

## Civil Liability by the National Land Agency (BPN) in the Protection of Personal Data on Electronic Certificates

Natasya Fhadyah Azzahra<sup>1)</sup> & Wardani Rizkianti<sup>2)</sup>

<sup>1)</sup> Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jakarta, Indonesia, E-mail: [2110611217@mahasiswa.upnvj.ac.id](mailto:2110611217@mahasiswa.upnvj.ac.id)

<sup>2)</sup> Faculty of Law, Universitas Pembangunan Nasional “Veteran” Jakarta, Indonesia, E-mail: [wardanirizkianti@upnvj.ac.id](mailto:wardanirizkianti@upnvj.ac.id)

**Abstract.** *This research aims to examine, study and explore the legal position of electronic certificate services (e-certificate) and personal data protection within the scope of legal arrangements. In addition, the author wants to encourage the responsiveness and responsibility of the National Land Agency (BPN) in organizing regulations and policies that are fair, certain and beneficial to land rights holders who are legal subjects, as mandated by the 1945 Constitution Article 28D Paragraph 1, Article 28G Paragraph 1 and Article 28H Paragraph 4. The policy of electronic land registration and issuance of electronic certificates organized by BPN is a step to improve land services in Indonesia through digital transformation which aims to provide a sense of security, justice and legal certainty for holders of land rights. However, many of these policies have created pros and cons in the community because the electronic system in Indonesia as a whole is still very vulnerable to cyber threats. Therefore, the importance of BPN's responsibility in providing legal certainty to land rights holders is regulated by legislation because until now the regulation does not exist so the author suggests the establishment of new regulations that contain the form and mechanism of responsibilities that must be carried out by BPN. This research uses an approach that has been used by other researchers, namely normative juridical with a statute approach and conceptual approach through literature studies analyzed descriptively qualitative. The problems to be answered regarding the regulation or legal basis of the implementation of the electronic land certificate policy and the limits of the responsibility of the BPN in providing legal certainty and justice to land rights holders.*

**Keywords:** Certificate; Electronic; Personal; Protection.

### 1. Introduction

Registration of land rights is a mandate outlined in Article 19 of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA). Registration of land rights aims to provide legal certainty to

holders of land rights. The legal certainty of land rights registration includes the certainty of the status of the right, the subject of the right, and the object of the right.<sup>1</sup>

The process of registering land rights produces evidence in the form of a land certificate issued by the National Land Agency (BPN). This certificate is not only proof of ownership, but also has an important role in various legal and economic aspects related to land. With a land certificate, land rights holders have a legal and strong guarantee of legal certainty over the rights that exist on the land and protect against illegal ownership disputes by other parties.

Reporting from the statistical data of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR / BPN) in 2021, to date 72,315,659 paper land certificates have been registered. In fact, the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR / BPN) reported that 86 cases of land mafia have been revealed with a total of 159 suspects per year 2023.<sup>2</sup>

With many cases of land disputes occurring in the community, the government issued a new policy, namely electronic certificates (e-certificate). This electronic certificate is a step to improve land services in Indonesia through digital transformation which aims to provide a sense of security, justice, and legal certainty for users and organizers of electronic systems, referring to Article 4 of Law No. 11 of 2008 concerning Information and Electronic Transactions. The e-certificate policy will make the land registration and certificate issuance process faster, easier, and more transparent. In addition, the implementation of the e-certificate policy is expected to minimize the risk of land disputes, such as fraud and land mafia. The e-certificate policy also has a legal basis which is regulated in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 of 2023 concerning the Issuance of Electronic Documents in Land Registration Activities.

With PerMen ATR/BPN Number 3 of 2023, analog, physical and manual certificates will be transferred to electronic certificates (e-certificate). Electronic certificates still function as valid evidence of land rights ownership but in a different form and format. The components in an electronic land certificate are the Field Identification Number, the type of right being registered, the electronic certificate code (e-certificate), the identity of the right holder, the field of land, the location of the land, the blank code number, the QR Code, and the electronic signature. Electronic certificates can be owned through land registration and then data verification. If the data has been declared correct and valid, the National Land Agency (BPN) will issue an electronic certificate (e-certificate).

The ease of registration and issuance of electronic certificates (e-certificate) is not fully supported by the public because the cybersecurity index score in Indonesia reaches 63.64

---

<sup>1</sup> Santoso, U. (2019). *Registration and Transfer of Land Rights*. Jakarta: Kencana, 2

<sup>2</sup> Anisah, L., & Winarto, Y. (2024). 86 Land Mafia Cases Uncovered, BPN Secures Potential State Losses of IDR 13.2 Trillion. Accessed from <https://nasional.kontan.co.id/>

points and ranks 49th in the world based on the National Cybersecurity Index (NCSI) 2023.<sup>3</sup> This illustrates that the existing electronic system in Indonesia is still relatively weak and the government has not been able to guarantee good digital security, so it is feared that data leakage cases will be repeated if the e-certificate policy is enforced at this time.

This public concern and distrust should be a concern for the Ministry of ATR / BPN in organizing electronic systems in the Electronic Certificate policy based on human rights stipulated in the 1945 Constitution. Referring to Article 28D Paragraph (1), the implementation of the electronic system must provide guarantees and the same legal certainty to the community. Article 28G Paragraph (1) Jo. Article 28H Paragraph (4) of the 1945 Constitution also provides further restrictions that everyone has property rights and these rights cannot be taken over arbitrarily by any party, so that the Ministry of ATR / BPN and the National Land Agency (BPN) which is the organizer of the electronic system must be responsible for the implementation of a reliable and secure electronic system as in Article 3 Paragraph (1) PerMen ATR / BPN Number 3 of 2023. Not only that, BPN is also responsible for ensuring the security, confidentiality, and stability of electronic systems used to store and maintain personal data on e-certificates, referring to Article 36 Jo. Article 39 Paragraph (2) of Law No. 27 Year 2022 on Personal Data Protection. This provides legal certainty and protects land rights holders from land ownership disputes.

Based on research entitled “Legal Responsibility of the National Land Agency Regarding Discrepancies in the Results of Checking Electronic Certificates”<sup>4</sup> explains that the National Land Agency must be responsible for discrepancies in the results of checking electronic certificates (e-certificate) on the database system. While this research focuses on the extent of civil liability that can be carried out by the National Land Agency for the protection of personal data on electronic certificates (e-certificate).

Based on research entitled “Legal Protection of Land Registration Data Conducted Electronically”<sup>5</sup> explains that the Ministry of ATR / BPN must be responsible for protecting the personal data of electronic land certificate owners so that the public can demand this if they feel harmed. While this research focuses on the form of responsibility that can be given by the National Land Agency to protect personal data in electronic certificates to the public who are harmed. While this research focuses on the form of responsibility that can be given by the National Land Agency to protect personal data in electronic certificates to the aggrieved community. The next research entitled “Vicarious Liability in Personal Data Protection”<sup>6</sup> explains that based on the Personal Data Protection Law, people who are harmed due to misuse of personal data can request liability in the form of compensation and criminal

---

<sup>3</sup> Secretariat of KADIN Indonesia. (2024). Evaluation of Indonesia's Cybersecurity Regulations. KADIN Indonesia. Accessed from

<sup>4</sup> Sumardani, N. M. R. A., & Bagiastra, I. N. (2021). Legal Responsibility of the National Land Agency Regarding Discrepancies in the Results of Electronic Certificate Checking. *Acta Comitatus*, 6(2).

<sup>5</sup> Dharma, W. S., Perdana, S., & Moertiono, J. (2023). Legal Protection of Electronic Land Registration Data. *Legality: Journal of Law*, 15(1).

<sup>6</sup> Claudia, Z., & Gunadi, A. (2023). Vicarious Liability in Personal Data Protection. *Rechtsidee*, 11(2).

sanctions, even though there is no concept of liability in the law. Therefore, this study will provide an explanation of the extent to which the form and concept of liability that can be carried out by the National Land Agency to protect personal data in electronic certificates (e-certificate) by referring to regulations governing land registration, electronic certificates (e-certificate), and personal data protection.

Referring to this, the author wants to conduct research with the title “Civil Liability by the National Land Agency (BPN) in Personal Data Protection on Electronic Certificates (E-Certificate)” which aims to examine, study and explore the legal position of electronic certificate services (e-certificate) and personal data protection within the scope of legal arrangements. Furthermore, the author encourages the responsiveness of the National Land Agency (BPN) in organizing regulations and policies that are fair, certain and beneficial to land rights holders who are legal subjects, as mandated by the 1945 Constitution Article 28D Paragraph 1, Article 28G Paragraph 1 and Article 28H Paragraph 4.

## **2. Research Methods**

This research uses a juridical-normative research method with a statute approach and conceptual approach. The data collection technique used, namely library research with secondary data, which is divided into primary legal materials, secondary legal materials, and tertiary legal materials, which will be analyzed descriptively qualitatively.

## **3. Result and Discussion**

### **3.1. Electronic Certificate and Personal Data Protection in Civil Law Perspective**

The electronic registration of land grants rights and legal recognition to holders of electronic land certificates under the Civil Code. This is aligned with the provisions in the Second Book on Goods, particularly Article 499, which defines goods as objects and rights that can be owned, and Articles 506 and 507, which classify immovable property as land, along with everything on and within it. These provisions firmly establish the civil protection of ownership rights over property and immovable goods. BPN as an agency that organizes electronic land certificate policies must pay attention, operate and be accountable throughout the applicable laws and laws in the context of protection, respect and fulfillment for justice for owners of personal data or holders of electronic land certificates as ordered by Article 1367 of the Civil Code that “A person is not only responsible for losses caused by his own actions, but also for losses caused by the actions of those who are his dependents or caused by goods that are under his supervision”.

Certificate as a proof of right to a land applies as a valid proof of land registration aimed at obtaining legal certainty specified in Article 19 of Law No. 5 of 1960 concerning Basic Agrarian Principles. This is regulated more clearly in Government Regulation No. 24/1997 on Land Registration which explains that a land certificate is a strong proof of rights regarding physical data (land boundaries, location, and area) and juridical data (legal status of the land and the right holder). The issuance of a land certificate is done after a process of measurement,

juridical data research, and announcement of the data concerned to provide an opportunity for other parties to submit objections if any. The UUPA and PP on Land Registration only explain conventional land certificates, considering that at the time of the legal basis, electronic certificates had not yet been enacted.

Furthermore, in 2023, the Minister of ATR/BPN Regulation No. 3 of 2023 was approved which regulates land registration activities, including land registration for the first time, data maintenance, recording data changes, and media transfer, with the issuance of electronic documents. This regulation aims to modernize land registration services through an electronic system so that land data management activities can be efficient, transparent and secure. With a more transparent and secure system, the public is expected to get higher certainty and legal protection in land ownership including forgery, loss, or damage, even more familiar if the defect often occurs in the crime of duplication of certificates that create unrest and material and immaterial losses due to regulations and policies, especially the implementation of the ministry and the facilitator's implicative component. By adopting an electronic system, the Ministry of ATR/BPN supports the government's vision to create more modern, accountable and efficient governance.

Article 1 paragraph (8) of the Regulation of the Minister of ATR/BPN No. 3 of 2023 provides an explanation of the meaning of an electronic certificate which is "a certificate issued through an Electronic System in the form of an Electronic Document". PerMen ATR/BPN No. 3 of 2023 also regulates electronic data maintenance, both physical data and juridical data listed in Article 29 paragraph (1) which explains that "Recording the maintenance of Land Registration Data is carried out by recording changes in Physical Data and / or Juridical Data on BT-el management rights, land rights, waqf land, ownership rights to apartment units and mortgage rights in the form of new Data Blocks whose validation is carried out at the same time on the e-Certificate."

Although PerMen ATR/BPN No. 3 of 2023 aims to modernize and improve the efficiency of land registration, substantively this regulation may cause ambiguity and inconsistency in its application. In technical terms, this regulation does not explain in detail related to data security protocols, data *backup* procedures, and data recovery to ensure the integrity and security of electronic systems used in land registration activities up to the issuance of electronic certificates. Article 2 of the Government Regulation on Land Registration mandates that land registration must be carried out based on principles, one of which is the principle of security, to ensure that the implementation of land registration is carried out thoroughly and carefully so as to provide a guarantee of legal certainty in accordance with the objectives of land registration. Then, this regulation also does not provide a clear and firm supervisory mechanism to ensure that all electronic land registration processes until the issuance of electronic certificates are carried out correctly and in accordance with established standards. This can lead to inconsistencies in the application of regulations and policies, neglect the inclusiveness and protection of the rights and position of legal subjects, and result in the potential misuse of data or systems that are at risk of both long-term, crucial and confidential security.

Furthermore, PerMen ATR/BPN No. 3 Year 2023 also does not provide legal certainty to land rights holders in terms of the responsibility of the authorities for the protection of personal data in the event of legal issues, such as hacking and leakage of personal data. While it is stipulated that electronic systems must be reliable and secure, there are no technical details or security standards that must be met to protect personal data, nor are there procedures or steps to be taken in the event of hacking or data leakage, such as notification to rights holders or remediation steps. This creates a lack of clarity regarding responsibility in the event of a security incident, which creates legal uncertainty for land rights holders whose personal data is at risk.

The position of electronic certificates which are certificates in the form of electronic documents is also strengthened by the Article 5 paragraph (1) and paragraph (2) of the ITE Law, “electronic documents and electronic signatures are recognized as valid legal evidence as an extension of evidence and are equivalent to written documents.” In line with Article 1870 of the Civil Code which states that a certificate as an authentic deed can be perfect and binding evidence for the holder of the right to the object contained therein and become evidence that must be accepted and trusted by the Judge as the truth, unless proven untrue.<sup>7</sup> The existence of this legal arrangement is one of the foundations that electronic certificates are categorized as electronic documents, not only become concrete evidence of legal subjects over ownership of land rights, but can also be valid legal evidence in court. This strengthens the validity of electronic certificates and electronic signatures contained therein so as to increase efficiency and prevent data forgery and manipulation, as well as facilitate the process of proof in court.

The ITE Law also regulates the protection of personal data whose use must be in accordance with agreed procedures and purposes. This arrangement can support the right to individual privacy, property rights over something owned, and the right not to be deprived of ownership by irresponsible parties. To support the implementation of electronic systems, the ITE Law also stipulates that electronic system organizers must ensure that the systems used are reliable and secure, and are responsible for the confidentiality, integrity, and availability of electronic information. With this provision, electronic systems must be equipped with adequate security measures to protect against cyber threats.

In addition, the ITE Law has several ambiguities that can cause multiple interpretations for the community. For example, the ITE Law does not provide technical specifications or security standards that must be complied with by electronic system providers. This leads to broad interpretations for organizers, which can result in inconsistent application of security standards, and can threaten the security of users' personal data. The lack of clarity in security standards leads to variability in the level of security applied by electronic system providers. This can lead to more frequent data leaks and increase the risk of cyberattacks. The ITE Law requires the use of personal data based on the consent of the data owner, but it does not provide detailed arrangements regarding mechanisms such as its protection, processes, and

---

<sup>7</sup> Ghaniyyu, F. F., Pujiwati, Y., & Rubiati, B. (2022). Guarantee of Legal Certainty for the Conversion of Sertipikat to Electronic and its Protection as a Tool of Proof. *USM LAW REVIEW JOURNAL*, 5(1).

management, as well as the consequences. Furthermore, ITE Law also does not provide a clear legal basis regarding the handling that must be carried out by electronic system providers in the event of hacking or data leakage. The lack of clarity in handling data security incidents leads to slow and ineffective responses to incidents, which can worsen the impact of data breaches on users. Handling accompanied by recovery of data security incidents is the responsibility of the electronic system provider. However, the ITE Law does not provide legal certainty to victims of data breaches for data security incidents.

In relation to personal data protection, there is a Personal Data Protection Law (PDP Law) that aims to provide a comprehensive legal framework to protect personal data from misuse and ensure that individuals' rights to their personal data are recognized and respected. Under the PDP Law, data controllers and data processors are required to implement adequate technical and organizational measures to protect personal data from misuse or cybersecurity threats. This includes the obligation to periodically audit the security of databases with rigorous algorithms and implement data encryption and strict network address access. Personal data controllers should also be required to be transparent in processing data through explicit consent from data subjects, as well as taking responsibility for the security of personal data. This consent should be given with full understanding of the purpose and use of the data, ensuring transparency and awareness. The passage of the PDP Law also aims to enforce law and compliance against data controllers or data processors that violate the provisions of the law through administrative and criminal sanctions. This law enforcement, which is the basis for passing the PDP Law, can provide confidence to the public that all acts of misuse and data breaches will have real consequences.

Although the PDP Law seeks to provide public confidence with law enforcement, in fact, the enforcement mechanisms and authorities for personal data protection do not have sufficient capabilities to effectively enforce the PDP Law. These enforcement mechanisms and authorities include human, technological, and financial resources. Furthermore, the PDP Law also does not provide a clear legal basis regarding the form and mechanism of liability of data controllers or data processors in recovering data due to cybersecurity threats carried out by data controllers or processors or irresponsible parties.

Juridically, the policy of land registration through an electronic system that produces electronic land certificates has a legal basis to fulfill the principle of legal certainty, as in a state of law must guarantee the enforcement of law and the achievement of legal objectives and in law enforcement there are three elements that always have to get attention, namely: justice, usefulness or results, and legal certainty.<sup>8</sup> Although if reviewed on a substantive basis, it is still not enough to provide guarantees for the certainty of the status of rights, the subject of rights, and the object of land rights on electronic certificates. Electronic certificates must guarantee the validity and legality of the status of land rights recorded in them. The identity of the land

---

<sup>8</sup> Sudikno Mertokusumo & A.Pitlo. (1999). Chapters on the Discovery of Law. Bandung: Citra Aditya Bakti, 1, as cited in Yuhaeni, W. (2020). Implementation of Legal Politics in Relation to the Government's Function in Determining Workers' Wages in the Perspective of the Principles of Justice and the Principles of Legal Certainty. *Incentive Social Science Journal*.

right holder and the object of the right must also be accurately verified in the electronic certificate. Without accurate data and a more transparent and accurate security system, there is a risk of overlapping ownership or border disputes from data leaks. These disputes will harm land rights holders both materially and immaterially so that the legal certainty that should be owned by them cannot be fully guaranteed.

Ensuring legal certainty regarding the status, subjects, and objects of land rights is a fundamental responsibility of BPN to safeguard the rights of landowners. The primary goal of the land registration system is to establish legal certainty by issuing certificates as evidence of ownership. As the government agency authorized to oversee land registration and manage land data, the BPN holds the obligation to ensure the accuracy and accountability of electronic land certificates and the maintenance of land records. This responsibility is not only limited to the registration process to the maintenance of land data, but also the responsibility for disputes that occur to holders of land rights caused by the National Land Agency itself. Therefore, the National Land Agency needs to carry out effective prevention and resolution in the digital scope of disputes that occur in the process of land ownership.

### **3.2. Civil Liability of the National Land Agency in the Implementation of Personal Data Protection Policy on Electronic Certificates**

Along with the times that change everything conventional into digital, the law must continue to act progressively in a dynamic environment to adjust to the times. Law must utilize the ability of human reason and conscience to produce legal interpretations that emphasize moral values and justice in society.<sup>9</sup> Therefore, the legal system in Indonesia provides new guidelines regarding the land registration process up to the issuance of certificates and electronic data maintenance.<sup>10</sup> The digitalization policy in the land registration process provides a complex responsibility for the National Land Agency (BPN). BPN is a non-ministerial government agency that has important responsibilities in land management in Indonesia, it refers to Basic Agrarian Law, Government Regulation of Land Registration, and Presidential Regulation Number 177 of 2024 concerning the National Land Agency.

As government runs in a country, every official who is given authority inherently bears responsibilities commensurate with that authority. In law, it is known as the principle that there is no authority without responsibility. This emphasizes that every action and decision taken by the government, which is the executor of public services, must be morally, ethically and legally accountable. In a state of law, the government as the executor of public services must be involved with the lives of citizens based on the principle of legality (*legaliteitsbeginsel*) which is the most important basis in the rule of law according to L.J.A. Damen.<sup>11</sup> Likewise, BPN

<sup>9</sup> Hanif, G., & Agustanti, R. D. (2022). Problems of Sexual Violence Against Children Recidivism after the Execution of Additional Punishment of Chemical Castration. *Scientific Journal of Law Enforcement*, 9(2).

<sup>10</sup> Putranto, M. I. D., & Mansyur, A. (2023). The Urgency of Implementing Electronic Land Certificates. *Repertorium: Scientific Journal of Kenotariatan Law*, 12(1).

<sup>11</sup> Ridwan. (2014). Discretion and Government Responsibility, Yogyakarta: FH UII Press, 4 quoted from Setiawan, A., & Asyikin, N. (2020). Position Responsibility and Personal Responsibility in the Use of Discretion as an Instrument of Public Service. *Mimbar Hukum - Faculty of Law, Gadjah Mada University*, 32(1)



has the responsibility for its authority in providing public services on land registration in Indonesia which is carried out electronically. This responsibility is a form of assurance of certainty and justice from the government given to the community.

As a government agency authorized to carry out government duties in the land sector as in Article 3 of Presidential Regulation of the National Land Agency *jo.* Article 5 of Government Regulation of Land Registration, BPN has the responsibility of determining rights and land registration as evidenced by the issuance of certificates as evidence of ownership or control of rights to land. In this case, BPN is directly responsible for all land issues related to the granting of rights and the issuance of land certificates.<sup>12</sup> Certificates issued by BPN serve as strong legal evidence of land ownership. Not only does it provide legal certainty for the owner, the land certificate also serves to avoid land disputes in the future. This also applies to electronic certificates that have been legalized as electronic documents that can be used as legal evidence in court.

In relation to electronic land registration, the BPN is not only responsible for issuing certificates, but is also responsible for resolving disputes if there are administrative legal defects that result in overlapping land ownership. In resolving disputes, the BPN handles cases of overlapping land ownership caused by inaccuracies in the land registration system, which lead to the issuance of multiple certificates.<sup>13</sup> BPN has the authority to conduct negotiations, mediate between the disputing parties, facilitate discussions, and help establish agreements among them.<sup>14</sup> If the BPN's negotiation and mediation efforts are unsuccessful, the agency can pursue alternative dispute resolution measures, such as canceling land rights certificates. The cancellation of certificates with administrative legal defects serves as a legal measure to prevent harm, oversee compliance, and take corrective actions to protect the interests of the parties involved with the land.<sup>15</sup> Cancellation of land certificate issuance is the authority of BPN if there are records in the land book concerning physical data and juridical data until the records are deleted.<sup>16</sup> This is based on Article 24 paragraph (7) of the Regulation of the Head of the National Land Agency (BPN) Number 11 of 2016 concerning Settlement of Land Cases explaining that "In the event that on a parcel of land there are overlapping land rights certificates, the Minister or Head of the BPN Regional Office in accordance with his authority issues a Decree canceling the overlapping certificate, so that on the land parcel there is only 1 (one) valid land rights certificate." This authority is the responsibility of BPN in terms of issuing and canceling land certificates, both conventionally and electronically.

---

<sup>12</sup> Renaldi. (2020). *Responsibility of the National Land Agency for the Emergence of Certificates with Multiple Ownership*. Thesis University of Jember, 34.

<sup>13</sup> *Ibid*, 39.

<sup>14</sup> Elza Syarief. (2012). *Resolving Land Disputes Through the Special Land Court, Popular Literature*. Jakarta: Gramedia, 276.

<sup>15</sup> Sahnan, S., Arba, M., & Suhartana, L. W. P. (2019). The Authority of the National Land Agency in Settling Land Disputes. *IUS Journal of Law and Justice Studies*, 7(3).

<sup>16</sup> Heru Wardoyo. (2024). Legal Terms of Land Rights Ownership and Authority in Issuing Land Certificates in Indonesia. *Journal of Collaborative Science*, 7(1), 128.

The digitization of land registration does bring a number of significant challenges, especially in relation to the management of sensitive and complex data. The main responsibility of the National Land Agency (BPN) in implementing this system is to ensure that land registration data recorded in the electronic database can be stored safely, protected from potential leaks, and can be accounted for. Data has become a very sensitive matter considering the number of cases and crimes originating from data so that the Indonesian government specifically legislates regarding data in Personal Data Protection IAW. Likewise, the data in the electronic certificate, which contains personal data of the land rights holder, namely the full name accompanied by the location of the land plot that identifies a person's ownership of the land so that these data can be categorized as personal data that must be protected based on the provisions of Article 4 of the Personal Data Protection Law. Therefore, as a government agency authorized in the electronic land registration policy, BPN is responsible for both the issuance of electronic certificates and the protection of personal data on electronic certificates.

To provide assurance of legal certainty and justice for the community of land rights holders, the Ministry of ATR/BPN has designed this electronic certificate policy by considering multiple layers of security. In the electronic certificate, there is a digital signature encoded with cryptographic calculations, as well as using *Hash Code* and *QR Code*.<sup>17</sup> This digital signature has also been certified by BSre. By being certified by BSre, digital signatures on electronic certificates can be guaranteed security. Moreover, accessing electronic land certificates has used a QR Code that can only be accessed by land rights holders. In this case, the Ministry of ATR / BPN has endeavored to provide more security to electronic certificates as a form of responsibility to provide legal certainty to land rights holders so that disputes that occurred when conventional certificates were implemented do not occur again.

In implementing land registration policies, issuing certificates, and maintaining data electronically, BPN, which is an extension of the Ministry of ATR / BPN, involves other government agencies, such as the Ministry of Communication and Information Technology (Kominfo), and the National Cyber and Crypto Agency (BSSN) to ensure the security of electronic certificates,<sup>18</sup> for the implementation of a more efficient, transparent, and accountable land sector in Indonesia. As the agency responsible for land policy in Indonesia, BPN plays an active role in integrating information technology in its work system. Kominfo provides secure and efficient information technology infrastructure to support faster and more transparent land registration services. With Kominfo's support, BPN can be more optimal in utilizing technology to simplify the land registration process, so that the public can access these services more easily. Kominfo also designs policies related to the utilization of technology in the land sector so that BPN will be more directed in implementing information technology, by ensuring that the policies implemented are in accordance with technological developments and community needs in land data management.

---

<sup>17</sup> Reza Andriansyah Putra, Atik Winanti. (2024). The Urgency of Issuing Electronic Land Certificate Documents After the Regulation of the Minister of ATR / BPN Number 3 of 2023. *Journal of USM Law Review*, 7(2), 848.

<sup>18</sup> [Syabbani, Maulana Zakki](#). (2024). *Legal Implementation of the Applicability of Electronic Certificates at the Bantul Regency Land Office*. Sultan Agung Islamic University (Indonesia) ProQuest Dissertations & Theses.



In issuing electronic certificates, data security is a top priority. BSSN, as the agency responsible for cybersecurity and ciphers, plays a role in ensuring that data stored in electronic systems, including electronic certificates, are well protected from cyber threats. BSSN will implement strict information security standards in accordance with the provisions stipulated in Presidential Regulation Number 28 of 2021 on the State Cyber and Crypto Agency. The aim is to prevent potential cyber threats that can damage the integrity and confidentiality of land data, so as to provide a sense of security for the public in using electronic-based land services. Both Kominfo and BSSN have the same roles and responsibilities, namely to provide protection for information systems and personal data of land rights holders managed by BPN, although with different scopes of duties. The efforts made by these agencies are a good intention to provide a guarantee of legal certainty for property rights and control over a land plot and security guarantees for data on electronic certificates stored in a *database* or information system.

The collaboration between BPN and Kominfo and BSSN is an excellent strategic step to improve efficiency, transparency and accountability in the implementation of electronic land registration in Indonesia. However, this collaboration also creates a legal vacuum related to the scope of BPN's responsibility in protecting personal data on electronic certificates. PerMen ATR/BPN No. 3 of 2023 on the Issuance of Electronic Documents does not specifically regulate the extent of the responsibilities that must be carried out by the BPN in protecting the personal data of land rights holders, including the form of legal responsibility of the BPN in handling violations from cyber threats that may occur. Likewise, the Law on the Protection of Personal Data also does not provide provisions regarding the mechanism of responsibility that must be carried out by the authority or agency or institution that implements a policy with an electronic system.

The existence of a legal vacuum regarding the form of BPN's responsibility and the mechanism for handling violations or cyber threats on electronic certificates should be followed up by the government to design a new regulation. This regulation needs to complement or perfect existing regulations, such as the Regulation of the Minister of ATR/BPN Number 3 of 2023. The new regulation should clearly establish the principles and principles of personal data protection and information security, in order to promote the values of fairness, trust and integrity in the management of land registration data. In addition, the regulation needs to detail the rights and obligations of the BPN and land rights holders, including the BPN's responsibility in safeguarding the privacy of land owners. Equally important, this regulation must regulate the mechanisms and technical procedures for handling cyber violations or threats, as well as the forms of accountability that must be carried out by BPN and land rights holders in the event of a violation. This regulation must also provide certainty regarding compensation or compensation for land rights holders due to the negligence of the BPN or related parties, and include a mechanism for regular auditing, monitoring and evaluation to ensure that the entire process runs according to established standards and personal data remains secure and confidential. By drafting a new regulation that covers these aspects, the government can address the legal vacuum regarding the limits of BPN's responsibility in protecting personal data on electronic certificates. This will not only provide legal certainty for

land rights holders but also increase public confidence in the electronic land registration system in Indonesia so as to create substantial justice, procedural justice and distributive justice. The implementation of comprehensive and effective regulations will help create a more secure environment for land data management, and protect the rights of electronic land certificate holders in an inclusive and protective manner.

The solution is the need for clear regulations to regulate the responsibilities of BPN in implementing the electronic certificate policy, both from the form of responsibility to the mechanism that can be carried out by land rights holders to hold BPN accountable in the event of data leakage or other cyber threats that harm land rights holders. To analyze and determine this solution, researchers used a conceptual approach to explore basic concepts related to legal responsibility, personal data protection, and cybersecurity, as well as a statutory approach to analyze existing regulations to identify legal gaps, relevance, and the need for new, more specific regulations. The experiment is considered successful because this research produces concrete recommendations in the form of proposed regulations that can fill the legal vacuum related to BPN's responsibilities in electronic certificate policies. In addition, until now there has been no other research that specifically discusses and proposes the need for this regulation, making this research innovative and relevant. This research is the first to discuss the issue of BPN's responsibilities in electronic certificate policies that have never been raised before in depth. This research also provides real solutions in the form of formulating relevant regulations to answer the challenges and threats in digitizing land certificates.

#### **4. Conclusion**

From this research, the conclusions drawn have answered the objectives of the research. This research succeeded in finding legal gaps and providing recommendations in the form of proposed regulations to regulate the responsibilities of government agencies (in this case BPN) in the implementation of electronic system-based policies. However, the weakness of this research lies in the lack of scientific journal references that directly discuss the responsibilities of government agencies in electronic system policies. Nevertheless, this research remains relevant because it uses a variety of recent references, such as books, journals, regulations, theses, and information from the internet.

#### **5. References**

##### **Journals:**

- Claudia, Z., & Gunadi, A. (2023). Vicarious Liability in Personal Data Protection. *Rechtsidee*, 11(2). <https://doi.org/10.21070/jihr.v12i2.995>
- Dharma, W. S., Perdana, S., & Moertiono, J. (2023). Legal Protection of Electronic Land Registration Data. *Legality: Journal of Law*, 15(1). <https://doi.org/10.33087/legalitas.v15i1.388>

- Ghaniyyu, F. F., Pujiwati, Y., & Rubiati, B. (2022). Guarantee of Legal Certainty for the Conversion of Sertipikat to Electronic and its Protection as a Tool of Proof. *USM LAW REVIEW JOURNAL*, 5(1). <https://doi.org/10.26623/julr.v5i1.4553>
- Hanif, G., & Agustanti, R. D. (2022). Problems of Sexual Violence Against Children Recidivism after the Execution of Additional Punishment of Chemical Castration. *Scientific Journal of Law Enforcement*, 9(2). <https://doi.org/10.31289/jiph.v9i2.8078>
- Putra, R. A., & Winanti, A. (2024). The Urgency of Issuing Electronic Land Certificate Documents After the Regulation of the Minister of ATR / BPN Number 3 of 2023. *USM Law Review Journal*, 7(2). <http://dx.doi.org/10.26623/julr.v7i2.9178>
- Putranto, M. I. D., & Mansyur, A. (2023). The Urgency of Implementing Electronic Land Certificates. *Repertorium: Scientific Journal of Kenotariatan Law*, 12(1). <https://doi.org/10.28946/rpt.v12i1.2645>
- Sahnan, S., Arba, M., & Suhartana, L. W. P. (2019). The Authority of the National Land Agency in Settling Land Disputes. *IUS Journal of Law and Justice Studies*, 7(3). <https://doi.org/10.29303/ius.v7i3.714>
- Setiawan, A., & Asyikin, N. (2020). Position Responsibility and Personal Responsibility in the Use of Discretion as an Instrument of Public Service. *Mimbar Hukum - Faculty of Law, Gadjah Mada University*, 32(1). <https://doi.org/10.22146/jmh.48017>
- Sumardani, N. M. R. A., & Bagiastra, I. N. (2021). Legal Responsibility of the National Land Agency Regarding Discrepancies in the Results of Electronic Certificate Checking. *Acta Comitas*, 6(02). <https://doi.org/10.24843/ac.2021.v06.i02.p01>
- Wardoyo, H. (2024). Legal Terms of Land Rights Ownership and Authority in Issuing Land Certificates in Indonesia. *Collaborative Science Journal*, 7(1). <https://doi.org/10.56338/jks.v7i1.4714>
- Yuhaeni, W. (2020). Implementation of Legal Politics in Relation to the Government's Function in Determining Workers' Wages in the Perspective of the Principles of Justice and the Principles of Legal Certainty. *Incentive Social Science Journal*. <https://doi.org/10.36787/jsi.v3i1.203>

#### **Books:**

- Mertokusumo, S. & Pitlo, A. (1999). Chapters on the Discovery of Law. Bandung: Citra Aditya Bakti
- Ridwan. (2014). Discretion and Government Responsibility. Yogyakarta: FH UII Press
- Santoso, U. (2019). Registration and Transfer of Land Rights. *Jakarta: Kencana*



Syarief, E. (2012). *Resolving Land Disputes Through the Special Land Court, Popular Literature*. Jakarta: Gramedia

**Internet:**

Anisah, L., & Winarto, Y. 2024. 86 Land Mafia Cases Revealed, BPN Secures Potential State Losses of IDR 13.2 Trillion. Kontan. Accessed from <https://nasional.kontan.co.id/>

KADIN Indonesia Sekretariat. 2024. Evaluation of Indonesia's Cybersecurity Regulations. KADIN Indonesia. Accessed from <https://kadin.id/>

**Regulation:**

Civil Code

Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles

Law of the Republic of Indonesia Number 1 Year 2024 on the Second Amendment to Law No. 11 Year 2008 on Electronic Information and Transactions

Law No. 27 Year 2022 on Personal Data Protection

Government Regulation No. 24 of 1997 on Land Registration

Presidential Regulation No. 177 of 2024 on the National Land Agency

Presidential Regulation No. 28 of 2021 on the National Cyber and Crypto Agency

Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 3 Year 2023 on the Issuance of Electronic Documents in Land Registration Activities.

Regulation of the Minister of Communication and Information Technology Number 1 of 2023 concerning Data Interoperability in the Implementation of Electronic-Based Government Systems and One Data Indonesia

**Thesis:**

Renaldi. (2020). Responsibility of the National Land Agency for the Emergence of Certificates with Multiple Ownership. *University of Jember Thesis*

Syabbani, & Zakki, M. (2024). Legal Implementation of the Applicability of Electronic Certificates at the Bantul Regency Land Office. *Sultan Agung Islamic University (Indonesia) ProQuest Dissertations & Theses*