

## REGULATORY IMPACT ASSESSMENT: OPTIMIZATION OF THE COMPLETE SYSTEMATIC LAND REGISTRATION THROUGH THE MINISTERIAL REGULATION OF ATR/BPN NUMBER 6 OF 2018

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### Abstract:

**Background:** Since 2017-2022, the achievement of the PTSL program have been less than optimal due to internal and external factors. From the target of issuing land certificates for 126 million plots in 2025, there is still a shortfall of 50.8 million plots that must be completed within 2 years. In order to accelerate the achievement of the PTSL target, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency issued the Regulation Number 6 of 2018 on the Complete Systematic Land Registration (PTSL).

**Purpose:** This research aims to analyze the optimization of the complete systematic land registration implementation through the Ministerial Regulation of ATR/BPN Number 6/2018.

**Design/methodology/approach:** The research was conducted qualitatively using Regulatory Impact Assessment (RIA).

**Findings/Result:** The research results indicated that the regulation had increased the optimization of accelerating the achievement of PTSL target. However, the regulation required managerial regulation reinforcement at the operational level to better optimize the acceleration and sustainability of the PTSL target achievement.

**Conclusion:** First, the Ministerial Regulation of ATR/BPN Number 6/2018 has been effective to optimize the complete systematic land registration performance. Second, by revoking Ministerial Regulation of ATR/BPN Number 6/2018, the policy option "continuing Ministerial Regulation of ATR/BPN No 6/2018" is considered the best. However, this policy option requires strengthening of technical regulations underneath it in the form of technical guidelines (Juknis) to update the strategy for implementing outreach activities (socialization), developing coordination mechanisms among stakeholders, managing human resources, and monitoring and evaluating PTSL target achievements.

**Keywords:** cost-benefit, optimal, performance, PTSL, RIA

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## INTRODUCTION

Land has a strategic role in the national development as it serves as a resource for the enhancement of societal well-being (Government Regulation, 2021). Quantitatively, the land has not increased, while the need for land in development will continually evolve dynamically. Therefore, the control, ownership, use, and exploitation of land require fair regulation for the utmost prosperity of the people (Pujriani, 2021). Considering the significance of land for societal interests and national development, land management in Indonesia is governed by Article 33 (3) of the 1945 Constitution, which stipulates that **"The earth and the water and the natural wealth contained therein are controlled by the state and utilized for the greatest prosperity of the people."**

Across the entire territory of the Republic of Indonesia, there are 126 million land parcels that need to be registered and land certificates issued. According to President Joko Widodo, by the year 2015, there should have been 126 million land title certificates issued. However, in reality, the government was only able to issue 46 million land certificates, leaving 80 million land certificates pending. The government's current capacity to issue land certificates is approximately 1 (one) million certificates per year, requiring 80 years to complete the issuance of the remaining land certificates (CNN Indonesia, 2021).

According to Guntur's research (2017), in 2015, the land registration reached 967,490 parcels. However, since 2017, land registration has increased fivefold to 5,420,950 parcels, then to 9,378,496 parcels (2018), and 11,286,963 parcels (2019). Rachman's study (2022) explains that in 2021, land registration achieved 94.2 million parcels (74.8%). In 2023, the Ministry of ATR/BPN successfully registered 109,077,282 parcels of land, with 88,479,386 of them having their Land Title Certificates (*Sertipikat Hak Atas Tanah or SHAT*) issued. Consequently, there are still remaining land parcels that have not been registered and whose certificates have not been issued, totaling 50.8 million parcels. (Center for Data and Information, 2023).

In the Strategic Plan of the Ministry of Agrarian and Spatial Planning/National Land Agency for the years 2020-2024, Complete Systematic Land Registration (PTSL) is part of the 'Agrarian Reform' policy. Agrarian

Reform involves the restructuring of the ownership, possession, use, and utilization of land towards greater justice through Asset Management, accompanied by Access Management for the prosperity of the Indonesian people. (Presidential Regulation No. 86/2018)<sup>5</sup> Agrarian Reform aims to provide legal certainty and protection for the community's land rights, thereby ensuring justice and prosperity for the entire Indonesian people (Decree of the People's Consultative Assembly of the Republic of Indonesia, 2001).

The land registration process is a crucial phase in issuing land title certificates. To achieve the target of land registration and the issuance of land certificates, an acceleration strategy for land registration is essential. The momentum of land registration acceleration policies in Indonesia is marked by the issuance of Presidential Instruction (*Inpres*) Number 2 of 2018 concerning the Acceleration of Complete Systematic Land Registration (PTSL). The *Inpres* aims to expedite land registration through the Complete Systematic Land Registration (PTSL). President Joko Widodo instructed the Ministry of ATR/BPN to complete land registration and issue certificates by the year 2025.

One of the efforts to address the acceleration issues in achieving PTSL targets is through the issuance of Ministerial Regulation (Permen) ATR/Head of BPN Number 6 of 2018 concerning Complete Systematic Land Registration (PTSL). This regulation aims to provide technical guidelines for the implementation of PTSL activities to realize legal certainty and legal protection of community land rights, thus enhancing the well-being, prosperity of the community, national economy, reducing or preventing land disputes and conflicts, and expediting the achievement of land registration and certificate issuance targets.

The previous researches on PTSL focused more on issues of technical and managerial aspects such as the effectiveness of implementation and impact of PTSL (Aditya, 2021), suitability of PTSL implementation (Pratiwi, et al. 2019; Putra et al. 2021; Masnah, 2021; Hutama & Suparsetyani, 2019), and evaluation and challenges of PTSL (Suharto and Supadno 2023). Aditya's study (2020) analyzed the implementation of Ministerial Regulation of ATR/BPN Number 6/2018 on PTSL by linking technical regulation aspects to the characteristics of community participation, human resources, and infrastructure.

Mambrasar's research (2020) analyzed the influence of human resources on the implementation of Ministerial Regulation of ATR/BPN Number 6/2018 regarding PTSL activities. This study also identified various issues and challenges in the implementation of PTSL, including the low competence of human resources in PTSL implementation, especially in the integration of physical and juridical data, the effectiveness of data collection training, the limited number of land measuring instruments, and the weak understanding of the latest land registration technology and information utilization. Fakhiran's study (2022) stated that, based on a cost-benefit analysis, PTSL is a cost-effective government program related to land registration, making it easy for the government to implement. However, the implementation of PTSL still faces some technical challenges, such as the low capacity of human resources and the difficulty of the community in providing the land data needed by PTSL. Pratiwi's research (2022) found that human resources and leadership factors influence the formation of organizational performance models. Previous studies have not focused on analyzing the impact of PTSL regulations on economic, legal, regulatory, social, policy coordination, and other managerial aspects of PTSL activities. However, a study of complete systematic land registration using the Regulatory Impact Assessment approach have never been carried out in Indonesia.

The implementation of Ministerial Regulation of ATR/BPN Number 6/2018 has not been able to provide optimal impact to expedite the achievement of PTSL targets. Therefore, in order to accelerate land registration, all regulations related to PTSL are subsequently revised or perfected by the government to ensure that all land parcels in Indonesia are registered and land certificates are issued by the year 2025 (Tetama, 2023; Supadno, 2022). This research aims to analyze the impact of regulations (Ministerial Regulation of ATR/BPN Number 6/2018) on accelerating the achievement of the complete systematic land registration target (Ministry of ATR/BPN, 2018). The focus of this research differs from the previous research as it is using the cost-benefit analysis to determine the policy alternatives and choosing the best policy option for the optimization of complete systematic land registration performance.

## METHODS

The research was conducted at the Ministry of Agrarian and Spatial Planning/National Land Agency office. The research period spanned from August to November 2023. The types and sources of data for this study include primary and secondary data. Primary data were derived from information provided by experts and practitioners in Complete Systematic Land Registration (PTSL). Secondary data sources included desk studies and analyses of secondary data. Data collection techniques involved in-depth interviews with key informants and focused group discussions with experts, comprising the team responsible for formulating Ministerial Regulation of ATR/BPN Number 6/2018, Land Office Heads, Land Consultants, Academicians, and PTSL practitioners.

Data analysis was conducted qualitatively and descriptively using the Regulatory Impact Assessment (RIA) approach. RIA is one of the tools or approaches that can be used to enhance the quality of government policies (Ministry of National Development Planning (PPN)/Bappenas, 2011). The Partnership for Governance Reform in Indonesia (2008) defines Regulatory Impact Assessment as a method used to assess the impact or influence of a government policy. RIA is essentially employed to evaluate the relevance or suitability of a policy (regulation, program) to the needs of the community, the need for government intervention, the efficiency between input and output, the effectiveness in achieving policy goals and outcomes. The procedures carried out in data analysis are: (i) identifying the issues/problems; (ii) calculating the cost and the benefits each policy options; and (iii) selecting the best policy option.

Regulatory Impact Assessment (RIA) serves as a systematic approach to critically assess the positive and negative impacts of an existing or proposed government policy or regulation aimed at solving a problem. RIA is a systematic and logical method for improving the quality of regulation or policy. It can be used to evaluate existing regulations as well as regulations to be formulated. In Regulatory Impact Assessment, policy issues are identified, policy alternatives are analyzed to provide solutions, cost and benefit analysis is conducted, and an assessment is made regarding the effectiveness of the selected policy options to address the issues. Regulatory Impact Assessment is also used as a tool to assess the potential consequences or impacts

of a proposed new regulation and the consequences of existing regulations. Regulatory Impact Assessment assists planners or policymakers in planning, approving, and implementing corrective measures in the regulatory system to produce high-quality regulations or policies (Sugi, 2019; Chairuddin, 2023).

The conceptual framework for the analysis of the regulatory impact of Ministerial Regulation of ATR/BPN Number 6/2018 using the Regulatory Impact Assessment stages (Figure 1).



Figure 1. Stages of RIA

The stages of conducting Regulatory Impact Assessment are divided into six phases. First, Problem Identification is undertaken to clarify the actual problem that the regulation/policy aims to address. Secondly, Policy Objective Identification associates policy objectives with the 'effectiveness' of a regulation/policy. At this stage, the key question to be answered is whether the policy objectives are achievable or not. Thirdly, Policy Options/Alternatives Identification. This stage identifies available policy options or alternatives that can be selected to solve the problem and achieve policy objectives. In the Regulatory Impact Assessment technique, policy options or alternatives can essentially be categorized into 2 (two) options: (1) the government 'takes no action' (do nothing), which is considered as the baseline condition to be compared later with other policy options/alternatives; (2) the government takes a specific action (do something). Policy options can involve changing regulations/policies, revoking regulations, revising regulations, continuing or discontinuing regulations, and other options. Fourth, Benefit and Cost Analysis. In this stage, each available policy option/alternative is evaluated in terms of both cost and benefit aspects. "Cost" is defined as something that incurs "financial" consequences and/or negative

impacts or harm to the government and/or beneficiaries. Meanwhile, "benefit" is defined as something that provides advantages, benefits, or positive impacts to the government and/or beneficiaries. Costs and benefits are not always interpreted in monetary terms (quantitative) but can take the form of descriptive (qualitative) analysis depicting various consequences of costs and benefits for each policy option. Fifth, Selection of the Best Policy Option/Alternative. In this stage, a decision is made to select the best policy option or alternative. An option/alternative is deemed the best if it has a greater benefit value compared to its cost/loss. Sixth, Formulation of Policy Implementation Strategies. The best policy option/alternative requires an implementation strategy to effectively achieve the objectives of the regulation/policy. The implementation strategy provides a more detailed explanation of how to implement the selected regulation/policy. The entire RIA process involves consultation with stakeholders to obtain input, advice, and considerations.

## RESULTS

### Problem Identification

Ministerial Regulation of ATR/Head of BPN Number 6/2018 has positively impacted the acceleration of Complete Systematic Land Registration (PTSL); however, in its implementation, the regulation has not been optimal, with persistent issues affecting the execution of PTSL (Guntur, 2017). This has led to the less optimal PTSL performance, particularly in expediting the land registration process. In the context of managerial aspect, the regulation has not effectively addressed several aspects, namely: (1) governance, involving the low intensity of PTSL socialization activities, ineffective coordination among stakeholders, and less optimal monitoring and evaluation in PTSL program implementation; (2) human resources, where the increase in PTSL targets has not been accompanied by a corresponding increase in the number of human resources (Pratiwi, 2019); (3) stakeholder understanding of PTSL, with low public awareness regarding the objectives and benefits of PTSL; (4) financing, characterized by low transparency and accountability of PTSL costs, additional costs paid by the public outside the stipulated fees in the Ministerial Joint Decree (3-Minister SKB); and (5) land data, involving difficulties in collecting physical and juridical data due to landowners not residing in PTSL activity

locations and the insufficient quality of some land data (Mujiati, 2022).

### Policy Objective Identification

Ministerial Regulation of ATR/Head of BPN Number 6/2018 aims to provide technical guidelines/guidance for accelerating the achievement of registration targets for all land parcels with the support of quality physical and juridical data. The objective of the PTSL program is also to support the acceleration of land registration to create a complete Indonesia. Achieving this goal is very important to support the One Map Policy in order to provide accurate, integrated and reliable basic spatial data as a basis for national development decision making.

### Policy Options/Alternatives Identification

Based on the assessment by PTSL experts and practitioners, three policy options/alternatives are proposed to address the less optimal acceleration of PTSL targets. First, continuing the existing Ministerial Regulation of ATR/BPN Number 6/2018 with specific enhancements outlined in the Technical Guidelines (Juknis PTSL) supported by the issuance of Circular Letters (SE) from the Director General. This option is selected if the regulation has a positive impact and provides significant benefits for accelerating PTSL targets. However, this regulation requires technical regulation reinforcement at the operational level. Second, revoking Ministerial Regulation of ATR/BPN Number 6/2018. This option is selected if the issues in the field are caused by this regulation. It implies that the regulation is considered to have no impact and results in significant losses for the government and the public.

### Benefit and Cost Analysis

Based on expert's opinions and justifications from PTSL practitioners, the benefit-cost analysis results are as follows:

#### Option #1 Continuation of Ministerial Regulation of ATR/BPN Number 6/2018

Benefits of Continuing Ministerial Regulation of ATR/BPN Number 6/2018 are:

(a) Improvement in Land Data Quality: Enhanced regulation and standardization of physical and juridical data collection contribute to better land data quality.

The regulation has improved land database references for government purposes, such as designation for specific areas like agricultural development, industrial zones, government centers, transportation infrastructure development, and more; (b) Support for Evidence-Based Policy: Increased support for accurate land data provision to local governments aids evidence-based policy-making, particularly in land-based development planning. This includes initiatives like agricultural zone development, regulations on inheritance or sale of agricultural land to non-farmers, or allocation for non-agricultural activities to sustain regional agricultural development; (c) Technical Regulation for PTSL Implementation: Provision of technical regulations related to PTSL implementation creates greater opportunities to achieve PTSL targets; (d) Time and Cost Efficiency: Continuing Ministerial Regulation of ATR/BPN Number 6/2018 avoids significant budget allocations or extended timelines for amending or creating new PTSL regulations (Avivah, 2022); (e) Loan to Value Enhancement: Increasing "loan to value" for land promotes equal access for the public to financial institutions. The regulation aims to raise the "loan to value" ratio, currently below 5% in Indonesia, facilitating increased values in regions targeted for PTSL activities (Hutama, 2019; Suharto, 2023); (f) Reduction in Litigation Costs: PTSL implementation helps reduce land disputes, leading to decreased litigation costs. Funds saved from litigation can be redirected to education, health, business capital, and other areas; (g) Business and Investment Climate Improvement: Providing legal certainty regarding land possession, ownership, use, and utilization supports businesses in making timely investments. The regulation aligns with principles of Good Corporate Governance (GCG), encouraging companies to acquire or lease land with proper land certificates; (h) Increase in State Revenue from Taxes (PBB, BPHTB): Legal-formal land ownership processes under the regulation encourage tax compliance. The potential rise in tax revenue is contingent on accurate land data; (i) Secondary Market Revenue Increase: PTSL shifts land ownership processes from informal to formal, impacting taxation data positively and fostering public compliance with tax payments; (j) Increase in the capacity of human resources (employees/staff) of BPN Regional Offices and district/city Land Offices related to the implementation of land registration; (k) Increase in public and stakeholder confidence in the performance of the Ministry of ATR/BPN in implementing a complete systematic land registration program.

Costs of Continuing Ministerial Regulation of ATR/BPN Number 6/2018 are: (a) Resource Allocation for Technical Regulations: Allocating human resources, costs, and time for developing various technical regulations (guidelines/policies) to reinforce PTSL under Ministerial Regulation; (b) Behavioral Changes in Society: Easier land sales due to certification may increase the risk of land loss; (c) Increased Corruption Practices: There is a potential for increased corruption or additional fees outside official regulations for systematic land registration preparation; (d) Higher Burden on Public Expenditure: Mandatory BPHTB payments (Acquisition Tax on Land and Buildings) impose increased financial burdens on the public.

### **Option #2 Revocation of Ministerial Regulation of ATR/BPN Number 6/2018**

By revoking Ministerial Regulation of ATR/BPN Number 6/2018, the benefits gained are as follows: (a) Land Office employees can focus more on routine work and land administration services at the Land Office; (b) Regional BPN Offices and district/city Land Offices do not need to prepare infrastructure, human resources, coordinate with local governments, and allocate budgets to support the implementation of PTSL.

By revoking Ministerial Regulation of ATR/BPN Number 6/2018, the costs/losses are as follows: (a) Efforts to accelerate the achievement of PTSL targets cannot be carried out (Supadno, 2022; Putra, 2021); (b) Decrease in public trust in the performance of the PTSL program; (c) Requires significant costs and a long time to create a replacement regulation (Masnah, 2021; Chairuddin, 2023); (d) Regulatory vacuum for implementing PTSL.

### **Selection of the Best Policy Option/Alternative**

In this stage, an analysis is conducted to ensure that the Ministry of ATR/BPN has compared all costs/benefits and selected the option deemed most efficient and effective. The criteria used to choose the best policy option/alternative to address various land registration issues are as follows: (a) Capability to improve the quality of land data: PTSL is expected to enhance the quality of physical and juridical data of the land areas to be registered; (b) Ability to provide legal certainty and legal protection for land rights of the community: PTSL, in its implementation, is based on the principles of simplicity, speed, smoothness,

safety, fairness, equality, openness, and accountability. This is intended to improve the welfare and prosperity of the community and the country's economy while reducing or preventing land disputes/conflicts; (c) Opening opportunities for diversified financing of land registration activities: This includes funding through the state budget (APBN), regional government budgets (APBD), CSR programs of state-owned and regional-owned enterprises, private funds, community funds, and others; (d) Creating a broader space for collaboration and synergy with stakeholders: This involves collaboration at the national, regional, and local levels, including collaboration with various stakeholders such as the private sector, community leaders, cadastral surveyor professional associations, and others.

Based on the cost and benefit assessment of each policy option above and consultation results with PTSL experts/practitioners, the policy option/alternative deemed best is "Option #1 Continuing Ministerial Regulation of ATR/BPN Number 6/2018." The rationale is that overall, the Regulation has had a positive impact and significant benefits for accelerating land registration, thus it should be continued. However, there is a need for strengthening technical policies/regulations underneath it to ensure its future implementation is more optimal and sustainable.

### **Formulation of Policy Implementation Strategy**

To execute "Option #1 Continuing Ministerial Regulation of ATR/BPN Number 6/2018," the implementation strategy involves developing and issuing rules or policies beneath it, such as technical guidelines (Juknis) and Circular Letters (SE) to enhance the effectiveness of outreach (socialization), monitoring and evaluation, strengthening human resources management, and improving coordination with ministries/agencies and local governments.

### **Managerial Implications**

The managerial implications of this research are, first, the periodic and continuous monitoring and evaluation is conducted. Regular and continuous monitoring and evaluation of the PTSL program implementation processes are essential. This practice is expected to help identifying issues and non-compliance with Standard Operating Procedures (SOP) that may hinder program implementation. Meanwhile, a massive and

sustained socialization of the PTSL needs to be better disseminated to the public through public campaigns and more effective communication approaches. Finally, enhancing coordination and data sharing among stakeholders will be focused on improved collaboration with the government and other entities involved in the PTSL program.

## CONCLUSIONS AND RECOMMENDATIONS

### Conclusions

First, the Ministerial Regulation of ATR/BPN Number 6/2018 has been effective to optimize the complete systematic land registration performance. Second, by revoking Ministerial Regulation of ATR/BPN Number 6/2018, the policy option "continuing Ministerial Regulation of ATR/BPN No 6/2018" is considered the best. However, this policy option requires strengthening of technical regulations underneath it in the form of technical guidelines (Juknis) to update the strategy for implementing outreach activities (socialization), developing coordination mechanisms among stakeholders, managing human resources, and monitoring and evaluating PTSL target achievements.

### Recommendations

The Ministry of ATR/BPN needs to update Ministerial Regulation of ATR/BPN Number 6/2018, especially in the aspect of activity management, to accelerate the achievement of PTSL targets in 2024-2025. The improvements should primarily focus on managerial aspects, including: (a) providing more specific guidelines related to the strategy for meeting the number of human resources, calculating the ratio of staff needs to workload (PTSL target), and the competency standards required to carry out all crucial stages of PTSL activities; (b) providing more specific guidelines related to the strategy, approach, methods/techniques, and format of PTSL outreach/education activities; (c) providing more specific guidelines related to the coordination strategy, coordination format, coordination outputs, action plans, or follow-up of coordination results; (d) providing more specific guidelines related to the strategy, technical methods, and frequency of monitoring and evaluating PTSL target achievements; (e) providing more specific guidelines related to improving the mindset, integrity, and professionalism of land office employees and other PTSL implementers; (f) providing more specific

guidelines related to the application of leadership approaches, styles, and types deemed appropriate and needed by the PTSL program; and (g) to fill the research gap, and the future research is focusing on adoption the transformative leadership model in the PTSL. In an academic context, this research recommends further studies using public policy analysis theories to formulate concepts and models of leadership, human resource management, policy coordination, and monitoring and evaluation strategies for the PTSL program.

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