

The Impact Of Changes In Legal Acts On Electronic Certificates

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ABSTRACT

This article aims to analyze the impact of changes in legal acts on electronic certificates in people's lives as a form of dissemination of information to the public in connection with changes in provisions regarding electronic certificates regulated in the Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities which has been in effect since July 2024. The main problem in this article is how the legal impact of changing electronic certificates from analog certificates to electronic certificates. The method of analyzing the article with normative legal research is explanatory in nature using primary and secondary legal materials, and the form of research used is prescriptive. The results of the study concluded that the impact of changes in legal acts on electronic certificates has positive and negative impacts in society. So that the suggestions given in this article are expected to help and educate the public who need education regarding the legal impact of changes in electronic certificates in Indonesia.

Keywords: Certificate, Electronic Certificate, National Land Agency.

A. Introduction

The development of science and technology has made rapid progress. Technological advancements, in particular, have greatly affected the way of life in society. It is inevitable that information technology and electronic transactions will become the spearhead of the era of globalization which is now hitting almost all over the world, technological advances will eventually change the organizational order and social relations of society because the development of digital technology has resulted in integration or convergence in the development of information technology, media and telecommunications.¹

¹ Dikdik M. Arif Mansur and Elisatris Gultom *Cyber Law, Legal Aspects of Information Technology*, (Bandung: Refika Aditama, 2011), Cet. To. 11, p. 122.

The form of this series is the birth of new products that combine the capabilities of information systems and computer-based communication systems which are then strung in a network of information systems which are hereinafter called electronic systems.²

Electronic Systems are a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, transmit, and/or disseminate Electronic Information.³

Technology has an important role both positive and otherwise, so this digital era is a new challenge. The challenges in this era, such as politics, socio-culture, defense, and information technology itself. Digital was born with the existence of the internet network, especially computer information technology.⁴ The ability of the media makes it easier for people to receive information faster even without having to meet. Technology will continue to move like the ocean currents that continue to run in the midst of human life. So, there is no choice but to master and control technology properly and correctly in order to provide the greatest benefits.⁵

The digital era at this time is called the Digital Revolution Era. Digital disruption is a massive change that marks an era from offline to online. The development of science and technology has also penetrated into land administration with the implementation of land registration that can be done electronically and the results of the land registration are in the form of data, electronic information, no longer in the form of books.⁶ This transformation of electronic certificates supports the culture of paperless offices in the digital era, becoming easy to maintain and manage, accessible anytime and anywhere.⁷

Land registration is a series of activities, carried out by the state/government continuously and regularly, in the form of collecting certain information or data about certain lands in certain areas, processing, storage and presentation for the benefit of the people, in order to provide legal certainty in the field of land, including the issuance of evidence and its maintenance. Proof of land ownership rights in Indonesia is called a Land Rights Certificate.⁸

² Emma Nurita, *Cyber Notary Initial Understanding in the Concept of Thought*, (Bandung: Refika Aditama, 2012), Cet. 1st, p. 3.

³ Article 1 Point 1, Government Regulation of the Republic of Indonesia Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions.

⁴ Adnyani, Ni Made Dwi, Windari Windari, and Setianto Setianto. "The Importance of Electronic Land Certificates in the Digital Era as Proof of Land Ownership." *Jatayu: Jurnal Ilmiah Ilmu Hukum*, vol. 1, no. 2 (2023): 149–158.

⁵ Alimuddin. "Implementation of Electronic Certificates as a Guarantee of Legal Certainty of Land Ownership Rights in Indonesia." *Jurnal Unifikasi Hukum*, vol. 10, no. 1 (2023): 45–55.

⁶ Azhar, Muhammad, and I Ketut Dharsana. "The Effectiveness of Electronic Certificates in Preventing Land Document Forgery." *Jurnal Ilmiah Hukum dan HAM Dinasti*, vol. 4, no. 1 (2023): 34–44.

⁷ Qisthi Fauziyyah Sugianto, "Opportunities and Challenges of Notary Candidates in Facing the Development of Digital Era Disruption," *Journal of Notary* Volume 12 Number 2 (2019): 657-658.

⁸ Buana, Mirza Satria. "The Tension between the Principle of Legal Certainty and the Principle of Justice in the Constitutional Court's Decisions." Master's thesis, Universitas Islam Indonesia, 2010.

Proof or certificate belongs to a person in accordance with what is stated in the certificate. So for the landowner, the certificate is a strong handle in proving his ownership rights, because it is issued by a legitimate and legally authorized agency.⁹ The law protects the holder of the certificate and is stronger if the holder is his name mentioned in the certificate.¹⁰ So that if the holder of the certificate is not in his name, it is necessary to change the name to the person who holds it so as to avoid interference from other parties.¹¹ The UUPA's statement that a certificate as a land registration product is a strong evidence indicates that in the event of a land dispute, this dispute must be resolved in the general court, which is the district court which is the place where a person can make legal recourse to fight or claim his rights by presenting the evidence he has.⁴

With the digital transformation in the Ministry of ATR/BPN, the Minister of ATR/BPN Regulation Number 1 of 2021 concerning electronic certificates was issued, because previously four electronic services had been implemented by the Ministry of ATR/BPN, namely Electronic Dependent Rights, Certificate Checking, Land Value Zones and Land Registration Certificates. Through this regulation, the implementation of land registration that was previously carried out analogue can be done electronically, both for the first time land registration and data maintenance.¹² The change from conventional certificates to electronic is expected to reduce the number of disputes, conflicts and court cases regarding land.

In 2023, the Government issued a new policy related to the change of certificate media from analog certificates to electronic certificates. The policy is regulated in the Regulation of the Minister of State for Agrarian Affairs / Head of the National Land Agency Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration which has been enforced since July 2024.

Although analog certificates have been around for a long time, they have several drawbacks, including the possibility of physical damage, storage difficulties, and the risk of counterfeiting. In contrast, electronic certificates provide more accessible, secure, and environmentally friendly options.¹³ Given the many industries that are undergoing digital changes, keeping up with the times requires more than just following trends.¹⁴ Within this framework, electronic certificates can speed up the validation and verification process while

⁹ Candra, I Gusti Agung. "The Legal Strength of Electronic Land Certificates in Guaranteeing Legal Certainty and Third Party Protection." *Aliansi: Jurnal Hukum dan Ilmu Sosial*, vol. 6, no. 2 (2023): 179–190.

¹⁰ Sukadi, M. Riza, et al. "Legal Politics of Electronic Land Certificates in Indonesia." *Jurnal Unifikasi Hukum*, vol. 10, no. 1 (2022): 33–41.

¹¹ Febrianti, Desi. "Legal Protection of Holders of Electronic Land Certificates." *Jurnal Sosial Humaniora*, vol. 10, no. 1 (2022): 12–19.

¹² Sugianto, Qisthi Fauziyyah. "Opportunities and Challenges of Notary Candidates in Facing the Digital Disruption Era." *Jurnal Notarius*, vol. 12, no. 2 (2019): 657–658.

¹³ Japar, Muhammad, Bambang Riyanto, and Fahrudin Fahrudin. "Community Readiness in the Implementation of Electronic Land Certification." *Rechtsidee*, vol. 10, no. 2 (2023): 67–76.

¹⁴ Krismantoro, Budi. "The Urgency of Electronic Land Certificates in the Indonesian Legal System." *Jurnal Hukum Unissula*, vol. 12, no. 1 (2023): 23–35.

lowering operational costs. However, these changes also come with a variety of issues, such as cybersecurity vulnerabilities, technology dependence, and dangers to people or communities who do not have adequate access to gadgets and internet connections.¹⁵ Furthermore, these changes can impact a number of stakeholders, such as society, organizations, and governments. In this context, assessing the social and economic impact of the implementation of electronic certificates is essential.¹⁶ The validity and recognition of these certifications at different levels can be influenced by the laws and policies that facilitate this transition, therefore, they must also be taken into account.¹⁷ With a thorough understanding of this background, we can evaluate the potential benefits of deploying and switching from analog to electronic certificates, such as increased efficiency and security, while also accounting for potential drawbacks, such as security risks and uneven access to technology.¹⁸ The development of such analytics is necessary to enable proper management of change and mutual benefits. As proof of ownership of the relevant land rights, the land rights certificate of the land rights holder serves as documentation.¹⁹ According to Article 31 paragraph [1] of the Government Regulation concerning Land Registration, the holder of land rights benefits from the issuance of a land right certificate. If the data in the land rights certificate matches the information in the relevant survey letters and land rights books, then the certificate serves as strong evidence of the legal and physical information contained in the certificate.

The basis for the shift from analog certificates to electronic certificates can be a reaction to the rapid advancement of computerized innovation and the need for a more effective, secure, and environmentally friendly framework. Analog certificates in physical or paper form have long been used as substantial ownership or recognition verification, whether in resource ownership, acknowledgement, or other certificates of competency.²⁰ However, physical certificates often pose a number of hurdles, especially in terms of management, security, and operational costs. In the era of computerization, society and the world of education are required to adjust to a faster and more coordinated framework. Electronic certificates are a form of advancement that not only reduces the reliance on physical archives but also allows

¹⁵ Kusmiarto, Jaka, et al. "Digital Transformation of Land Services in Indonesia: A Readiness Assessment." *Journal of Legal Studies*, vol. 8, no. 2 (2022): 100–112.

¹⁶ Lingga, Rika Dwi, and Astrid Andhirawati. "Modern Legal Certainty in Electronic Land Certificates." *Jurnal Akta*, vol. 9, no. 4 (2022): 456–470.

¹⁷ Mujiburohman, Ahmad. "Transformation from Paper to Electronic Certificates: Juridical and Technical Review." *Journal of Law and Public Policy*, vol. 11, no. 1 (2022): 80–92.

¹⁸ Napitupulu, Haposan. "Legal Certainty Regarding Electronification of Land Certificates in Indonesia." *Journal of Social and Humanities*, vol. 8, no. 2 (2022): 22–31.

¹⁹ Oktavianto, Wawan, and Riyanto Riyanto. "Optimizing Land Services Through the Adoption of Electronic Land Certificates." *Jurnal Konstitusi dan Hukum*, vol. 10, no. 3 (2022): 233–248.

²⁰ Putranto, Budi, and Mansyur Mansyur. "The Urgency of Implementing Electronic Land Certificates." *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, vol. 8, no. 2 (2023): 112–125.

clients to access, store, and share certificates more easily and flexibly.²¹ For example, in the world of education, the exchange of confirmation certificates to electronic form makes it easier for graduates to access their archives anytime and anywhere. Additionally, in the property division, electronic certificates help reduce regulatory time and costs and reduce the risk of counterfeiting.²² The shift to electronic certificates is also in line with the government's program to advance the effectiveness of public services, as stated in the national digitalization vision. The digitization of certificates is expected to accelerate the preparation of public organizations, increase public confidence in secure frameworks, and support efforts to reduce the environmental impact caused by the use of paper. However, this step also poses various challenges, especially in terms of the gap in access to digital innovation.²³ Not everyone has access to the web or advanced gadgets, which can make it difficult for them to access electronic certificates. Additionally, the potential dangers of cyberattacks and data misuse may be a concern that should be taken seriously.²⁴ Another challenge is the limited framework in certain zones and the need for digital education for people so that they can use electronic certificates safely and productively. From this basis, it is difficult to get the positive and negative impacts of the implementation of electronic certificates.²⁵ By understanding these impacts, the government and related education circles can take appropriate steps to maximize the benefits of electronic certificates and minimize their dangers.²⁶

The change in the media certainly has an impact on the legal acts that occur in Indonesia, of course as the vision and mission expected by the government for the community in the face of this change has a positive impact on the Indonesian people, but of course every change that occurs will cause pros and cons in society, related to the emergence of negative impacts that will arise in the future, it is hoped that this research can provide information for its readers, In order to avoid problems that may occur in the future.²⁷

Thus, based on the description mentioned above, in the context of writing this article, the author tries to explore, research and analyze more deeply about the electronic land certificates that are carried out along with the impact that arises and are interested in formulating the problem in this case, as follows: What is the positive impact that affects legal

²¹ Rahardjo, Satjipto. *Ilmu Hukum*. Bandung: Citra Aditya Bakti, 2012.

²² Ramasari, Putu Ayu, and Shella Aniscasary. "The Legal Power of Electronic Land Certificates Based on Ministerial Regulation ATR/BPN No. 1 of 2021." *Journal of Legal Reform*, vol. 9, no. 1 (2023): 56–67.

²³ Widayastuti, Tri. "Position of Electronic Land Certificates as Evidence and Responsibility of Notary and Land Office." *Jurnal Notary*, vol. 9, no. 2 (2022): 50–61.

²⁴ Rachmah, Siti, Rina Djaja, and Sudirman Sudirman. "Implementation of Electronic Land Certificates as Legal Land Ownership." *Jurnal Ilmu Hukum Unisri*, vol. 14, no. 1 (2022): 19–28.

²⁵ Sihombing, Jan S. Marbun. "Bureaucratic Reform through Electronic Land Certificates." *Ius Quia Iustum Law Journal*, vol. 28, no. 1 (2021): 131–150.

²⁶ Santosa, Rahmad, and Rr. Sri Purwaningsih. "Implementation of Land Certificate Digital Transformation in the Industrial Revolution 4.0 Era." *Jurnal Ilmu Komunikasi*, vol. 8, no. 2 (2023): 91–100.

²⁷ Setiawan, Dwi, and Wulan Lestari. "Digital Transformation of Public Services in the Agrarian Sector." *Jurnal Administrasi Publik*, vol. 13, no. 1 (2022): 45–56

acts in society related to the change of certificate media from analog certificates to electronic certificates? What are the negative impacts that affect legal actions in society related to the change of certificate media from analog certificates to electronic certificates?

B. Research Methods

The research on "The Impact of Legal Changes on Electronic Certificates" is a normative juridical research using primary legal materials that have juridically binding power related to the research being discussed and using secondary legal materials that help to provide a deeper understanding of the literature related to this research. Judging from explanatory research by explaining more deeply about a symptom to reinforce the existing hypothesis, then the form of research is prescriptive research that aims to describe a solution or suggestions to overcome problems that arise.

C. Results Of Research And Discussion

Changes that occur in the physical form of the proof of ownership of land rights which were originally in analog form which have undergone changes in terms of digitization or called electronic certificates, have caused many changes. The existence of these changes is inseparable from the legal impact that occurs with these changes. In this study, the author conducted a study on the impact of changes from the change from analog certificate media to electronic certificates.²⁸

1. What is the positive impact that affects legal acts in society related to the change of certificate media from analog certificates to electronic certificates?

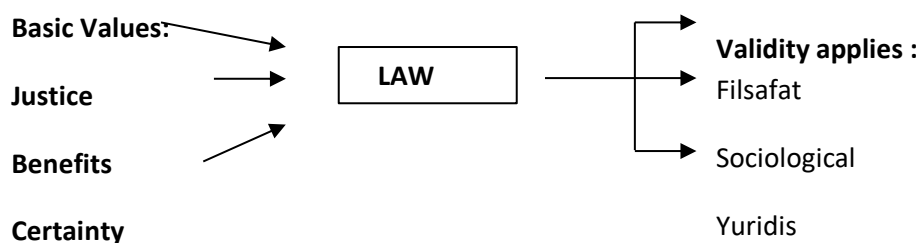
- a. Legal certainty and security

Before discussing further about the increasing legal certainty and security related to the new regulations governing changes in land certificate media, it is necessary to understand what is meant by legal certainty and security itself. In the formation of the rule of law, the main principle is built in order to create clarity on the legal regulation, the principle is legal certainty. This idea of the principle of legal certainty was originally introduced by Gustav Radbruch in his book "einführung in die rechtswissenschaften". Radbruch wrote that in the law there are 3 (three) basic values, namely: ²⁹ (1) Justice (Gerechtigkeit); (2) Usefulness (Zweckmassigkeit); and (3) Legal Certainty (Rechtssicherheit). In his book Ilmu Hukum, Satjipto Rahardjo demonstrates these three basic values with the basis of their validity. The bodies are as follows:³⁰

²⁸ Rheza, Andika, Adinegoro Adinegoro, and Iswahyuni. "Challenges in Implementing Land Certificates at the Ministry of ATR/BPN." *Jurnal Kajian Kebijakan dan Inovasi*, vol. 7, no. 1 (2023): 55–66.

²⁹ Satjipto Rahardjo, *Legal Science*, Citra Aditya Bakti: Bandung, 2012, p. 19

³⁰ *Ibid.*, p. 20



Mirza Satria Buana described in his thesis that the three basic values are like a "king" who quarrels with each other (*spannungsverhaltnis*) to be applied in law.³¹

The principle of legal certainty, in fact, the existence of this principle is interpreted as a situation where the law is certain because there is a concrete force for the law concerned. The existence of the principle of legal certainty is a form of protection for the judiciary (justice seekers) against arbitrary actions, which means that a person will and can obtain something expected in certain circumstances.³²

Regulation of the Minister of ATR/BPN No. 1 of 2021 emphasizes that electronic land certificates have legal force equivalent to physical certificates. This means that legally, electronic certificates must be accepted in land transactions and can be used to prove land rights. This decision is very important to convince the public and the legal world that electronic land certificates have the same legitimacy as physical land certificates. This decision is also an important step in the government's efforts to modernize the land system and prevent land disputes caused by unclear or false land documents. Rahmawati (2021) explained that legal recognition of electronic land certificates will provide further legal certainty in the process of buying and selling or granting land transactions.³³

In terms of security, electronic certificates provide a higher level of security through digital systems with authentication and encryption managed by Lembaga electronic certification.

a. Change in the form of evidence

Previously, analog certificates were physical in form that could only be seen and held. The advantages of this electronic certificate make it easier for users to prove the validity of a certificate because the data has been encrypted with the Ministry of Agrarian and Spatial Planning/National Land Agency so that it has an impact on the ease of proving its validity and also more complete information about the initial

³¹ Mirza Satria Buana, The Interesting Relationship Between the Principle of Legal Certainty and the Principle of Substantial Justice in the Decisions of the Constitutional Court, Yogyakarta: Master's Thesis in Law, Islamic University of Indonesia, 2010, p. 34

³² Sudikno Mertokusumo, Chapters on Legal Discovery, Citra Aditya Bakti: Bandung, 1993, p. 2.

³³ Refialy, Andy, Agus Sediyo, and Dedi Setiawan. "Securing Digital Land Certificates Using SHA-512 and RSA Digital Signature." *Jurnal Teknologi Informasi dan Komputer*, vol. 6, no. 2 (2023): 77-85.

data on the land rights. In this change, electronic certificates are considered superior because as a certificate holder, physical evidence will be given in the form of 1 (one) piece of paper certificate with a special blank from BPN that contains a *barcode* to be accessed through the *Touch Tanahku application*. In addition, electronic certificates are in the form of valid digital data according to hukum as electronic evidence in accordance with the ITE Law and land regulations. This has an impact on the evidentiary process in land disputes that is faster and easier to change methods and approaches.

- b. Influence on Legal Deeds
Notaries and PPAT must adjust to the electronic system when making Deeds of Sale and Purchase, Grants, and other deeds related to land. Digital signatures and *host-to-host systems* between PPAT and BPN are a must in the process of transferring rights.
 - c. The process of changing the name of the sale and purchase, and other transfer of rights will be carried out *paperlessly*, thereby reducing time and costs.
2. What are the negative impacts that affect legal acts in society related to the change from analog certificate media to electronic certificates? The negative impact on legal acts that occur in the community as a result of changes in certificate media is as follows:
- a. Dependency on the stability of the relevant technological system
In practice, BPN relies on technology systems in each of its activities in fulfilling community requests related to the interests of the land process. This causes the government to rely heavily on the resilience of a strong digital system because it plays a major role in the land movement in Indonesia. If this is supported by an adequate system, this will certainly bring a lot of positive impacts. But on the contrary, this can also lead to negative impacts where if the digital system is not fully secure, or there is a hack, or a server down due to network disruptions, it has a great impact on the smooth running of land activities in Indonesia. The digital security system also has a very important role in implementing this new government policy, because it is possible that data hacking can result in data being misused by individuals, causing new legal problems in the future. Of course, this is very detrimental to electronic certificate holders.
 - b. Rights transfer process
People who are not familiar with technology may experience new legal problems due to the change in this certificate media. People who do not understand how this electronic certificate works may have difficulty in maintaining security and using electronic certificates. So that changes that were originally intended to increase effectiveness and efficiency have become the opposite.
 - c. Changes in the role of land owners and users

Owners must have an understanding of access and use of electronic accounts (for example through the official BPN portal), this is because access to certificates is no longer just physical, but through a system with certain authorizations (based on population identification numbers and PIN). This will certainly have an impact on certificate holders who have constraints with electronic systems, for example the need to have digital telecommunication devices with a certain base (android), of course this is an obstacle for land rights holders who are limited to the ownership of android-based telecommunication devices.

d. Potential new disputes

This is also related to the possibility of digital disputes. Potential digital disputes can occur. This can be because anyone who can access the system can manipulate data if this digital system is not properly supervised. If this happens, of course, it will have a detrimental legal impact on land rights holders.

e. Regulatory compliance

According to the author's understanding, adjustments are needed in the old regulations such as:

1. UU No 5 Tahun 1960 tentang Pokok-Pokok Dasar Agraria
2. PP No 24 Tahun 1997 tentang Pendaftaran Tanah
3. Peraturan Menteri ATR/BPN No 1 Tahun 2021 tentang sertipikat elektronik Notaris, PPAT dan aparat penegak hukum harus memahami perubahan ini agar tidak keiru menafsirkan keabsahan dokumen.

Summary Table of Legal Impacts Due to Electronic Certificate Changes

ASPECTS	POSITIVE IMPACT	NEGATIVE IMPACT
Legal Certainty	Secure and centralized data	Cyber risk if security is not optimal
Legal Process	Faster and more efficient	Need for technical and legal adaptation
Evidence	Valid as electronic proof	More complex proofs
Community access	Can be done online	It is difficult for people who are unfamiliar with digital communication tools
Regulation	Modernization of land law	Potential inconsistency with the old rules

D. Conclusions and Recommendations

The change in data from land certificates from analog certificates to electronic certificates brings innovations in the land law system, especially in terms of efficiency, security, and ease of administration. But this shift also poses new challenges, especially in terms of data security, data accessibility, and legal adaptation.

Therefore, the success of the implementation of electronic certificates is highly dependent on the readiness of regulations, information technology systems, and the ability of the public and related officials to adapt. Transition steps must be carried out gradually, inclusively, and in a structured manner so that the goal of this digital transformation truly increases certainty and legal protection for all levels of society.

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D. Final Project

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