

The Policy of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency in Land Registration Services during the Covid-19 Pandemic and Its Implications

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Abstract. *This study aims to find out about the policies of the Ministry of Agrarian Affairs and Spatial Planning / National Land Agency in Land Registration Services during the Covid-19 Pandemic and their Implications. Approach method is the normative-empirical method. The specification of this research is analytical descriptive in nature. The data in this study are primary data and secondary data. These problems are analyzed using public policy theory. Based on the results of the research that based on the results of the research that at this time the National Land Agency (BPN) as a government agency that organizes land registration is being constrained in terms of service to the community in carrying out land registration with the Covid-19 Virus Pandemic. The Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) issued a Policy in the form of Circular Letter Number 7/SE-100.HR.01/IV/2020 concerning Ease of Services for Determination and Registration of Land Rights during the Emergency Response Status of Corona Virus Disease 2019 (covid-19).*

Keywords: Land; Pandemic; Policy.

1. Introduction

Land as a source of natural wealth has a very close relationship in human survival, in daily life humans are always in contact with land and this relationship cannot be separated. In everyday life humans always use the land to meet their needs such as farming, constructing buildings/houses, burying bodies and so on. The humans are always related to the land even in the Qur'an surah Al-Mu'minun verse 12 also explained that humans were created from the essence of the soil. So that land has a very important position in human life.

So important is the meaning and role of land in human life, Mr. Ter Haar Bzn, provides an overview of the very close relationship between humans and the land as follows, The relationship between human life that is orderly structured and related to one another on the one hand and land on the other, namely the land where they are buried and which becomes the place of residence of the spiritual guardians and their ancestral spirits, the land where the vitality is permeated, including the life of the people and therefore depending on it, then the connection of thoughts "all in twos" can and should be considered the legal connection of mankind to the land.¹

In connection with the above, it is necessary to guarantee legal certainty and certainty of rights over land ownership. In order to obtain guarantees of legal certainty and certainty of land ownership rights, the community needs to register the land in order to obtain a certificate of land rights which functions as a strong means of proving the ownership of the land rights.

Indonesia as a country based on law, in tackling land issues especially regarding land rights since 1960 the Government abolished the dualism system that had existed since the Dutch East Indies Government by issuing Act No. 5 of 1960 concerning the Basic Agrarian Law (UUPA). With the enactment of the Basic Agrarian Law, a legal unity (unification) in the field of agrarian law was created in our country, so that all legal actions related to land issues must be carried out based on Act No. 5 of 1960.

Regarding the issue of land registration, according to Article 19 paragraph (1) of the Basic Agrarian Law it states: "To ensure legal certainty by the government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated by Government Regulations".

Furthermore, according to Article 3 of Government Regulation Number 24 of 1997, land registration in Indonesia aims to:

1. Providing legal certainty and legal protection to holders of rights over a parcel of land;
2. Provide information to interested parties;
3. The implementation of orderly land administration.

¹ Ter Haar Bzn , 1971, Principles and constitution of customary law, translation of K. Ng. Soebekti Poesponoto, Pradnya Paramita, Jakarta, p. 71.

Regulation of the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Number 6 of 2018 concerning Complete Systematic Land Registration, Joint Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, Minister of Home Affairs, Minister of Villages, Development of Disadvantaged Regions and Transmigration Number 25/SKB/V/2017, Number 590-3167A of 2017, Number 34 of 2017 concerning Financing for the Preparation of Systematic Land Registration.²

Recognizing the demand for service to the community, the National Land Agency (BPN) is required to carry out land registration including property rights based on existing implementing regulations regarding legal certainty which is the goal of land registration in Indonesia including object certainty, title certainty, and subject certainty.

However, at this time the National Land Agency (BPN) as a government agency that organizes land registration is being constrained in terms of service to the community in carrying out land registration with the Covid-19 Virus Pandemic, which is often referred to as the Corona virus, currently the world is being shaken by an outbreak. Covid-19. How could it not be, the disease caused by this latest type of coronavirus has claimed thousands of lives. As an effort to suppress the spread of the Corona virus, the government encourages the public to do *social DISTANCING*.

The COVID-19 pandemic in Indonesia is part of the pandemic of coronavirus disease 2019 (COVID-19) which is taking place around the world. This disease is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The positive case of COVID-19 in Indonesia was first detected on March 2, 2020, when two people were confirmed to have contracted it from a Japanese citizen. As of April 9, the pandemic has spread to 34 provinces DKI Jakarta, East Java, and Central Java as the most exposed province.³

Because of the virus, all people must implement social distancing, According to *CENTERS FOR DISEASE CONTROL AND PREVENTION* (CDC), the meaning of the term "*SOCIAL DISTANCING*" or "social restrictions" are avoiding public places,

²Isdiyana Kusuma Ayu, LEGAL CERTAINTY OF LAND TENURE THROUGH COMPLETE SYSTEMATIC LAND REGISTRATION IN THE CITY OF BATU, LEGAL VOICE Volume 31, Number 3, October 2019 (Malang: Islamic University of Malang 2019), p. 4-5.

³ https://id.wikipedia.org/wiki/Pandemi_COVID-19_di_Indonesia (accessed March 4, 2022, 21:28 WIB).

staying away from crowds, and maintaining an optimal distance of 2 meters from other people. With distance, it is hoped that the spread of this disease can be reduced, the application of social distancing is very influential for the performance of land registration services, especially at the Demak Regency National Land Agency (BPN) office.

2. Research Methods

The approach method in this study is the normative-empirical. The specification of this research is analytical descriptive in nature. The data in this study are primary data and secondary data. And the data analysis method is qualitative descriptive.

3. Results and Discussion

However, at this time the National Land Agency (BPN) as a government agency that organizes land registration is being constrained in terms of service to the community in carrying out land registration with the Covid-19 Virus Pandemic, which is often referred to as the Corona virus, currently the world is being shaken by an outbreak. Covid-19. How could it not be, the disease caused by this latest type of coronavirus has claimed thousands of lives. As an effort to suppress the spread of the Corona virus, the government encourages the public to do *social DISTANCING*.

The Covid-19 pandemic has so affected many sectors such as health, economy, trade, public services and so on. For this reason, the government needs to anticipate the impact of the Covid-19 pandemic. In order to prevent Covid-19 from spreading further, the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency has implemented various strategies or steps to avoid the Covid-19 pandemic.

In line with this, the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency has issued Decree of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 88.1/SK-HR.01/IV/2020 concerning Extension of the Validity Period of Land Rights and Timeframe for Registration of Decrees Granting, Extension or Renewal of Land Rights which have or will end during the Covid-19 Emergency Response Status

Period.⁴

In the Ministerial Decree it is stated that the policy of facilitating land services provided for land rights determination services is as follows:

1. Cultivation rights, building use rights and usufructuary rights which have or will expire during the Covid-19 emergency response status as of March 31 2020, will be given an extension of the validity period of the rights until December 31 2020.
2. The granting of an extension of the validity period of the Cultivation Right, the Building Use Right and the Usage Right as referred to in number (1) is processed in accordance with the provisions of the laws and regulations, calculated from the expiration of the rights on the land book.
3. If by December 31 2020 the right holder does not apply for an extension of the right, the land right will be declared ended. Cultivation rights, building use rights and usage rights whose rights have expired before March 31 2020 are not given a policy of convenience in accordance with the letter this circular.

The importance of extending the period for the validity of land rights and the period for registering a decree granting and renewing land rights is intended so that it will not be difficult for the public to take care of the land sector in these circumstances, because as is well known, many sectors have been affected by the Covid-19 pandemic. . With the provision of this policy, people can be assisted who are currently or are still dealing with the matter of extending the term of land rights.

With the issuance of the Ministerial Decree it will affect the performance of the Demak District Land Office which is part of the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency.

“Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 88.1/SK-HR.01/IV/2020 concerning Extension of the Validity Period of Land Rights and Registration Period for Decrees Granting, Extension or Renewal of Land Rights that have or will Ending during the Covid-19 Emergency Response Status Period, this is the registration of the term of land

⁴Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 88.1/SK-HR.01/IV/2020, Concerning Extension of the Validity Period of Land Rights and Registration Period of Decrees for the Granting, Extension or Renewal of Land Rights which have been or will be Ended during the Covid-19 Emergency Response Status Period.

rights which includes Cultivation Rights and Building Use Rights because it is the Cultivation Rights and Building Use Rights that have the term land rights. Based on directions from the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia through a Ministerial Decree, the Demak Regency Land Office provides an opportunity to extend the term of land rights through a Certificate of Decision on Land Rights until 31 December 2020.

With the issuance of the decree, in accordance with several opinions, experts state that public policy in relation to decisions or decisions by the government to take an action that is considered to have a good impact on the lives of its citizens. According to the Big Indonesian Dictionary, policy is a series of concepts and principles that serve as a guideline and basis for planning the implementation of a job, leadership and ways of acting. The term can be applied to governments, private sector organizations and groups, as well as individuals.

Policies differ from rules and laws. If the law can enforce or prohibit a behavior (eg a law requiring the payment of income tax), the policy guides only the course of action that is most likely to produce the desired result. Policy or policy review can also refer to the process of making important organizational decisions, including the identification of various alternatives such as program or expenditure priorities, and selecting them based on their impact. Policy can also be interpreted as a political, management, financial, or administrative mechanism to achieve an explicit goal.

Policy (policy) is an instrument of government, not only in the sense of Government which only concerns the state apparatus, but also governance which touches on the management of public resources. Policies are essentially decisions or choices of action that directly regulate the management and distribution of natural, financial and human resources in the public interest.⁵

In essence, public policy is made by the government in the form of government actions. Public policy, whether to do or not to do something has a specific purpose. Public policy is intended for the benefit of society.

Most experts provide an understanding of public policy in relation to decisions or decisions by the government to take an action that is considered to have a good

⁵Edi Suharto, *Social Policy as Public Policy*, CV Alfabeta, Bandung, 2008, p.3.

impact on the lives of its citizens. According to Amara Raksataya that "public policy as a tactic and strategy directed to achieve a goal". Therefore a policy contains 3 elements, namely:⁶

1. Identification of the goals to be achieved.
2. Tactics or strategies of various steps to achieve the desired goal.
3. Provision of various inputs to enable the actual execution of tactics or strategies.

Public policy objectives are a set of government actions designed to achieve certain results expected by the public as government constituents. Public policy is a choice of legal and legitimate action because public policy is made by institutions that have legitimacy in the government system. Then, public policy as a hypothesis is a policy made based on a theory, model or hypothesis regarding cause and effect. Policies always rely on assumptions about behavior.⁷

Based on the opinions of the various experts mentioned above, it can be concluded that policies are actions or activities that are deliberately carried out or not carried out by a person, a group or a government in which there is an element of decision in the form of an effort to choose between various existing alternatives in order to achieve goals and objectives.

Thus, the definitions of public policy above emphasize that the government can legally do something for its people and the government's choice to do something or not do something is manifested in the form of allocating values that grow and develop in society.

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To minimize the increase in the Covid-19 pandemic, in this case, it was forwarded through the Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 7/SE-100.HR.01/IV/2020 concerning Ease of Services for the Determination and Registration of Land Rights during the Covid-19

⁶Hessel Nogi S. Tangkilisan, 2003, Evaluation of Public Policy, Balairung & Co, Yogyakarta, p. 149.

⁷Sahya Anggara, 2014, Public Policy, CV Pustaka Setia, Bandung, p.36.

Emergency Response Status Period,⁸ April 17, 2020 which also reads the ease of submitting complete validation documents for proof of the payment of taxes on the transfer of land rights in the form of Land and Building Rights Acquisition Fees (BPHTB) and/or Income Tax (PPH) as a form of policy on ease of land services to provide stimulus to the community, so that guidelines for its implementation are needed.

In this case the Demak District Land Office is trying to implement the Covid-19 health protocol based on Presidential Decree No. 12 of 2020 concerning the Stipulation of Non-Natural Disasters of the Spread of Covid-19 as a National Disaster which was forwarded by the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency with a Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the Indonesian National Land Agency No. 2/SE-100.TU.03/III/2020 concerning Follow-Up Efforts to Prevent the Spread of Covid-19 in the Ministry of ATR/BPN,⁹ by implementing policies and several service procedures:

1. Face-to-face services were abolished and replaced with online services.
2. The Electronic Mortgage Service (HT-el) is still implemented through <http://mitra.atrbpn.go.id>.
3. Land technical consideration services in the framework of a Location Permit using the OSS Application.
4. Other Services (First Time Land Registration, Settlement, Transfer of Rights, Change of Forms, PTP Non Location Permit) are carried out online through <http://loket.atrbpn.go.id>. Files are scanned and sent via the link <http://bit.ly/loketbpdemak> by including the Applicant's Identity complete with HP / WA Number. Physical files can be sent to the Demak District Land Office directly/meaningfully packaged with a Stop Map and wrapped in a tight Plastic bag including Complete Identity (HP/WA Number) and put in a Container Box that is available in front of the Office Lobby.
5. Applications that require field activities will be arranged later by taking into account the development of (situational) situations and conditions which will be contacted via SMS or WhatsApp by the officer.
6. Information and tracking of application files can be accessed via the "Touch My Land" application, downloaded via the Play Store or App Store.

⁸Circular Letter of the Minister of Agrarian Affairs and Spatial Planning/Head of BPN No. 7/SE-100.HR.01/IV/2020, Concerning Ease of Services for the Determination and Registration of Land Rights during the Covid-19 Emergency Response Status Period.

⁹Circular of the Minister of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency No. 2/SE-100.TU.03/III/2020, Concerning Follow-Up Efforts to Prevent the Spread of Covid-19 in the Ministry of ATR/BPN.

7. Land Service Consultations, Service Complaints, Dispute Complaints can be done through the Official Social Media Account of the Demak District Land Office (Twitter, Facebook, IG and web portal <http://kab-demak.atrbpn.go.id>).
8. Complaints, Land Service Consultations can also be via SMS and WhatsApp Hello Head of Office Number: 085226111494.
9. Product collection can be served through picket officers by bringing proof of Document Receipt (STTD) and Power of Attorney (if authorized).

Likewise, the Demak District Land Office had several obstacles that occurred during the Covid-19 pandemic, namely:

1. The minimum level of public awareness so that people insist on their will to continue to provide face-to-face services.
2. People already have a stereotype that online services are complicated and difficult.
3. Then the community is also still difficult to regulate and does not want to implement social distancing which is carried out at the Demak District Land Office.

In this case the Demak District Land Office is trying to implement the Covid-19 health protocol based on Presidential Decree No. 12 of 2020 concerning Stipulation of Non-Natural Disasters of the Spread of Covid-19 as a National Disaster¹⁰ which was forwarded by the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency with a Circular Letter of the Minister of Agrarian and Spatial Planning/Head of the Indonesian National Land Agency No. 2/SE-100.TU.03/III/2020 concerning Follow-Up Efforts to Prevent the Spread of Covid-19 in the Ministry of ATR/BPN,¹¹ as a form of one form of authority from the Ministry of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency. In this case According to Indroharto, juridical perspective, the notion of authority is the ability granted by laws and regulations to cause legal consequences.¹²

¹⁰Presidential Decree No. 12 of 2020, Concerning the Determination of Non-Natural Disasters of the Spread of Covid-19 as a National Disaster.

¹¹Circular of the Minister of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency No. 2/SE-100.TU.03/III/2020, Concerning Follow-Up Efforts to Prevent the Spread of Covid-19 in the Ministry of ATR/BPN.

¹²Indroharto, 1994, General Principles of good governance, in Paulus Efendie Lotulung, Association of Papers on General Principles of good governance, Citra Aditya Bakti, Bandung, p. 65.

In the literature of political science, government science, and law science, the terms power, authority, and authority are often found. Power is often equated with authority, and power is often interchanged with the term authority, and vice versa. In fact, authority is often equated with authority. Power usually takes the form of a relationship in the sense that "one party rules and another is governed" (the rules and the ruled).¹³

In public law, authority relates to power. Power has the same meaning as authority because the powers possessed by the Executive, Legislature and Judiciary are formal powers. Power is an essential element of a state in the process of administering government in addition to other elements, namely:

1. Law
2. Authority
3. Justice
4. Honesty
5. Bestarian policy
6. Virtue.¹⁴

From the various definitions of authority as mentioned above, it can be concluded that authority has a different meaning from authority. Authority is a formal power that comes from law, while authority itself is a specification of authority which means that whoever here is a legal subject who is given authority by law, then the legal subject is authorized to do something within that authority because of a law order.

Indroharto, put forward three kinds of authority originating from statutory regulations. This authority includes:¹⁵

1. Attribution Authority.

Indroharto argues that attribution occurs the granting of new governmental authority by a new government or the creation of a new authority.

2. Delegation authority.

In delegation, there is delegation of an authority that already exists by a State administrative body or position that has acquired governmental authority in an

¹³ Miriam Budiardjo, 1998, *Fundamentals of Political Science*, Gramedia Pustaka Utama, Jakarta, p. 35-36.

¹⁴ Rusadi Kantaprawira, 1998, "Law and Power", *Papers*, Indonesian Islamic University, Yogyakarta, p. 37-38.

¹⁵Ridwan HR, 2008, *State Administrative Law*, RajaGrafindo Persada, Jakarta, p. 104.

attributive manner to another State administrative body or position, so a delegation is always preceded by an attribution of authority.

3. Mandate Authority.

In the mandate there is no discussion of transfers of authority, nor of the delegation of authority, in the case of a mandate there is no change in any kind of authority (at least in a formal juridical sense), there are only internal relations.

4. Conclusion

The Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia is the ministry that has the task of administering affairs in the agrarian/land and spatial planning sector in government to assist the President in administering state government. However, at this time the National Land Agency (BPN) as a government agency that organizes land registration is being constrained in terms of service to the community in carrying out land registration with the Covid-19 Virus Pandemic, which is often referred to as the Corona virus, currently the world is being shaken by an outbreak of Covid-19. How could it not be, the disease caused by this latest type of coronavirus has claimed thousands of lives. As an effort to suppress the spread of the Corona virus, the government encourages the public to do *social DISTANCING* the Ministry of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) issued a Policy in the form of Circular Letter Number 7/SE-100.HR.01/IV/2020 concerning Ease of Services for Determination and Registration of Land Rights during the Emergency Response Status of Corona Virus Disease 2019 (covid-19).

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