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DIGITIZING LAND REGISTRATION AS AN EFFORT TO MINIMIZE THE PRACTICE OF THE LAND MAFIA

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Abstract

The purpose of this research is to provide legal certainty guarantees (rechts kadaster) and legal protection of land ownership by digitizing land registration. The research method uses bibliometric analysis with three stages, namely harvesting data using publish or perish and entering keywords on Google Scholar, screening data on Microsoft Excel in CSV format, and visualizing using VOSviewer. The results of the study show that during the last 5 years, the number of studies on the digitization of the land sector has increased and is very closely related to land records, land administration, and land cover. This illustrates that digitization of the land sector is a necessity in today's digital era. The results of the study show that digitization in the land sector is a necessity and can be an effort to minimize land mafia practices and digitalization of documents in the land sector can provide legal certainty for land ownership because legitimate owners can control their data at any time. This research can be a reference for the government, especially the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (Badan Pertanahan Nasional (BPN)), to complete the digitization program in the land sector and make land information transparent.

Keywords: Digitalization, Land mafia, Land registration.

1. Introduction

The digital era is an era where all activities that support life are facilitated by technology to make them more practical and modern [1]. The development of the digital era cannot be prevented anymore. In the Land Sector, to realize the modernization of land services, it starts with implementing electronic-based land services, all the way to the documents produced in the form of electronic documents. The launch of the electronic land certificate policy starts in 2021 with the issuance of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency No. 1 of 2021 concerning Electronic Certificates. Historically, digitization of land registration has been seen since the enactment of Government Regulation Number 24 of 1997. Article 35 paragraph (5), (6), and (7) states that "gradually land registration data is stored and presented using electronic and microfilm. Records of documents produced by electronic devices or microfilm have the power of proof after being signed and affixed with an official stamp by the Head of the Land Office concerned. The form and method for storing, presenting, and deleting the documents mentioned in paragraphs (1) and (2) of this Article 35, as well as the method for storing and presenting land registration data using electronic devices and microfilm shall be stipulated by the Minister. This means that the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (Badan Pertanahan Nasional (BPN))has always had the goal that in the future services in the land sector must be digital/electronic based.

Based on the amended provisions of the 1945 Constitution, it is stated explicitly that the state of Indonesia is a state based on law [2]. One of the objectives of establishing law is to obtain legal certainty [3]. Therefore, the community has the right to obtain legal certainty in the land sector by registering it with the land agency, namely the BPN. The purpose of land registration in Indonesia is to provide legal certainty guarantees (rechts kadaster) and legal protection for land ownership. With land registration, land rights holders will receive proof of their land rights, namely a certificate. Thus, with the certificate, the holder of land rights will be guaranteed the existence of his rights [4]. Land registration is a series of activities carried out by the government on an ongoing, continuous, and regular basis, covering the collection, processing, bookkeeping, and presentation and maintenance of physical data and juridical data in the form of maps and lists of land parcels and apartment units, including the issuance of certificates of proof of rights for land parcels. - plots of land that already have rights and ownership rights to apartment units and certain rights that burden them [5].

In recent decades, land registration systems around the world have been subject to a process of modernization by implementing information and communication technologies. Substantial achievements in modernizing the land registration system were demonstrated by ensuring public access to online land registration and introducing the infrastructure for electronic registration processes [6]. Electronic land registration will lead to the issuance of proof of ownership in electronic form. The mechanism for an electronic system-based land registration system is regulated in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 1 of 2021 concerning Electronic Certificates [7]. Electronic-based land registration is an unavoidable consequence of advances in information and communication technology, as shown by examples in several countries. In Ontario, Canada it is called POLARIS (the Province of Ontario Land Registration Information System),

in New Zealand, it is called Land Online, in England, it is called e-conveyancing which was later developed into e-lodgements, in Singapore, it is called STARS eLodgment (Low, 2005), in Australia called the National Electronic Conveyancing System (NECS), in Malaysia, it is called the Computerized Land Registration System (CLRS) and the Electronic Land Administration System (ELAS) [8].

The purpose of this research is to provide legal certainty guarantees (rech cadastral) and legal protection for land ownership by digitizing land registration. The research method uses bibliometric analysis with three stages, namely data harvesting using publish or perish and entering keywords on Google Scholar, filtering data on Microsoft Excel in CSV format, and visualization using VOSviewer. The novelties of the research are (i) land registration can be done electronically, (ii) there is a digital-based land registration application, and (iii) land data can be owned digitally.

2. Method

The method of studying this topic uses several stages. The first stage was harvesting data on Google Scholar with the keywords digitizing, the land, Indonesian sector for the period 2017 to 2021, and 992 articles was found. Then the articles that have been obtained are then saved in Microsoft Excel in CSV format. Once stored in Microsoft Excel, the next step is screening data in the format of the number of citations, and year of publication, and grouping according to the year of publication. After the screening, out of 992 articles, only 938 articles were analysed. The selected articles were converted to RIS format, visualized, and analysed with bibliometric software. Detailed information in the bibliometric analysis is available in the literature [9] and the examples are in previous studies [10-23].

3. Results and Discussion

The digitization of land registration has been seen since the enactment of Government Regulation Number 24 of 1997. Article 35 paragraph (5), (6), and (7) states that "gradually land registration data is stored and presented using electronic equipment and microfilms. Records of documents produced by electronic devices or microfilm have the power of proof after being signed and affixed with an official stamp by the Head of the Land Office concerned. The form and method for storing, presenting, and deleting the documents mentioned in paragraphs (1) and (2) of this Article 35, as well as the method for storing and presenting land registration data using electronic devices and microfilm shall be stipulated by the Minister. This means that BPN has always had the goal that in the future services in the land sector must be digital/electronic based.

The implementation of land registration in Indonesia has been going on for approximately 61 years until 2021 now. Out of a total of approximately 126 million plots of land in Indonesia, only 82 million plots have been registered by 2020. This means that 35% of the land has not been registered, said Suyus Windayana Director General for Determination of Rights and Land Registration (PHPT). Even in 2021, Secretary General of the BPN Himawan Arif Sugoto said that Indonesia has 126 million plots of land. But in reality, only about 70 million fields have been registered. Unfortunately, in the digital age, only 30 percent of the land has been registered digitally. Therefore, there are still many documents that must be transferred and digitized. “Including a rudimentary land map.”

Land registration in Indonesia aims to provide guarantees of legal certainty (rechts kadaster) and legal protection of land ownership. In contrast to the purpose of land registration before the UUPA. During the Old Agrarian Law era (Colonial Agrarian Law) land registration was only applied to lands subject to Western Agrarian Law, or Western Land Rights, and almost did not cover Customary Lands which were owned by the native people. Government Regulation No. 24 of 1997 concerning Land Registration regulates three objectives of land registration, namely: (i) provide legal certainty and protection for rights holders over a plot of land, apartment units, and other registered rights. Thus, they can easily prove themselves as legitimate rights holders, (ii) provide information to interested parties, including the government. Thus, they can easily obtain the data needed to carry out legal actions regarding registered land parcels and apartment units, and (iii) implement orderly land administration.

Minister of ATR/Head of BPN Regulation No. 7 of 2016 concerning the Form and Content of Land Certificates regulates this. As stipulated in Article 2 it states, “Land registration is carried out using a land activity computerized system (KKP)". Now KKP uses an electronic system in the form of a systemized, integrated application that can be used with or without a network and can be automatically synchronized immediately. Then, a derivative regulation from Law 11/2020 is in the form of a draft government regulation (RPP) regarding Management Rights, Land Rights, Flats Units, and Land Registration. The government is targeting that in February 2021 all derivative regulations for the Job Creation Law will be completed as mandated by the Job Creation Law. The RPP, among other things, adds to the formulation of article norms in PP 24/1997, namely adding one article between Articles 6 and 7. Article 6A states that it consists of 4 paragraphs. Paragraph (1) states "The implementation and implementation of land registration can be carried out electronically". Whereas paragraph (2) states "The results of the implementation and implementation of electronic land registration as referred to in paragraph (1) are in the form of Data, Electronic Information and/or Electronic Documents". Then paragraph (3) states "Electronic Data and Information and/or their printouts are valid legal evidence and an extension of valid evidence following the applicable procedural law in Indonesia", while paragraph (4) reads "The implementation of electronic land registration is carried out in stages taking into account the readiness of the electronic system built by the Ministry". In the end, electronic land registration led to the issuance of proof of ownership of land rights in electronic form. As stated in Article 147 of the Job Creation Law which states "Proof of land rights, ownership rights to apartment units, management rights, and mortgage rights, including deed of transfer of land rights and other documents related to land can be in electronic form".

Figure 1 illustrates that the development trend of publications related to the digital world is increasing and one of them is the digitization of the land sector. From 2017 to 2021, the trend is increasing and indicates that the discussion on digitizing the land sector, one of which is land registration, is currently being carried out, especially in Indonesia. Figure 2 is the result of the data that we managed to visualize.

Figure 2 explains the results of the network visualization analysis showing that there are 6 clusters. Cluster 1 has 5 items coloured Red = land governance, land record, land reform, land use map, transparency, Cluster 2 has 4 items coloured green = east Kalimantan, land cover, land cover change, land cover map, Cluster 3 has 4 items coloured blue = land administration, land conflict, land management,

land registration, Cluster 4 has 3 items coloured green leaf = digital transformation, land sector, public service, Cluster 5 has 3 items coloured purple = natural resource, plantation, plantation land, Cluster 6 has 2 items coloured blue = land ownership, land right. In addition to network visualization, this data is visualized with overlay visualization (see Fig. 3) and density visualization (Fig. 4).

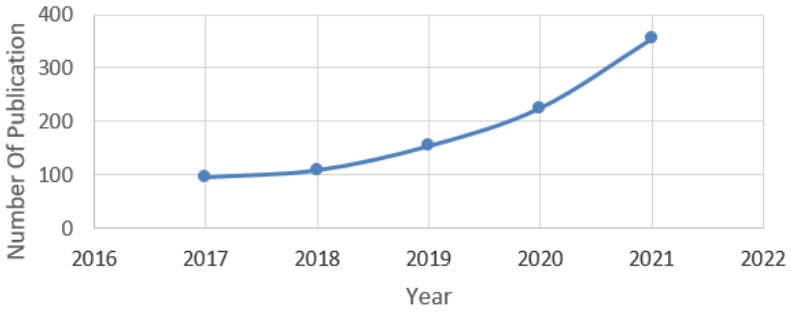

Fig. 1. Research trend.

Fig. 2. Network visualization.

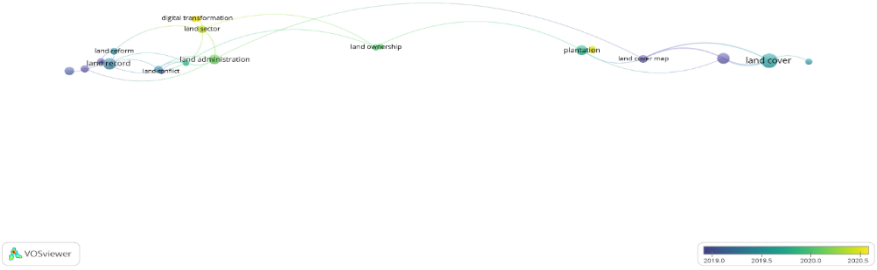

Fig. 3. Overlay visualization.

Figure 3 explains the year-to-year trend of related topics being researched from the timeframe of 2019 to 2020. Several collars appear. The yellow indicates the latest research, and the yellow topic is digital transformation and the land sector and shows that these two topics are rarely studied by looking at the small size of the two circles.

Fig. 4. Density visualization.

Figure 4 explains the density visualization of the keywords "Digitizing", "The Land", and "Sector Indonesia". Several collars appear in Figure 4. The yellow indicates that the topic is currently being researched, namely land reform, land record, digital transformation, land sector, land cover, and plantation. The green shows research that has not been done much consisting of land ownership and land cover maps. When the digitalization policy in the land sector was enacted, it reaped many pros and cons in society. This is because the public believes that the government is still unable to protect public data by looking at examples of cases of data leaks since the government implemented Electronic Identity Cards (E-KTP). Thus, people have concerns that this will also happen to personal land ownership data such as electronic certificates. Even the Secretary General of the Consortium for Agrarian Reform (KPA), Dewi Sartika, thinks that the government should complete land registration in all regions of Indonesia, not digitize certificates.

Even Dewi Sartika assesses that the implementation of digitizing land certificates that starts with government land, and then is followed by business entities, has the potential to exacerbate agrarian conflicts. He believes that the community has the right to keep certificates in physical form as proof of land ownership, and electronic certificates are only a compliment. Digitalization in the land sector can also make information about land transparent and open because as a result of the closure of information related to land in Indonesia, the land mafia has more freedom to act. Some of the modes of the land mafia are: using fake girik, using forged letters, carrying out occupation or control of land, changing boundaries, Applying for a replacement certificate to BPN, Utilizing the judiciary is like filing a lawsuit using fake document evidence, then the results of the decision are used to the BPN, Making the parties file a lawsuit in court even though these parties do not own the land and File a continuous lawsuit until the verdict the land mafia wants is out.

The above modes can occur because land information is still not transparent in Indonesia, so the land mafia cooperates with elements across state agencies, including BPN employees to easily tamper with land ownership evidence data. One of the efforts to minimize the occurrence of land mafia practices is by implementing digitization in the land sector so that information about the land can be accessed anywhere, anytime, and also makes it easier for both the public and law enforcement officials to control the land sector, especially right owners or holders of legal certificates can control every when the status of the certificate.

4. Conclusions

To guarantee legal certainty and provide legal protection to landowners, the implementation of land registration becomes an obligation, and registration is carried out digitally. This is to follow the digital era that is happening. Because compared to other countries (Korea, Japan, Malaysia, Singapore, and the Philippines), Indonesia is a country that is lagging in implementing digitization in the land sector. We succeeded in analysing the bibliometric on the topic of digitizing land registration with the keywords Digitizing, the land, and the Indonesian sector. The results of the bibliometric analysis show that digitizing land registration is a necessity in today's digital era and digitalization is one of the efforts to minimize the occurrence of land mafia practices.

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