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# Analysis of the Implementation of ATR/BPN Regulation No. 3 of 2023 concerning the Issuance of Electronic Documents

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**The aim of this study** is to determine and analyze how the implementation of Article 14 Paragraph (2) of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 3 of 2023 concerning the issuance of electronic documents related to virtual legal data research conducted at the ATR/BPN Office in Malang City is carried out, as well as the obstacles and efforts made by the BPN in Malang City in facing obstacles in legal data research.

**The method used** in this study is a sociological approach to law, where law is viewed not merely as written rules but as a living and evolving social institution within society.

**The novelty** of this research lies in its attempt to highlight how the implementation of virtual legal data research activities in land registration, as regulated by Ministry of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 6 of 2018 on Systematic Land Registration (PTSL), is carried out, particularly in Malang City.

**The results** of this study are based on the research object, which focuses on specific research variables related to the implementation of legal data research in systematic land registration in Malang City. This study seeks to examine and analyze the challenges and efforts made by the ATR/BPN Office in Malang City in implementing legal data research in systematic land registration.

**The concludes** that the implementation of virtual legal data research in the PTSL program still faces various obstacles, such as the absence of technical guidelines, limited human resources, technical constraints, and data inconsistencies. Improvement efforts are being made through enhancing the quality of personnel, collaborating with villages, and conducting evaluations and socialization. This study recommends that the Ministry of ATR/BPN evaluate relevant regulations and promote increased legal awareness and administrative order in land matters among the public.

**Keywords:** Legal Certainty; Comprehensive Systematic Land Registration; Legal Data Research

**Abstrak**

**Tujuan penelitian** ini dilakukan untuk mengetahui dan menganalisis bagaimana Implementasi dari pengaturan Pasal 14 Ayat (2) Peraturan Menteri ATR/Ka BPN Nomor 3 Tahun 2023

*Tentang Penerbitan Dokumen Elektronik Terkait penelitian data yuridis yang dilakukan Secara Virtual di Kantor ATR/BPN Kota Malang serta hambatan dan upaya yang dilakukan oleh BPN Kota Malang dalam menghadapi hambatan penelitian data yuridis.*

**Metode penelitian** yang digunakan dalam penelitian ini adalah pendekatan sosiologi hukum, di mana hukum dilihat tidak semata sebagai aturan tertulis, tetapi sebagai institusi sosial yang hidup dan berkembang dalam masyarakat.

**Kebaruan** penelitian dalam penelitian ini mencoba untuk menyoroti bagaimana implementasi dari kegiatan penelitian data yuridis secara virtual dalam kegiatan pendataan tanah sebagaimana diatur Permen ATR/BPN No. 6 Tahun 2018 Tentang PTSL khususnya di Kota Malang.

**Hasil penelitian** ini terletak pada obyek penelitian yang terletak pada variable penelitian yang spesifik mengambil lokasi implementasi penelitian data yuridis dalam pendaftaran tanah sistematis di Kota Malang, penelitian ini mencoba untuk melihat dan menganalisis bagaimana halangan serta upayayang dilakukan oleh kantor ATR/ BPN Kota Malang dalam mengimplementasikan penelitian data yuridis dalam pendaftaran tanah sistematis

**Kesimpulan** Penelitian ini menunjukkan bahwa pelaksanaan penelitian data yuridis secara virtual dalam program PTSL masih menghadapi berbagai hambatan, seperti ketiadaan petunjuk teknis, keterbatasan SDM, kendala teknis, dan ketidaksesuaian data. Upaya perbaikan dilakukan melalui peningkatan kualitas aparatur, kerja sama dengan desa, serta evaluasi dan sosialisasi. Penelitian ini menyarankan agar Kementerian ATR/BPN mengevaluasi regulasi terkait dan mendorong peningkatan kesadaran hukum serta ketertiban administrasi pertanahan di masyarakat.

**Kata Kunci:** Kepastian Hukum; Pendaftaran Tanah Sistematis Lengkap; Penelitian Data Yuridis Secara Virtual.

## 1. INTRODUCTION

The principle of state control over natural resources, as affirmed in Article 33 paragraph (3) of the 1945 Constitution, states that land, water, and natural resources are managed by the state for the greatest prosperity of the people, which is an important foundation for land tenure in Indonesia.<sup>1</sup> This constitutional mandate encourages the fair, wise, and sustainable management of resources in the national interest. In line with this, Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) reinforces this principle through the provisions of Article 14 paragraph (1), which requires the government to plan the utilization of land, water, airspace, and natural resources in a comprehensive and systematic manner. The UUPA regulates aspects of land ownership, use, and control with the primary objective of ensuring the welfare of the people, while also ensuring legal certainty through a comprehensive land registration system to minimize agrarian disputes.<sup>2</sup>

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<sup>1</sup> Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.

<sup>2</sup> Undang-Undang Republik Indonesia Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.

In order to guarantee legal certainty regarding land ownership rights,<sup>3</sup> the Basic Agrarian Law No. 5 of 1960 stipulates the obligation of the government to conduct comprehensive land registration throughout Indonesia, in line with the obligation of rights holders to register their land in accordance with applicable regulations. This provision is confirmed in Article 19 paragraph (1), which states that registration is carried out to ensure legal certainty, as further regulated by government regulations. Registration can be carried out through two mechanisms, namely systematic and sporadic, as regulated in Article 1 paragraphs (9) and (10) of Government Regulation No. 24 of 1997. Systematic registration is carried out simultaneously covering all land objects in a village or sub-district, while sporadic registration is individual or mass but limited to one or several land objects in a particular area. To expedite this process, the government launched the National Agrarian Program (PRONA) in 1981, primarily targeting low-income communities and aimed at resolving strategic agrarian disputes.<sup>4</sup> PRONA is designed to simplify land registration procedures through a fast, inexpensive, and easily accessible approach for all levels of society, especially in areas that need more attention.<sup>5</sup>

To improve the efficiency and effectiveness of land registration in Indonesia, the government launched the Complete Systematic Land Registration (PTSL) program in 2017 as an improvement on the PRONA program.<sup>6</sup> This program is being implemented simultaneously across all regions of Indonesia using a more modern and integrated approach, with the aim of accelerating the land certification process and providing legal certainty and protection for the community. To support its implementation, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) is improving regulatory frameworks, enhancing human resource quality, strengthening infrastructure, expanding funding, and strengthening inter-agency coordination. In line with the transformation toward the digital era, the government is also adopting technology in public administration, including through the implementation of e-Government systems and the issuance of electronic land certificates as part of efforts to modernize land administration services.<sup>7</sup>

An electronic land certificate is a digital land document stored in an electronic land registry, replacing physical certificates that are susceptible to damage.<sup>8</sup> This certificate is equipped with advanced security features such as a QR code that can only be accessed through the official *Sentuh Tanahku* app, fluorescent ink that glows green under UV light, and an

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<sup>3</sup> Djoko Prakoso dan Budiman Adi Purwanto, "Eksistensi Prona Sebagai Pelaksana Mekanisme Fungsi Agraria", (Jakarta: Ghalia Indonesia, 1985), 19.

<sup>4</sup> Sri Susyanti Nur, "Aspek Hukum Pendaftaran Tanah Bekas Milik Asing Sebagai Aset Pemerintah Daerah," *Hasanuddin Law Review* (e-Journal), (Universitas Hasanuddin, 2015), 94, <https://doi.org/10.20956/halrev.v1n1.42>.

<sup>5</sup> Septina Marryanti P., S.Si., M.Si., dan Yudha Purbawa, S.P., "Paper Kebijakan Pelaksanaan Percepatan Pendaftaran Tanah" (Bogor: Pusat Penelitian dan Pengembangan, Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional, 2017).

<sup>6</sup> Dian Aris Mujiburohman, "Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL)," *BHÜMI: Jurnal Agraria dan Pertanahan*, 4, no. 1 (Mei 2018): 90, <https://doi.org/10.31292/jb.v4i1.217>

<sup>7</sup> Adrian Sutedi, "*Sertifikat Hak Atas Tanah*" (Jakarta: Sinar Grafika, 2012), 59.

<sup>8</sup> Boedi Harsono, "Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya", Jilid I, Edisi Revisi, Cetakan ke-11 (Jakarta: Djambatan, 2007), 72.

electronic signature to ensure authenticity and prevent forgery. The implementation of this certificate is part of the Ministry of ATR/BPN's efforts to modernize the land administration system, which has previously successfully integrated digital services such as mortgage registration and electronic SKPT, and reduced service queues by up to 40%. Security, efficiency, and ease of access are the main advantages of electronic land certificates, which are also regulated under Ministry of ATR/BPN Regulation No. 3 of 2023 as the legal basis for land administration digitization in Indonesia.

The issuance of electronic certificates at the National Land Agency (BPN) office is part of the modernization of land administration in Indonesia. Electronic land certificates aim to achieve safer and more efficient public services that meet international standards. However, in their implementation, there are still some provisions that are not yet aligned with the Comprehensive Systematic Land Registration system, which itself has not yet been able to conduct legal data research virtually at the BPN office in Malang. All processes are still conducted manually, though the output obtained is in the form of electronic documents/electronic certificates. Therefore, Article 14 (2), which states, "The legal data research activities referred to in paragraph (1) may be conducted virtually using information and communication technology," has not yet been fully implemented due to several factors hindering its implementation.<sup>9</sup> This certainly affects the performance and process of implementing electronic land certificates. This study attempts to focus on discussing the effectiveness of implementing a virtual system in land registration and seeks to identify obstacles and efforts made by the Malang City BPN in overcoming obstacles in implementing a virtual system in systematic land registration.

The urgency lies in the importance of evaluating the readiness and responsiveness of digital systems in land services, particularly in the context of PTSL, which is a national strategic program. Amidst the government's efforts to carry out digital transformation to improve efficiency and transparency, various technical and administrative obstacles are still found in its implementation at the regional level. Therefore, this research is necessary to empirically identify the extent to which the virtual system has been effective, as well as to explore the obstacles and solutions adopted by the Malang City BPN in realizing modern and technology-based land management.

The novelty of this study lies in its focus on analyzing the effectiveness of implementing a virtual system in the Complete Systematic Land Registration (PTSL) specifically in Malang City, which has not been the main focus of previous studies. M. Ilham Dwi Putranto's research emphasizes the urgency of electronic land certificates in general at the National Land Agency (BPN), without delving into the specifics of the effectiveness of virtual systems within the PTSL context. Meanwhile, Wisnu Mareta Nugraha highlights the first implementation of electronic land registration by notaries, not within the framework of a comprehensive systematic system by land agencies. As for Sari Leti's research, it only reviews the implementation of PTSL acceleration, without discussing the dimensions of digitization or the virtual system used. By

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<sup>9</sup> Hasil wawancara dengan bapak Tanto Effendi selaku pegawai di Kantor BPN Kota Malang

addressing the research question that identifies obstacles and resolution strategies by the BPN of Malang City, this study presents a new perspective that has not been thoroughly explored by previous studies, thereby strengthening its originality and scientific contribution to the development of technology-based land law in Indonesia.

This study aims to (1) analyze how the implementation of Article 14 Paragraph (2) of Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 3 of 2023 concerning the Issuance of Electronic Documents Related to Virtual Legal Data Research at the ATR/BPN Office in Malang City is carried out; (2) to analyze the obstacles and efforts to overcome them in the implementation of Article 14 Paragraph (2) of Ministerial Regulation ATR/BPN No. 3 of 2023 regarding legal data research conducted virtually.

Based on a review of previous scientific works, the originality of this research lies in its approach, which not only examines the implementation of systematic complete land registration (PTSL) from an administrative or institutional perspective, but also thoroughly examines the obstacles in researching legal data as the basis for the validity of certificate issuance. Unlike M. Ilham Dwi Putranto's research, which focuses on the urgency of land certificate digitization within the BPN, Wisnu Mareta Nugraha's work, which highlights the role of notaries in the first electronic land registration, and Sari Leti's emphasis on accelerating the implementation of PTSL in Indragiri Hilir District, this study offers a perspective that combines legal, sociological, and technical aspects simultaneously to uncover the fundamental legal issues in the validity of the PTSL process, particularly in the context of its implementation in areas with high agrarian complexity. Thus, this study provides a significant new contribution to land law literature and offers a more comprehensive understanding in addressing the implementation challenges of PTSL in the field.

## **2. METHOD**

This study uses a sociological approach to law, in which law is viewed not merely as written rules, but as a living and evolving social institution within society. Through this approach, the author seeks to understand how law works in practice within society, including the extent to which formal regulations such as the issuance of electronic documents are able to align with the needs and social behavior of society. This approach helps to assess the effectiveness of legal implementation and enables researchers to connect, test, and even critique the dynamics between legal norms and their practical application in the field. The selection of the research location at the ATR/BPN Office in Malang City is based on the relevance of the issues addressed by the research theme, particularly those related to the implementation of digital systems in the management of legal land data.

In collecting data, this study used a combination of interview, direct observation, and documentation techniques. Structured interviews were conducted with the Coordinator of Rights Determination and Registration at the Malang City Land Office as a key informant, given his strategic role in land administration services. The observation technique supported the field understanding process by directly observing service activities at the office. Meanwhile, the documentation technique was used to collect and analyze various primary and secondary

legal materials, such as laws and regulations, official documents, and relevant literature. The socio-legal approach was used as a framework to interpret the data comprehensively, connect theory with practice, and strengthen the validity of the findings through source triangulation.

In legal research, there are two main approaches that are often used, namely normative legal research and empirical legal research. This research falls under the category of empirical legal research, which is a type of research that examines law not only as written norms but also as actual behavior in society. This approach combines the study of legislation with field data to see how the law is implemented in practice. In the context of this research, the author conducted an in-depth examination of the implementation of Ministerial Regulation ATR/BPN No. 3 of 2023 on the Issuance of Electronic Documents, particularly at the ATR/BPN Office in Malang City. This research was strengthened through direct interviews with the Head of the Rights Determination and Registration Section to gain a comprehensive understanding of the dynamics of implementing the regulation in land administration services.

### **3. DISCUSSION**

#### **3.1 Implementation of Article 14 Paragraph (2) of Permen ATR/BPN 3/2023 Regarding Virtual Legal Data Research at the Malang BPN Office**

The PTSL program is an initiative of the Malang City ATR/BPN Office aimed at all villages and subdistricts in the region. Based on available data, the PTSL target fluctuates each year. This program has been participated in by various villages/subdistricts such as Bunulrejo, Arjosari, Polowijen, Jodipan, Polehan, Purwantoro, Lesanpuro, and others.

Before participating in the PTSL, the community must prepare several documents, such as (1) a land rights application form, which can be obtained from the District/City Land Office or representative office; (2) photocopies of ID cards and family cards legalized by the village head/lurah; (3) a power of attorney if the application is being submitted by a representative; proof of acquisition or land rights; (4) a certified copy of the current year's Property Tax Payment Certificate (SPPT PBB); (5) a deed of sale from the Public Notary (PPAT), a deed of gift, or an APHB; (6) the land is not in dispute; (7) showing the location and boundaries of the land being applied for; (8) two adult witnesses who are familiar with the history of land ownership.

Once all requirements have been met, the files are submitted to the committee for further processing. According to information from the Land Rights and Registration Section, the initial land registration process under the PTSL program will be handled directly by that section in accordance with the procedures in force at the Malang City Land Office. Based on an interview with Mr. Tanto Effendi, an employee at the Malang City Land Office, the PTSL Legal Task Force carried out a series of legal data research activities, starting with the collection of legal data, which included the following activities: (1) land certificates, which involved collecting existing land certificates as proof of ownership; (2) sales and purchase agreements, which involve collecting sales and purchase agreements as evidence of the transfer of land rights; (3) inheritance certificates, which involve collecting inheritance certificates as evidence of the transfer of land rights due to inheritance; (4) other documents, which involve collecting

other relevant documents, such as certificates of no dispute, land history certificates, and proof of payment of land and building taxes (PBB).

The next step is to verify the legal data generated from the data collection process in the previous stage, which includes the following activities: (1) Document validity check, which involves checking the validity of the legal documents collected, including signatures, stamps, and dates of issuance; (2) Data matching: Matching the legal data listed in the documents with the data at the Land Office and village/sub-district government; (3) Land History Trace: Tracing the history of land ownership to ensure there are no hidden disputes or legal issues; (4) Confirmation with Related Parties: Confirming with relevant parties, such as previous landowners, witnesses, and village/sub-district officials.

The next stage is the process of identifying land rights, which includes the following activities: (1) determining the type of rights: Determining the type of land rights, such as ownership rights, building use rights, business use rights, or usage rights; (2) determining the owner of the rights: Determining the legitimate owner of the land rights based on legal documents and verification results; (3) identifying land boundaries: identifying land boundaries based on legal documents and field measurement results. The process of identifying land rights is carried out to determine whether the registered land rights are in dispute with land rights owned by others to avoid the issuance of duplicate certificates and create disputes in the future.

If there is a dispute related to the issuance of double land rights or land rights that conflict with the land rights owned by another person, the government has also provided and facilitated a dispute resolution mechanism, namely (1) mediation, which is to conduct mediation to resolve disputes arising from land ownership; (2) negotiation: conducting negotiations with the disputing parties to reach an agreement; (3) legal settlement: if mediation and negotiation fail, the dispute can be resolved through legal channels.

From the explanation of the tasks of the PTSL Legal Task Force, it can be seen that a series of tasks can actually be carried out virtually by utilizing information and communication technology, but there are still several factors that prevent the results of this legal data research from being maximized.<sup>10</sup> From observations and interviews conducted on December 23, 2024, with Tanto Effendi, an employee at the Malang City BPN Office, who essentially explained the process of researching legal data on initial land registration through Complete Systematic Land Registration following the enactment of Ministerial Regulation No. 3 of 2023 concerning the Issuance of Electronic Documents.

The issuance of Ministerial Regulation No. 3 of 2023 on the Issuance of Electronic Documents aims to simplify and enhance efficiency for Land Offices and the public. Previously, the entire process of initial land registration and transfer of rights was conducted in accordance with prior regulations, which did not extensively utilize information and communication technology. In line with the advancement of technology, it was deemed

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<sup>10</sup> Hasil wawancara dengan Tanto Effendi selaku pegawai di Kantor BPN Kota Malang

necessary to introduce changes, resulting in the issuance of electronic certificates. The latest guidelines on electronic land registration, aimed at facilitating this regulation, also include Article 14(2), which seeks to simplify the conduct of legal data research that can be carried out virtually, stating: "The legal data research activities referred to in paragraph (1) may be conducted virtually by utilizing information and communication technology." Article 14(2) focuses solely on legal data research, while there is no provision stating that physical data research can be conducted virtually. Following the implementation of Ministerial Regulation No. 3 of 2023, the collection and processing of physical data, as well as legal data research at the National Land Agency Office in Malang City, are still conducted manually, starting from the collection and examination of land ownership history, which cannot yet be implemented virtually, as per the legal provisions outlined in Article 14(2) of the Ministerial Regulation on Agrarian Affairs No. 3 of 2023, this provision provides an option that legal data research activities may be conducted virtually.

From the perspective of public policy implementation theory, the implementation carried out by officials at the Malang City Land Office is still not in line with regulations or provisions that do not focus on how policies formulated and enacted by the government are implemented in the field, particularly Article 14 paragraph (2) regarding legal data research that can be conducted virtually using information and communication technology.

The use of land administration theory can be implemented effectively if efforts and activities related to the organization and management of government policies in the field of land administration are carried out by mobilizing resources to achieve objectives in accordance with applicable laws and regulations. In this context, the implementation of the PTSL program and the issuance of Electronic Certificates under the PTSL program in Malang City have followed the applicable regulations, namely Ministerial Regulation No. 6 of 2018 regarding PTSL and in accordance with Ministerial Regulation ATR/BPN No. 3 of 2023 regarding the Issuance of Electronic Documents. However, in its implementation regarding legal data research that can be conducted virtually, the Malang City Land Office has not yet implemented virtual legal data research in accordance with Ministerial Regulation No. 3 of 2023 on the Issuance of Electronic Documents, particularly in Article 14(2) of Ministerial Regulation ATR/BPN No. 3 of 2023 on the Issuance of Electronic Documents, which states that legal data research can be conducted virtually by the Legal Data Research Task Force. Nevertheless, this is implemented to enhance the speed and effectiveness of certificate issuance through the PTSL program, despite issues arising in the process.

### **3.2 Obstacles in the Implementation of Article 14 Paragraph (2) of Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 3 of 2023 Regarding Virtual Legal Data Research**

In general, the implementation of the Complete Systematic Land Registration Program (PTSL) in Malang City still faces various obstacles rooted in structural, substantial, and cultural aspects of the legal system. Based on empirical observations and interviews with officials from the Malang City Land Office, a number of issues that have emerged in the implementation of



this program include: (1) landowners' reluctance to participate in the program due to the perceived burden of taxes; (2) the presence of land parcels in dispute; (3) the lack of transparency in pre-PTSL costs, which creates potential for misuse by individuals; (4) the unclear status of land ownership due to unknown or absent landowners; (5) Overlapping of land parcels with existing registration maps; (6) Lack of administrative support and policies from local governments and villages; and (7) Insufficient availability of adequate human resources (HR) for the implementation of this program.

The implementation of electronic documents as a new form of land title certificates also presents its own challenges. Although it has been regulated normatively through Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (Permen ATR/BPN) Number 3 of 2023, its implementation is still relatively new, considering that concrete implementation only began in mid-2024. Therefore, it is not surprising that in practice, various structural, procedural, and sociological obstacles are still encountered.

According to the author's interview with Tanto Effendi, an official at the Malang City Land Office, the main obstacles in the implementation of PTSL and the issuance of electronic certificates can be categorized into three main dimensions of the legal system, as stated by Lawrence M. Friedman, namely legal structure, legal substance, and legal culture.<sup>11</sup>

First, in terms of legal structure, obstacles arise due to the suboptimal performance of the implementing apparatus. The inconsistency of legal data between the Land Office and the Tax Office (KPP) indicates a lack of harmony between institutions that should be working together in the national land administration system. This is a manifestation of weak cross-sectoral coordination and integration, as well as institutional capacity limitations in providing accurate, up-to-date, and synchronized data.<sup>12</sup> In addition, the involvement of village or sub-district governments as local stakeholders has not been optimal, both in terms of administrative support and participation in the process of collecting and verifying land ownership data.

The unpreparedness of this institutional structure can be seen as a consequence of weak institutional capacity building in the land sector, as Uphoff asserts that a weak institutional structure will have a direct impact on the effectiveness of public policy implementation.<sup>13</sup> In the context of PTSL, the Legal Task Force, which is part of the adjudication committee, should play a central role in conducting virtual legal data research. However, due to technological limitations and a lack of technical training, this function has not yet been optimally implemented.

Second, from a legal perspective, a significant obstacle is the lack of technical guidelines for the implementation of Article 14 paragraph (2) in Permen ATR/BPN Number 3 of 2023,

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<sup>11</sup> Lawrence M. Friedman, *The Legal System: A Social Science Perspective* (New York: Russell Sage Foundation, 1975), 15–17.

<sup>12</sup> Ria Kusuma Dewi, "Sinkronisasi Data Yuridis Pertanahan dan Tantangannya dalam Program PTSL," *Jurnal Hukum dan Pembangunan* 49, no. 2 (2023): 245–268.

<sup>13</sup> Norman Uphoff, *Local Institutional Development: An Analytical Sourcebook with Cases* (West Hartford: Kumarian Press, 1986), 47.

which regulates virtual legal data research. This regulatory uncertainty raises concerns about the legal validity of electronic certificates issued through a digitization process that has not yet been fully standardized. The absence of subsidiary norms or technical regulations that outline standard operating procedures (SOPs) is the main obstacle to the implementation of this system.<sup>14</sup>

This is in line with Satjipto Rahardjo's opinion that law as a social institution is not a stand-alone entity, but rather is highly dependent on the effectiveness of its derivative norms and the interconnection between rules within the legal system.<sup>15</sup> When a regulation is not accompanied by comprehensive implementing regulations, its effectiveness becomes limited, and implementing agencies are reluctant to take risks in its application.

Third, from a legal culture perspective, it was found that the community does not yet have an adequate understanding of the possibility of implementing the PTSL process digitally, particularly in the form of virtual legal data research. The legal culture of the community still relies heavily on conventional practices that are considered stronger in terms of evidence, as they are based on physical presence and direct testimony in the land ownership validation process. This understanding reflects the community's low legal literacy regarding the modernization of agrarian law, as well as resistance to technology-based innovations.<sup>16</sup>

This situation highlights the importance of developing a legal culture that is adaptive to digital transformation in the land tenure system. Legal culture, as defined by Friedman, refers to the values, attitudes, and beliefs that society holds toward the law and its institutions. When society does not yet trust new digital-based legal mechanisms, there will be a disparity between the normative expectations of policymakers and sociological acceptance at the grassroots level.

Furthermore, in a theoretical context, the integrative legal system approach developed by Talcott Parsons is also relevant in analyzing these obstacles. The legal system is not only based on normative aspects (legal norms), but also on social function and legitimation in the eyes of society.<sup>17</sup> If the legal system fails to perform its integrative function due to weak structures, vague substance, and a weak legal culture, then reform efforts such as PTSL and the digitization of land documents will encounter obstacles.

Within the framework of national legal development, the success of the PTSL program and electronic certificates should be part of the broader agenda of agrarian reform and national digital transformation. However, without serious improvements to supporting legal instruments, institutional strengthening, and increased legal literacy among the public, this policy will continue to face significant structural and cultural resistance.

Therefore, a multisectoral strategy is needed that includes: (1) harmonization of

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<sup>14</sup> Kementerian ATR/BPN, *Peraturan Menteri ATR/BPN No. 3 Tahun 2023 tentang Penerbitan Dokumen Elektronik*, Jakarta: BPN RI, 2023.

<sup>15</sup> Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2000), 55.

<sup>16</sup> Arif Budiman, "Budaya Hukum dan Inovasi Teknologi dalam Sistem Agraria," *Jurnal Sosial Humaniora* 27, no. 1 (2022): 134–150.

<sup>17</sup> Talcott Parsons, *The Social System* (New York: Free Press, 1951), 328–340.

regulations between agencies; (2) strengthening the capacity of officials, especially at the village and sub-district levels; (3) accelerating the preparation of comprehensive technical guidelines; and (4) intensifying ongoing socialization and legal education for the community. This holistic approach will strengthen institutional momentum and increase public trust in a national land system that is fair, transparent, and based on information technology.

### **3.3 Efforts Made to Overcome Obstacles in the Implementation of Article 14 Paragraph (2) of Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation No. 3 of 2023 Regarding Virtual Legal Data Research**

To gain a deeper understanding of the obstacles to the implementation of Systematic Land Registration (PTSL) and electronic certificates in Malang City, it is necessary to examine the perspective of structure, substance, and legal culture as proposed by Lawrence M. Friedman. Within the framework of legal sociology,<sup>18</sup> Friedman divides the legal system into three main components, namely legal structure, legal substance, and legal culture. These three components interact with one another and determine the effectiveness of the enforcement of legal norms in society. Legal structure represents legal enforcement institutions such as the National Land Agency (BPN), legal substance refers to legal norms and regulations, while legal culture reflects the values, attitudes, and awareness of society toward the law itself.

In the context of the implementation of PTSL and electronic certificates in Malang City, the legal structure represented by the Malang City ATR/BPN Office has demonstrated a commitment to implementing land administration reform. However, the existence of regulations such as Ministry of ATR/BPN Regulation No. 3 of 2023 on the Issuance of Electronic Land Certificates has not yet been fully matched by the readiness of the implementing structure, particularly in terms of service digitization. In practice, as mentioned by Tanto Effendi, the implementation of virtual legal data research has not yet been feasible due to limitations in human resources and technological infrastructure.<sup>19</sup>

The absence of operational technical guidelines in the implementation of online legal research demonstrates the weakness of the substantive aspects of law. As emphasized by Satjipto Rahardjo, law cannot function effectively if it remains solely at the normative level without the ability to actualize the values of justice and order in society. Therefore, national policies in the form of ministerial regulations must be supported by clear and applicable implementing regulations at the regional level. Without adequate technical guidelines, the implementation of strategic programs such as PTSL may not run optimally, even leading to disparities between norms and implementation.

In addition, the legal culture of society is also a barrier in itself. The low level of public understanding of the importance of land certificates and the benefits of electronic certificates reflects a weak legal culture in terms of administrative compliance and appreciation of legal technology.<sup>20</sup> Research conducted by the Land Policy Strategy Agency of the Ministry of

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<sup>18</sup> Lawrence M. Friedman, *Op.Cit*, hlm. 98.

<sup>19</sup> Wawancara dengan Tanto Effendi, Pegawai ATR/BPN Kota Malang, 2025.

<sup>20</sup> Boediono. *Kebijakan Publik dan Good Governance*. (Yogyakarta: Gadjah Mada University Press, 2020), 98-99.

Agrarian Affairs and Spatial Planning/National Land Agency shows that one of the factors hindering PTSL is "the community's lack of legal knowledge regarding land administration, particularly in terms of legally processing land rights."<sup>21</sup>

Theoretically, the responsive law approach as proposed by Philip Selznick and Philippe Nonet is relevant to analyzing this issue. In this theory, it is emphasized that the ideal law is a responsive law, one that can detect social needs, is oriented toward the public interest, and has flexibility in its implementation.<sup>22</sup> If the PTSL policy and electronic certificates are unable to adapt to the social reality in areas such as Malang City, then the law being enforced will be repressive and tend to be ineffective.<sup>23</sup>

In addition to internal obstacles, the implementation of PTSL and digital transformation in the land sector also faces challenges from the public policy side. According to Boediono, the effectiveness of policies is greatly influenced by the synergy between evidence-based policy formulation, bureaucratic capacity, and public acceptance. In this regard, land policies have not been fully based on regional needs analysis, resulting in a gap between central government expectations and real-world conditions on the ground. The absence of adequate digital support systems, limited regional human resource capacity, and weak public education on technological changes indicate that digital reforms in land administration services have not been designed in an inclusive and adaptive manner.<sup>24</sup>

Other academic studies also show that the implementation of PTSL programs in various regions faces similar challenges. A study by Nindyo Prakoso and Edi Suharto notes that the success of PTSL programs is highly dependent on the level of community participation and the capacity of local institutions to absorb regulatory changes.<sup>25</sup> Therefore, a holistic approach is needed that emphasizes not only formal legal aspects, but also social and cultural aspects in the implementation of this program.<sup>26</sup>

Within the framework of progressive legal evaluation, as introduced by Satjipto Rahardjo, law should not be viewed solely as text, but also as a tool of social engineering. Therefore, the failure to implement virtual legal research in Malang City cannot be attributed solely to the National Land Agency (BPN), but also to the legal design itself, which is insensitive to regional diversity.<sup>27</sup>

One solution that can be implemented is to strengthen coordination between the central

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<sup>21</sup> Badan Strategi Kebijakan Pertanahan, "Evaluasi Program PTSL Tahun 2021," Laporan Resmi, Kementerian ATR/BPN, 2022, 23

<sup>22</sup> Philippe Nonet, dan Philip Selznick. *Law and Society in Transition: Toward Responsive Law*. (New Brunswick: Transaction Publishers, 2001), 98.

<sup>23</sup> Mahmudah, M., & Sandi, A. Implementation of Complete Systematic Land Registration (PTSL) for Customary Land in Sorong Regency. *Journal of Law Justisi (JLJ)*, 2, No. 3, hlm. 101. <https://doi.org/10.33506/jlj.v2i3.3639>

<sup>24</sup> Yance Arizona, Perlindungan Hak Masyarakat Adat atas Tanah dan Wilayahnya." Dalam *Pluralisme Hukum dan Reforma Agraria*, diedit oleh Sulistyowati Irianto, (Jakarta: Epistema Institute, 2013), 221–234.

<sup>25</sup> Nindyo Prakoso dan Edi Suharto, "Analisis Implementasi PTSL dalam Perspektif Pemberdayaan Masyarakat," *Jurnal Ilmu Sosial dan Humaniora* 10, no. 2 (2022): 145.

<sup>26</sup> Maria S.W. Sumardjono, *Tanah dalam Perspektif Hak Ekonomi Sosial dan Budaya*. (Yogyakarta: Kompas, 2008), 90.

<sup>27</sup> Satjipto Rahardjo, *Hukum Progresif: Hukum yang Membebaskan* (Jakarta: Kompas, 2009), 78.

and regional governments in terms of digitizing land services, including through intensive human resource training, strengthening ICT infrastructure, and developing flexible guidelines and technical guidelines. Another crucial effort is to actively involve the community in the entire process, whether through village deliberations, public discussion forums, or legal assistance. In line with Hilman Hadikusuma's opinion, the effectiveness of customary law or local law can synergize with national law if it is carried out in a participatory and communicative manner.<sup>28</sup>

From the perspective of administrative law, electronic certificates as administrative products generated through digital systems must have the same legal certainty as conventional certificates. This certainty must be guaranteed not only in terms of physical form (now in the form of electronic documents), but also in terms of process and legal validity. According to Ridwan HR, every product of state administration must fulfill the principles of legality, accountability, and transparency.<sup>29</sup> If the legal data research process is conducted without standard digital standards, there is concern that this will lead to uncertainty regarding the validity of the data and the authenticity of the certificates.

Overall, the implementation of PTSL and the issuance of electronic certificates in Malang City shows the dynamics between legal idealism and social reality. Synergy between structure, substance, and legal culture is needed for this policy to run effectively and provide tangible benefits to the community. Digital transformation in land services is indeed a step forward, but its success greatly depends on how the law is able to adapt to the social conditions of the community that is the target of the policy itself.

#### **4. CONCLUSION**

The virtual legal data research conducted by the Malang City BPN Office shows that most stages of the Complete Systematic Land Registration (PTSL) process are still carried out manually, from planning to the announcement of physical and legal data, even though some stages could actually be carried out virtually. The main obstacles to virtual implementation include the lack of readiness of officials and human resources, both within the BPN and village governments, the limited number of PTSL officers, low public awareness, inconsistencies between BPN and KPP data, the absence of technical guidelines, and technical constraints such as limited infrastructure and facilities in the field. As a solution, the BPN of Malang City is enhancing the competencies of its staff, fostering cross-sectoral collaboration, conducting public awareness campaigns, ensuring data consistency through intensive coordination, and continuing manual procedures while adopting an electronic certification system in accordance with Ministry of Agrarian Affairs and Spatial Planning/BPN Regulation No. 3 of 2023. Additionally, infrastructure improvements are being made through regular evaluations and increased budgeting.

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<sup>28</sup> Hilman Hadikusuma, *Pengantar Ilmu Hukum Adat Indonesia* (Bandung: Mandar Maju, 2003), 93.

<sup>29</sup> Ridwan HR, *Hukum Administrasi Negara* (Jakarta: RajaGrafindo Persada, 2016), 115.

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