while land services are not only at the Land Office level but at the Regional Office level and at the Central ATR/BPN Ministry. If there are services that require registration through the Regional Office or the Central ATR/BPN Ministry, KKPWeb cannot accommodate and the service is still applied manually, for that it is necessary to make clear rules regarding this.

5. Treatment of incorrectly uploaded data and inadequate supervision

The absence of procedures to be carried out for the supervision of incorrect spatial data that has been *uploaded* to the *base map* GeoKKP *a one map policy*. Supervision in building a land database at GeoKKP is still weak because the digitalization system for land registration services has not been connected from the Central level to the Land Office, resulting in *overlapping* digital maps that are difficult to monitor. Problems like this have not been regulated regarding who is responsible for synchronizing spatial data on the *basemap* KKPWeb. Likewise with textual data that does not have a clue if the data that has been uploaded is incorrect

6. Land Database and Land Data Conditions

Digital land registration services can only be effectively implemented if *databases* are both land books (textual data) as well as letters of measurement and field maps (spatial data). ) has been converted into digital form, *database* will prevent land problems such as multiple certificates from occurring, but on the other hand if *database* is not accurate then digital land registration services will only add to the list of land issues.

Based on the weakness of the digital service process in the land registration service process above, we can see that the regulations or regulations governing the certainty of objects and subjects in the digital land registration service process are not yet specific, as well as the protection of employees who provide these services are not regulated in special regulations so that Currently, in addition to digital services with the KKP, the service process and manual data at the Land Office are still in use, the problem is that if there is a difference in data between digital and manual data which will be used, it can be said that the digital registration service process has not fully guaranteed certainty and protection. law.

The land registration law will show in its entirety the juridical condition of a plot of land, including public rights as well as existing restrictions. Each plot of land is legally defined, its legal status is carefully ascertained and the juridical data is kept in a public register. On the other hand, if the land registration does not fully describe the legal status of the land parcel, then the security of ownership, which is also important for the government and administrative, economic, and individual land owners will not be protected. With further consequences, the absence of legal guarantees will lead to uncertainty, lack of confidence of interested parties, irregularities.<sup>9</sup>

<sup>9</sup> Widhi, Handoko, Reconstruction of the Land Bureaucratic System Towards the Concept of Justice in the Political Framework of Agrarian Law: A Review of the Implementation of MPR RI Decree No. IX/MPR/2001, *Journal of the Constitution*, Vol.IV, No.2, November 2011, pp.140-162.

The government's choice, in this case the Ministry of ATR/BPN, to implement and follow the development of information technology, is a proper policy and a necessity to achieve the objectives of land services, this policy choice in service is what Moh. Mahfud MD<sup>10</sup> is said to be legal politics, *legal policy*, which is a law that will be enforced or not enforced to achieve state goals.

## CONCLUSION

The regulation of digital services in land registration is currently only regulated in part or separately from regulations related to information technology and land registration regulations. The regulations for digital land registration services have not been specifically regulated in one regulation, even though computerized services and service innovations with digital systems in land services have been implemented.

The impact of this digital service can be related to the protection and legal certainty of the community for their land rights, so the digital land registration service must be regulated in a complete regulation, so that the community is not harmed. The procedure for implementing digital registration is not in accordance with the land registration regulations, as well as the protection of employees who provide these services is not regulated in special regulations so that currently in addition to digital services with KKP the service process and manual data at the Land Office are still in use, the problem is if there are Differences in data between digital and manual data that are not known by implementing employees will cause fatal errors, so it can be said that the digital registration service process has not fully guaranteed legal certainty and protection.

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<sup>10</sup>Moh. Mahfud. MD, *Legal Politics in Indonesia*. (Jakarta: Rajawali Pers), p. 2.