

RECONSTRUCTION OF PPAT REGULATIONS IN THE CONTEXT OF NATIONAL AGRARIAN LAW HARMONISATION

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Abstract. Land Deed Officials (PPAT) play a central role in the land registration system in Indonesia, functioning as the front line in ensuring legal certainty regarding land ownership rights. However, the regulations governing the position and authority of PPATs are currently still partial and not fully in line with the spirit of the Basic Agrarian Law (UUPA). This condition gives rise to various legal problems that have implications for the emergence of land disputes and hinder the goal of national agrarian law unification. This article examines the urgency of reconstructing PPAT regulations as a strategic step towards harmonising agrarian law in Indonesia. Through a juridical-normative approach, this article analyses the disharmony in existing regulations and offers a comprehensive reconstruction framework, covering the aspects of authority, guidance, supervision, and accountability of PPATs. This reconstruction is expected to strengthen the position of PPAT as professional and integrity public officials, as well as accelerate the realisation of an agrarian legal system that is fair and has legal certainty.

Keywords: *Regulatory Reconstruction, PPAT, Legal Harmonisation, Agrarian Law, Legal Certainty.*

I. INTRODUCTION

The enactment of Law No. 5 of 1960 concerning Basic Principles of Agrarian Law (UUPA) was an important milestone in the history of Indonesian law. The UUPA was introduced to end the dualism of colonial agrarian law—namely the Western legal system and customary law—and to establish a single national agrarian legal system based on Pancasila and the 1945 Constitution. With the principle of *lex specialis derogat legi generali*, the UUPA asserts itself as a special rule that supersedes other general regulations, thereby providing a new direction for the creation of legal certainty and justice in land matters in Indonesia.

One of the strategic instruments in realising the objectives of the UUPA is land registration. Land registration is not merely an administrative mechanism, but also a means of legal protection for the community through the recognition and recording of land rights. In this context, the role of the Land Deed Official (PPAT) is crucial. As public officials authorised to draw up authentic deeds concerning certain legal actions related to land rights, PPATs are at the forefront in facilitating the transfer, encumbrance and legal certainty of land rights. Valid PPAT deeds that can be registered at the Land Office provide legal certainty for the community in carrying out land transactions.

However, the regulations governing the position of PPAT still leave a number of fundamental issues unresolved. Currently, PPAT is regulated by Government Regulation No.

37 of 1998 as amended by Government Regulation No. 24 of 2016. Although these regulations provide a legal basis, in practice they are considered to be unable to fully respond to the complexities of modern land law requirements. Several problems have arisen, including: (1) overlapping authority with other institutions or officials; (2) differences in professional standards among PPATs, which affect the quality of service; and (3) weak mechanisms for supervision and enforcement of professional discipline. This situation has created a disharmony between PPAT regulations and the ideals of the Basic Agrarian Law, giving rise to potential legal uncertainty in land registration practices.

This phenomenon reveals a gap between regulations and the need for a harmonious, responsive, and equitable national agrarian legal system. From the perspective of Lawrence M. Friedman's theory of legal systems, the success of a legal system is determined by three elements: substance, structure, and legal culture. The fact that PPAT regulations are not yet in line with the objectives of the UUPA indicates that the substance of the law (legislation) and the structure of the law (institutions and officials) do not yet fully support the ideals of the national agrarian legal system.

Therefore, the reconstruction of PPAT regulations is a necessity. This reconstruction is not merely a refinement of existing legal norms, but also a strategic step to strengthen the foundations of land registration, reduce agrarian conflicts, and accelerate the harmonisation of national agrarian law. With

more adaptive, accountable, and certainty-oriented regulations, it is hoped that the PPAT position can function optimally in realising orderly land administration and protecting the rights of the community.

Based on this background, this study focuses on three main questions: (1) what is the current state of PPAT position regulations in the context of national agrarian law harmonisation; (2) what are the legal problems arising from the disharmony of PPAT regulations and their impact on land legal certainty; and (3) how to formulate an ideal framework for reconstructing PPAT regulations to support the realisation of a harmonious and equitable national agrarian law system.

The Theory of Legal Certainty

Legal certainty (rechtssicherheit) is one of the fundamental values in legal theory. Gustav Radbruch (2006) states that law essentially contains three main values, namely justice (*gerechtigkeit*), expediency (*zweckmäßigkeit*), and legal certainty (*rechtssicherheit*). These three values complement each other, but in practice, legal certainty is often prioritised because it concerns the protection of individual rights and public interests.

In the context of land law, legal certainty means that there is a guarantee for land rights holders to control, use, and utilise their land without interference from other parties (Boedi Harsono, 2016). Article 19 of the Basic Agrarian Law emphasises that to ensure legal certainty, the government shall organise land registration throughout the territory of the Republic of Indonesia. This land registration instrument includes the collection of physical and juridical data, the recording of rights, and the issuance of land title certificates that have strong evidentiary value.

This is where the position of the Land Deed Official (PPAT) becomes crucial. Authentic deeds made by PPATs are not merely administrative documents, but are formal requirements for the validity of the transfer or encumbrance of land rights. Thus, regulations governing the position of PPAT must provide certainty, both for the community as legal subjects and for land administration officials. Regulations that are open to multiple interpretations, overlapping, or weak in enforcement will have direct implications for the collapse of the principle of legal certainty promised by the UUPA (Santoso, 2021).

The Concept of Legal Harmonisation

Legal harmonisation is an effort to align various legal norms in order to create a consistent and non-contradictory legal system. According to Taherdoost (2023), harmonisation serves to eliminate disharmony that can cause uncertainty, both vertically and horizontally. Vertical harmonisation means aligning regulations at the lower level (Government Regulations, Presidential Regulations, Ministerial Regulations) with the law as the higher regulation. Meanwhile, horizontal harmonisation is carried out by synchronising regulations at the same level so that they do not conflict with each other.

In the agrarian context, legal harmonisation means adjusting all implementing regulations to the principles, foundations and objectives of the UUPA as *the grundnorm* of national land law (Soimin, 2012). The inconsistency between the PPAT regulations and the UUPA can create a *legal gap* that weakens the land registration system. For example, when PPAT

is partially regulated in PP No. 37 of 1998 jo. PP No. 24 of 2016, but is not fully in line with the Notary Position Law, there is a grey area that has the potential to give rise to conflicts of authority and procedural uncertainty.

Therefore, the idea of reconstructing PPAT regulations is not merely to improve administrative technicalities, but is an integral part of harmonising national agrarian law. With optimal harmonisation, PPAT regulations can become an effective instrument in maintaining consistency between the legal ideals of the UUPA and land registration practices in the field (Windzio, 2020).

The Position of PPAT as a Public Official

Theoretically, PPATs have the status of public officials (*openbare ambtenaar*), namely officials appointed by the state to carry out some public functions. According to Utrecht (1960), public officials are those who exercise public authority based on attribution or delegation from the state. Thus, the authority of PPATs is not a private right, but a manifestation of the state's attributive authority in the field of land administration.

As public officials, PPATs are bound by the General Principles of Good Governance (AUPB), professional codes of ethics, and high standards of integrity (Hadjon, 2011). This implies that the state has an obligation to formulate clear, comprehensive, and accountable regulations to ensure that PPATs carry out their duties with professionalism and integrity. Unclear norms can open up opportunities for a abuse of authority, reduce the quality of public services, and weaken the legitimacy of the land law system.

From the perspective of Friedman's legal system theory (1975), the effectiveness of PPAT regulations must be reviewed from three dimensions: legal substance (laws and regulations governing the PPAT position), legal structure (institutions and PPAT oversight mechanisms), and legal culture (legal awareness of the community and the PPAT itself). If one of these dimensions is weak, the entire agrarian legal system cannot function optimally.

Thus, strengthening PPAT regulations is a strategic step to ensure that these public officials truly carry out their functions in providing public services in the field of land affairs. The reconstruction of PPAT regulations is not only a technical matter, but also a matter of the state's legitimacy in guaranteeing legal certainty and realising orderly land administration.

II. RESEARCH METHODS

This study uses a normative legal research approach, which is a legal research method based on literature review and analysis of legal documents (library-based research). This approach was chosen because the issues studied focused on the substantive aspects of legislation concerning the position of the Land Deed Official () and its synchronisation with the objectives of national agrarian law harmonisation. According to Soekanto and Mamudji (2014), normative legal research focuses on positive legal norms, legal principles, and doctrines developed in legal literature, making it highly relevant for examining regulatory disharmony and formulating policy reconstruction.

The legal materials used in this study cover three categories. First, primary legal materials, namely relevant laws and regulations, including Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA), Government Regulation No. 37 of 1998 in conjunction with Government Regulation No. 24 of 2016 concerning the Position of PPAT, Law No. 2 of 2014 concerning the Position of Notary, as well as other related regulations. Second, secondary legal materials, in the form of literature, textbooks, journal articles, and previous research discussing the theory of legal certainty (Radbruch, 2006), legal harmonisation (Taherdoost, 2023), and the position of public officials in the administrative law system (Hadjon, 2011). Third, tertiary legal materials, such as legal dictionaries and encyclopaedias, which are used to provide additional explanations to primary and secondary legal materials.

In analysing the legal issues under study, this research combines several types of approaches. First, the statute approach is used to examine the vertical and horizontal synchronisation between the UUPA and regulations related to the PPAT position. Second, the conceptual approach is used by referring to Gustav Radbruch's theory of legal certainty, the theory of legal harmonisation, and Lawrence M. Friedman's theory of legal systems as a conceptual basis for analysing the issue. Third, the historical approach is used to trace the development of PPAT position regulations from the colonial era to the post-reform era as part of the agrarian law unification process. Fourth, a comparative approach was used to compare the practice of regulating similar positions in other countries that adhere to the civil law system, thereby providing a comparative perspective in formulating policy recommendations. This dual approach strengthened the analysis because it allowed the research to be conducted multidimensionally, both from a normative and empirical-conceptual perspective (Marzuki, 2017).

The analysis of legal materials in this study was conducted using qualitative analysis through several stages. First, an inventory of laws and regulations related to the PPAT position was carried out. Second, the results of the inventory were then classified based on hierarchical level (vertical) and scope of substance (horizontal). Third, a legal synchronisation process was carried out to identify potential disharmony, overlap, and legal gaps. Fourth, legal interpretation was carried out using grammatical, systematic, and teleological methods to understand the meaning of the regulations in accordance with the objectives of the UUPA. Finally, legal argumentation was carried out, namely by compiling a framework for the reconstruction of ideal PPAT regulations based on the findings of the analysis and supported by relevant legal doctrines and theories.

To maintain the validity of the research results, a source triangulation technique was used, namely by comparing the provisions of laws and regulations with academic doctrines, relevant court decisions (if any), and the views of legal practitioners. Thus, the results of this study are not only normative-conceptual but also have practical relevance in the context of land law implementation. This triangulation model is in line with Moleong's (2018) view, which emphasises that the validity of legal research can be strengthened by comparing

various sources to ensure the objectivity and consistency of the analysis.

III. RESULTS AND DISCUSSION

Regulatory Map of PPAT Positions and Potential Disharmony

Based on the inventory of regulations, the provisions regarding the position of Land Deed Official (PPAT) are currently still fragmentary and scattered across several levels of legislation. The UUPA, as the *lex generalis* of land law, is indeed the philosophical foundation, but it does not explicitly regulate the position of PPAT. Provisions regarding PPAT deeds as the basis for registering new rights transfers appear in Government Regulation No. 24 of 1997 concerning Land Registration. Furthermore, Government Regulation No. 37 of 1998, as amended by Government Regulation No. 24 of 2016, is the main technical regulation governing the requirements for appointment, work areas, authorities, prohibitions, and sanctions for PPATs. In addition, technical regulations are also stipulated through ATR/BPN Ministerial Regulations relating to formation, examination procedures, and supervision mechanisms.

This fragmented regulatory framework creates two forms of disharmony. First, vertical disharmony, namely the inconsistency between technical regulations (Government Regulations and Ministerial Regulations) and the principles of the UUPA. The UUPA emphasises the principles of simplicity, certainty, and legal protection for rights holders, while technical regulations often add to the complexity of bureaucracy, which has the potential to slow down the land registration process. Second, horizontal disharmony, particularly with Law No. 2 of 2014 on the Notary Profession. Theoretically, notaries and PPATs are different positions. However, in practice, both are often held by the same person, giving rise to dual supervision: notaries are under the Ministry of Law and Human Rights, while PPATs are under the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. This dualism creates confusion regarding ethical and professional standards, as a notary-PPAT is subject to two different supervisory regimes.

The results of legal synchronisation analysis show that this fragmentation and disharmony in regulations contradicts the principle of legal harmonisation, which requires consistency between the substance, structure, and purpose of the law (Friedman, 1975). This condition reveals a gap between the written norms and the legal ideals of the UUPA.

Crucial Problems Resulting from Regulatory Disharmony

This fragmentation of regulations causes crucial problems in practice. First, uncertainty regarding professional standards and competence. The absence of specific legislation means that the recruitment and capacity building of PPATs is only regulated through ministerial regulations, which are dynamic and subject to change. This opens up the possibility of disparities in quality between PPATs, both between regions and between cohorts, so that the quality of deeds depends on personal capacity rather than a robust system.

Second, weak supervision and sanctions. The PPAT Supervisory and Advisory Council (MPPP) is currently considered to lack effective mechanisms. The administrative sanctions imposed tend to be light and do not have a deterrent effect. As a result, there are loopholes for the abuse of authority, including the involvement of PPAT officials in land mafia practices. This finding is in line with Hadjon's (2011) view that a weak system of supervision of public officials will have a direct impact on the decline in the quality of public services.

Third, the vulnerability of PPAT deeds to be revoked. Deeds that are not made in accordance with formal and material requirements have the potential to be challenged and revoked in court. For parties acting in good faith, this situation is very detrimental because it creates legal uncertainty regarding the rights that have been obtained. This situation clearly violates the principle of legal certainty as emphasised by Radbruch (2006).

Fourth, obstacles in the digital transformation of land administration. The electronic certificate programme and the digitisation of land administration services require comprehensive integration from upstream to downstream. PPAT, as the initial part of the land transaction process, has not yet been fully integrated into a uniform national digital framework. Without clear regulatory standardisation, digital transformation has the potential to be partial and ineffective.

Ideal Framework for PPAT Regulatory Reconstruction

To overcome regulatory disharmony and the problems that arise, PPAT regulatory reconstruction needs to be carried out fundamentally and comprehensively. Reconstruction is not sufficient with revisions to government regulations, but must be elevated to the level of special legislation.

First, codification in the form of a PPAT Position Law is necessary. This law will serve as the main legal umbrella containing definitions, appointment requirements, authorities, obligations, prohibitions, codes of ethics, supervisory mechanisms, and sanctions. With regulations at the level of law, legal certainty is more guaranteed because its position is higher in the hierarchy of legislation and cannot be easily changed by ministerial policies. In addition, codification will also end the fragmentation of rules scattered across various regulations.

Secondly, there needs to be a redefinition of the relationship between PPATs and notaries. There are three options that policymakers can consider. The first option is strict separation, whereby PPATs and notaries are completely separated so that each individual can only choose one profession. This option encourages specialisation but creates obstacles in terms of the availability of officials in remote areas. The limited integration option, which allows dual positions but provides guidance and supervision under one institutional umbrella. This option is more realistic and can reduce dualism in supervision. The profession unification option, which merges Notaries and PPATs into a single position as public officials who draw up deeds. This option is the most radical, but also has the most potential to end dualism in authority and supervision.

This reconstruction framework is in line with the theory of legal harmonisation (Taherdoost, 2023), which emphasises the importance of unifying norms to reduce regulatory overlap. Furthermore, the idea of establishing a PPAT Position Law is

consistent with Radbruch's principle of legal certainty and Friedman's theory of legal systems, as it strengthens the aspects of substance (clear rules), structure (centralised supervision), and legal culture (PPAT professionalism).

IV. CONCLUSIONS

Based on the results of the analysis, it can be concluded that the current regulations regarding the position of Land Deed Officials (PPAT) are still in a state of disharmony, both vertically with the Basic Agrarian Law (UUPA) and horizontally with other regulations, especially the Notary Position Law. This disharmony arises from the fragmentary and partial nature of the regulations, which has led to various serious problems. These include uncertainty regarding the standards of professionalism and competence of PPATs, a weak supervision and sanction enforcement system, and the vulnerability of PPAT deeds to being revoked by the courts. This situation ultimately hinders the realisation of legal certainty in land matters, which is the main objective of the UUPA, while also slowing down the process of harmonising national agrarian law.

To address these issues, fundamental and comprehensive regulatory reconstruction is needed through the establishment of a PPAT Position Law. This law is important as it will serve as the main legal umbrella that codifies all provisions relating to PPATs, sets high standards of professionalism through a national education and examination mechanism, and establishes an independent and authoritative supervisory body. In addition, this law must also clearly define the relationship of authority with Notaries, thereby ending the dualism of regulation and supervision that has been a source of disharmony. With this regulatory reconstruction, PPATs are expected to function optimally as a bastion of legal certainty and a driving force for the realisation of modern, fair and transparent land governance in accordance with the ideals of the UUPA.

In line with these conclusions, several strategic recommendations can be put forward. First, it is recommended that the Government and the House of Representatives (DPR) immediately include the Draft Law on the Position of PPAT in the priority National Legislation Program (Prolegnas). This legislative process should be carried out inclusively through cross-sectoral discussions, so as to produce comprehensive regulations that are capable of addressing the need for harmonisation of national agrarian law. Second, to the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), while awaiting the legislative process to run its course, it is necessary to strengthen internal supervision more intensively and harmonise regulations at the ministerial level to reduce overlapping rules.

Third, professional organisations of PPATs, particularly the Association of Land Deed Officials (IPPAT), are expected to be more proactive in improving the capacity and professionalism of their members through continuous training, increased compliance with the code of ethics, and providing constructive input in the process of drafting the PPAT Bill. Fourth, it is important for academics to continue conducting

more in-depth research and studies on various aspects of the law on PPAT positions. These academic studies will provide a strong theoretical foundation for policymakers, while ensuring that the reconstruction of PPAT regulations is not only responsive to practical needs but also scientifically sound.

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