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REVIEW OF ELECTRONIC LAND CERTIFICATES IN PROVIDING LEGAL CERTAINTY AND PROTECTION IN KUDUS REGENCY

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Abstract

A land certificate is physical proof of ownership rights to land. The potential for abuse can occur in the form of land certificate forgery, duplicate land certificates, overlapping land ownership, and lost or damaged land certificates. To facilitate services to the public and provide legal certainty and protection, the government, including the Kudus Regency Government, is changing the format of land certificates to electronic land certificates. The approach method used is socio-legal.

Kudus Regency, through the Kudus Regency Land Office, is striving to realize the Complete Regency/City Program through electronic certificates. The implementation of electronic land certificates in Kudus Regency shows that the digitalization of the land registration system can improve service efficiency, streamline bureaucracy, and reduce the potential for scalping practices. The support provided by the Kudus District Land Office, through socialization, training, and the implementation of encryption technology, strengthens public trust in the digital land system.

Keywords: Electronic Land Certificates, Legal Certainty, Legal Protection

INTRODUCTION

As a developing country, Indonesia is not only advancing in certain fields but also in all aspects of life that are becoming increasingly progressive. Along with this, development in all aspects is also progressing, so the community needs to obtain legal certainty in every legal action taken. The guarantee of legal certainty referred to includes order and legal protection, thereby creating a sense of security for every legal act performed.

One form of legal certainty in the field of land tenure is the existence of proof of land ownership rights, commonly referred to as a certificate. The development of agrarian law, particularly concerning the certainty of rights and subjects of rights, can be seen in Article 19 of Act No.5 of 1960 on the Basic Agrarian Law (UUPA), which states that to ensure certainty of rights and legal certainty regarding land, the government requires landholders to register their land. The land registration includes

measurement, mapping, registration of land rights, transfer of those rights to other parties, and the issuance of certificates of land rights, which serve as strong evidence as regulated in the UUPA.

A land certificate is a document proving ownership rights over land, which is a product resulting from land registration activities. The land registration institution in Indonesia only came into existence in 1960 with the enactment of Government Regulation Number 10 of 1961, which regulates land registration. This institution was established under the mandate of the UUPA, as one of the objectives of the UUPA is to provide legal certainty for the land rights of the Indonesian people. Article 19 of the UUPA mandates that this legal certainty will be realized through the implementation of land registration throughout Indonesia.

Entering the reform era has indirectly spurred the rapid development of the national legal system related to information and communication technology, one of which is in the field of land tenure. The proliferation of cases involving land certificate forgery, duplicate land certificates, and overlapping land certificates has led to the rise of land mafia, resulting in disputes that harm the community.

With the occurrence of such cases, land title certificates may no longer provide legal certainty for the community. Therefore, the government should implement a new legal breakthrough that can keep pace with the increasingly complex dynamics of society related to land issues (Alimuddin, 2021). If there are changes in society, then the law must also undergo changes or additions, both in positive legal norms and legal institutions (Dhoni Yusra, 2013). If not, then the law will only stagnate, lagging behind the times, as the legal adage goes, *"het recht hink achter de feiten aan."*

As an effort to create modernization in land services, electronic-based land services have begun to be implemented, including the production of documents in the form of electronic documents or electronic land certificates, as regulated in the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 1 of 2021 concerning Electronic Certificates (Silviana, 2021).

Electronic land certificates have become a policy adopted by the government to realize legal certainty in the field of land tenure. The use of digital technology in the land sector then becomes a special focus, namely the new regulation stating that all original land certificates owned by the public will be withdrawn starting in 2021. This then certainly raises concerns and issues for the community regarding the existence of the land certificates that have already been owned.

Because providing legal certainty regarding landowners' rights is very important, it begins with the issuance of legal products in the form of land ownership certificates by the National Land Agency (BPN) after conducting land registration activities aimed at protecting the community's rights to their land ownership (AgnisyaPutri & Gunarto, 2018).The purpose of changing land certificates to electronic certificates is partly due to ongoing issues regarding land ownership.

For example, a piece of land that has been controlled by a legal subject

for years and is even equipped with a land certificate still faces claims from external parties. Therefore, it is crucial to provide legal protection for the holders of land ownership certificates, especially for those who have acted in good faith by physically controlling the land for years against objections and legal actions from external parties (Kusuma et al., 2017). Thus, the government then implemented a policy in the field of land services to facilitate the granting of public rights to obtain public services, namely through land services conducted with an electronic digital system.

The implementation of land registration throughout Indonesia has not yet fully reached all land parcels, so the majority remain unregistered. In addition, physical and juridical data for each plot of land are not yet fully available, so this certainly requires serious attention to the issue. The community actually needs more ease in managing land ownership certificates themselves.

For example, until now there is no definite timeframe for processing land certificates, there are varying standards of requirements, and even different costs in each region. Another condition that needs to be the focus of the BPN, rather than just changing the physical form of land certificates to electronic ones, is also unraveling various land-related issues, such as land certificate forgery, duplicate land certificates, overlapping land ownership, and lost or damaged land certificates.

If the government's policy only functions to change the form of the certificate from a book to electronic without addressing the needs of the community and does not necessarily raise awareness of the importance of registering their land, then the electronic land certificate will not be very beneficial. On the contrary, it could lead to other issues because land title certificates have many functions and connections with various aspects. However, can the existence of electronic certificates actually minimize land disputes and curb the rampant land mafia in Indonesia, so there should also be many considerations in changing land certificates from book form to electronic form.

This research focuses on the Kudus Regency, because according to the Head of the ATR/BPN Office of Kudus Regency, Heru Muljanto, based on the Decree of the Minister of ATR/BPN of the Republic of Indonesia No.285/SK-OT.01/III/2024, Kudus Regency through the ATR/BPN Office is one of the 104 ATR/BPN Offices designated as a priority agency in realizing the Complete Regency/City program through the implementation of electronic land certificates.

Similarly, according to the Notary/PPAT of Kudus Regency, Lydia Ermawati, the government and lawmakers need to conduct external oversight and ensure that this system is audited periodically to verify data validity. Additionally, there is a need to establish regulations (SOP) that encompass principles of transparency, legal protection, and legal certainty for rights holders, as well as to conduct independent oversight of the digitalization system, which provides data security and encryption for transparency and immutable recording through electronic land certificates.

MAIN PROBLEM

In relation to this matter, this article raises two main topics that are important to examine and that is:

1. How is the implementation of electronic land certificates in land registration activities?
2. How significant are the opportunities for legal certainty and protection for the community from the existence of electronic land certificates in Kudus Regency?

METHOD OF RESEARCH

The approach method used in this research is the empirical juridical method. Empirical juridical research is a legal study regarding the enactment or implementation of normative legal provisions directly on each specific legal event occurring in society. In this empirical juridical approach, it will examine the Review of Electronic Land Certificates in Providing Legal Certainty and Protection in Kudus Regency.

RESEARCH RESULT AND DISCUSSION

1. Electronic Land Certificates in Land Registration Activities

If examined from the content of the legal regulations, agrarian law is a set of rules that govern various matters related to land. These regulations not only concern the legal relationship between humans and land but also govern the administration of land allocation, use, provision, and maintenance. In this context, both the actions and decisions of bodies and/or state officials in regulating and managing various aspects are an integral part of land administration activities, which serve as the backbone of the national agrarian system.

One of the fundamental instruments in the implementation of land administration is land registration. Land registration not only serves as a means to record and guarantee the existence of land rights but also acts as a formal mechanism to prevent and resolve agrarian disputes, provide legal certainty, support spatial planning, and strengthen the implementation of national development.

As a rule of law state, the Indonesian government, in relation to issuing land certificates, must be able to provide legal certainty for its citizens. To achieve legal certainty, the government must act in an accountable and transparent manner, as in the concept of good governance, so that the exercise of governmental power is also in accordance with good governance (Arisaputra et al., 2017). With orderly, transparent, and reliable land administration, it is hoped that a fair, efficient, and sustainable land governance can be realized for the greatest prosperity of the people. On the contrary, if land administration cannot be carried out in an accountable and transparent manner, it will lead to various problems, particularly related to proof of land ownership or land certificates. One common example is the issuance of duplicate certificates, which makes it difficult for the community to obtain accurate information about a piece of land. This condition also has the potential to trigger various land disputes within the community.

The digital era must be faced by society for the advancement of information technology. Digitalization, which has a significant impact on efficiency and effectiveness, aims to simplify public service processes. Through legislation, the government also supports the transformation of

public services towards digitalization, including community services in the field of land or agrarian affairs to achieve optimal legal certainty and enforcement.

The advancement of information technology also drives the transformation of strategies and public services, including in the implementation of land registration. The process of issuing land certificates, which was originally done manually, has now shifted to an electronic process. The electronic registration of land results in the issuance of proof of land ownership rights in electronic form. The provisions regarding the issuance of electronic certificates are regulated in Article 6 of ATR/BPN Regulation No. 1/2021 on Electronic Certificates. This provision is also in line with Law Number 11 of 2020 concerning Job Creation (Job Creation Law), which also regulates land aspects to support ease and legal certainty in land services.

The new policy by the Government through the Ministry of ATR/BPN regarding land certificates, namely that land certificates are no longer in the form of paper or books, but rather in electronic form with data directly entered into the land system data. As stated in Government Regulation (PP) Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, this regulation is a follow-up to the provisions of Article 142 and Article 185 letter b of the Job Creation Law, which also regulates the land sector.

The policy of implementing electronic land certificates is a form of e-government policy. E-government is the answer to ending the problems in providing services to the community so as not to create bigger issues. E-government is realized in the form of electronic-based public services. Currently, the Central Government and Local Governments are striving to develop electronic-based e-government, one of which is being carried out by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN) in providing land services through electronic land certificates (Andiyanto et al., 2021).

However, this policy of the Ministry of ATR/BPN still raises concerns and doubts, especially regarding the security of the land certificates. What if a hacking incident occurs that results in the leakage of important community data, which is then misused by irresponsible parties? When a dispute occurs, a land certificate becomes a proof of ownership of a piece of land, so many people feel that holding a physical copy of the land certificate is very important.

So far, the public has the right to keep the original certificates that have been issued in physical form. Meanwhile, if it is then converted into an electronic land certificate, it should facilitate the completeness of the land database in the Government or in case the physical certificate is damaged or lost. So, with the digitization of land certificates, it does not mean to replace the people's rights to the original land certificates.

The regulation on the security of digital land certificates in Indonesia is currently outlined in Permen ATR/BPN Number 1 of 2021. The security of digital land certificates as stated in the regulation is in the form of a unique code/hashcode accompanied by a

Quick Response Code (QR Code) or a code containing encrypted data that can be used to access information directly through the system provided by the Ministry.

In addition, there is an electronic signature that has been certified by the Electronic Certification Institute, and based on Article 3 paragraph (3) of ATR/BPN Regulation Number 1 of 2021, all data, information, and/or electronic documents are stored in the electronic system database. This has caused pros and cons because many people are concerned that the electronic system database could potentially be hacked. Digital land certificates can be lost in an instant and can certainly cause significant losses for their owners.

Therefore, in order to ensure and protect the security of electronic data in terms of recognition of land ownership evidence, a national land database can back up the information contained in electronic certificates and/or electronic documents deemed valid so that it can be accessed, displayed, guaranteed its integrity, and held accountable to explain a situation. Accurate land mapping and data collection throughout Indonesia should be conducted to prevent overlapping land ownership that could lead to land conflicts or disputes. In addition, in the process of issuing electronic certification, the government must also continue to observe and uphold the principles in land registration that should serve as the basis for conducting land registration for the issuance of electronic certificates, as stipulated in Government Regulation Number 24 of 1997, specifically in Article 2 (Rosmidah et al., 2021).

2. Opportunities for Certainty and Legal Protection of Electronic Land Certificates in Kudus Regency

At the beginning of 2021, the Minister of Agrarian Affairs/Head of the National Land Agency issued a product document as proof of land ownership rights in electronic form or electronic certificates. The policy implemented is aimed at furthering the provisions of the Job Creation Law in the field of Land, whereby land services are transitioned to an electronic form, including the documents proving land rights, which are also in electronic form. The electronic land registration services have actually been planned since the enactment of Government Regulation No. 24 of 1997 Article 35 paragraphs (5), (6), and (7), which stipulates the policy on electronic land certificates.

The government, through the Ministry of Agrarian Affairs and Spatial Planning, has issued regulations on the use of electronic certificates through the ATR/BPN Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates. In the Ministerial Regulation, electronic certificates will later use hash codes, QR codes, and single identity, thereby simplifying the bureaucracy in land certificate management through advancements in digital information technology. In utilizing technology to provide services to the community, the electronic certificate program also has the potential to prevent collusion and corruption in the processing of land certificates as well as the emergence of duplicate certificates.

Gradually, land registration data is stored and presented using electronic equipment and microfilm. The recording of documents produced by electronic devices or microfilm has

evidentiary power after being signed and stamped by the Head of the relevant Land Office. The form and method of storage, presentation, and deletion of these documents are explained in paragraphs (1) and (2) of Article 35, as well as the method of storage and presentation of land registration data using electronic devices and microfilm, which are determined by the Minister. In other words, BPN has actually begun to prepare itself for providing electronic-based land registration services.

The implementation of electronic land registration in Indonesia will be carried out in stages based on the readiness of human resources and infrastructure at each District/City Land Office in accordance with the Minister's decree. The issuance of electronic certificates begins with the initial land registration, followed by the maintenance of land registration. The electronic document issued during the initial land registration is an electronic certificate for unregistered land.

Meanwhile, for those who will convert media, they must submit a request to change from an analog certificate to an electronic certificate for registered land. The analog certificate will then be withdrawn and converted (scanned), and the analog certificate will be combined into the land registration document and stored at the Land Office. The result of the implementation of electronic land registration is in the form of electronic documents that are then validated using electronic signatures, and/or documents that are converted into electronic documents through validation by Land Office officials or designated officials and given digital stamps through the electronic system.

Currently, the Government continues to strive to conduct national land registration activities in a short, inexpensive, and successful manner. In addition, land registration must still be adjusted to the socio-economic conditions of the community so that land registration can be accessible to all layers of society. Land registration aims to achieve administrative order, legal order, and to meet the demands and expectations of the community (Kurniawan et al., 2021).

The implementation of land registration will result in a final product in the form of a certificate as proof of land ownership rights. However, in its implementation, there are certainly obstacles, both in the administrative execution and from the awareness of the community itself, especially for the general public who do not yet fully understand the importance of land registration. Therefore, it is clear that there is an obligation that must be fulfilled by the land rights holder to register the land they own in order to obtain proof.

The land certificate issued aims to provide legal certainty and legal protection for the owner or holder of rights over a piece of land. Additionally, the existence of the Land Office as the main institution is also necessary for the community to provide important information related to land matters and to ensure that the order of all administration can be properly recorded and does not harm the community. The land certificate that has been issued according to Article 19 of the UUPA has strong evidentiary power and meets several criteria, namely:

a. The land rights certificate originates and is obtained in good faith;

b. The holder of the land rights directly controls the land; and
c. The land ownership certificate is legally issued in the name of an individual or legal entity.

As an effort to ensure legal certainty of land rights, land registration must include:

a. Cadastre of rights, which is the activity of measuring and mapping land parcels and registering these parcels in land registers. Land parcels of rights are parcels owned by individuals or legal entities with certain rights.
b. Registration of rights, which is the activity of registering rights in the land book register under the name of the rights holder. Currently, the implementation of electronic certificates is also being applied in various regions, including Kudus Regency, with its execution being carried out in stages. Based on research data, in the initial phase of electronic certificate implementation, a crucial challenge emerged in the form of an increase in land disputes caused by the low public understanding of the existence of electronic land certificates and the incomplete transition process from the conventional certificate system to electronic land certificates.

These challenges are reflected in the limited ability of the community to access or use electronic land certificates, the limited internet access and technological devices in certain areas, concerns about the risk of electronic data breaches, and the complexity of the process of transitioning from physical to electronic certificates, which requires time, effort, and inter-agency coordination. The electronic certificate program also actually has the potential to create opportunities for the abuse of authority, especially for communities that do not yet understand what an electronic certificate is and what programs are included in the electronic certificate. Currently, electronic certificates will only be effective in urban areas because access in villages and remote areas in Indonesia is still very limited, especially regarding internet connectivity.

Nevertheless, land registration that results in electronic certificates can provide significant ease for the community in accessing and carrying out the land registration process electronically, unlike conventional certificates whose registration process tends to be difficult and convoluted, leading to rampant brokerage practices that greatly harm the community (Negara et al., 2021). The differences between electronic land certificates and conventional ones can be seen in the research data from the ATR/BPN Office of Kudus Regency, as presented in the following table:

Table 1. Comparison of Electronic Land Certificates and Conventional Land Certificates

Aspect	**Land Certificate**	
	Electronic	**Conventional**
Accessibility	Digital through the online system	Physical at the Land Office
Average duration	Faster/days count (submission, verification, and issuance that can be done online)	Weeks count
Administrative fee	Lower/cheaper (paperless), but there may be additional	Higher/more expensive (paper usage and manual processes).

	costs for digital infrastructure or training.	
Transparency of the process	*Real-time* and accountable	Restricted
Final result	Electronic documents (digital)	Physical documents (paper)

Source: Research Results at the ATR/BPN Office of Kudus Regency

Based on the data above, it can be concluded that the electronic land certificate system provides significant advantages in terms of procedural efficiency, both in terms of service duration, administrative costs, process transparency, and accessibility for the community. The registration process, which previously took weeks in the conventional system, can now be completed in a matter of days due to digitalization that allows submission, verification, and issuance to be done online without having to visit the Land Office.

The procedural advantages are reinforced by the legal aspects underlying the implementation of electronic land certificates. The procedure for applying for electronic land certificates does not undergo fundamental changes in terms of formal and material aspects and refers to Government Regulation Number 18 of 2021. The procedure for issuing electronic land certificates is similar to conventional land certificates, but it has been adjusted to the digital service system.

The procedural flow for applying for an electronic land certificate is carried out in stages, namely: 1) The applicant submits the application through the online system or by visiting the Land Office directly; 2) The applicant completes the required documents such as the Identity Card, Family Card, proof of land ownership, and other relevant supporting documents; 3) The officer conducts data verification and land measurement based on the submitted data and documents; 4) The physical and juridical data of the land are inputted and recorded into the electronic system; 5) The land certificate is issued in digital form through the electronic system and can be accessed by the applicant via the official National Land Agency application or through email; and 6) The applicant receives a QR Code as an authentication instrument to access the electronic land certificate.

As a form of implementing institutional duties and responsibilities, the ATR/BPN Office of Kudus Regency has implemented strategic measures to ensure and guarantee the security and validity of electronic land certificate applicants' data. The use of encryption technology is implemented to prevent unauthorized access and protect data integrity from the threat of illegal access, while also ensuring the confidentiality of land rights owners' information. This system is reinforced with digital authentication in the form of unique codes, QR Codes, and electronic digital signatures that serve to verify the validity of certificates or provide legal proof of the authenticity of electronic documents. In addition, the data storage system has transitioned to a cloud-based infrastructure model with security systems and data backup procedures conducted periodically to prevent data and information loss due to digital system disruptions.

The implementation of electronic land certificates in Kudus Regency brings hope for a reduction in land dispute levels. The transformation towards an electronic system changes the way the state guarantees the validity of rights with more centralized and transparent data, and makes it easier to track land ownership history. Electronic land certificates are capable of minimizing manipulation, document forgery, and overlapping ownership. Efforts to reduce the potential for land disputes cannot be separated from the active role of land institutions at the regional level.

As part of the strategy for implementing electronic land certificates, the ATR/BPN Office of Kudus Regency will and has taken various concrete steps to enhance understanding and strengthen public trust. Based on research data, the steps taken include: first, conducting massive outreach activities at the village level and through local media to provide the community with an understanding of the benefits and procedures for using electronic land certificates. If the socialization and implementation are carried out effectively, this system has the potential to reduce disputes in the long term.

This socialization is also intended for financial institutions, such as on October 25, 2024, when the ATR/BPN Office of Kudus Regency held a socialization for PT Bank Perkreditan Rakyat Bank Daerah (Perseroda) Kudus. Second, conducting training for the community who are less familiar with information technology. This is done with the aim of improving skills in accessing and understanding electronic land certificates.

Third, conducting a data security campaign as an effort to increase public confidence in the security guarantees and confidentiality of electronic land certificate information, through the elaboration of security mechanisms based on electronic systems supported by encryption technology and authentication systems. Fourth, providing a helpdesk or consultation service as a facilitative instrument for the community experiencing obstacles or access difficulties, while also serving as a form of accountability in the electronic-based public land service system. And fifth, involving village heads and community leaders in conveying information to the residents. This is done to improve legal understanding and encourage active community participation in the implementation of electronic land certificates.

CONCLUSION

Based on the discussion above, it can be concluded that first, it is related to electronic land certificates in land registration activities. The implementation of electronic land certificates as an instrument for land registration brings significant changes to the land administration system in Indonesia. Clear regulations and accountable implementation make electronic certificates a form of modernization to ensure legal certainty and protection for land rights holders. Despite facing various challenges related to public understanding, data leakage risks, and the need for technological infrastructure, electronic land certificates still provide significant opportunities in realizing efficient, transparent, and reliable land

governance to support national development.

Second, regarding the opportunities and legal certainty of electronic land certificates in Kudus Regency. The implementation of electronic land certificates in Kudus Regency shows that the digitization of the land registration system can increase service efficiency, reduce bureaucracy, and close gaps in illegal brokering practices that harm the community. Support from the ATR/BPN Office of Kudus Regency through socialization, training, and the implementation of encryption technology strengthens public trust in the digital land system.With continuous guidance and cross-stakeholder collaboration, electronic land certificates can become a strategic instrument in providing legal certainty, data protection, and reducing the potential for land disputes in the region.

With the existence of electronic land certificates, the needs of the community, especially in Kudus Regency, are expected to be met effectively and efficiently. However, if electronic certificates only serve to change the physical form to electronic without increasing public awareness to register their land and without providing better legal certainty and protection, then electronic certificates will not have much benefit. On the contrary, it could potentially create other issues because land certificates, whether in book form or electronic, are prone to causing many problems if they cannot be used and utilized according to the established regulations.

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