

# Understanding the Obligation to Register Former Customary Land Ownership Rights

Original Article

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## Abstract

Land registration is a mandate of Law Number 5 of 1960 on the Basic Agrarian Regulations (UUPA), which aims to guarantee legal certainty and legal protection for land rights in Indonesia. Nevertheless, many lands that were formerly under customary ownership rights have not yet been registered and are only supported by administrative evidence such as *girik* or customary land title, letter C, or other tax documents. Such a circumstance engenders juridical ambiguity and heightens the likelihood of agrarian conflicts. Consequently, a thorough comprehension of the obligation to register lands formerly held under customary tenure is essential to achieving an orderly land administration framework. Employing a normative juridical methodology, this study integrates both statutory and conceptual approaches. Secondary data comprising primary, secondary, and tertiary legal materials were collected through library-based documentary research. The findings reveal that unregistered ex-customary lands lack robust evidentiary support for ownership, rendering their legal status susceptible to contestation. Within the national agrarian legal order, the conversion of customary rights into formal ownership rights necessitates land registration as a manifestation of state-conferred juridical recognition. Moreover, numerous impediments persist in the implementation of land registration, including low public legal consciousness, cumbersome procedural requirements, prohibitive costs, and restricted access to land administration services. Government Regulation No. 18 of 2021 mandates registration within a specified timeframe, signaling a policy-driven effort to expedite the juridification of land assets. This study affirms that accelerating registration not only fortifies legal certainty but also fosters socioeconomic stability and mitigates the emergence of land disputes.

**Keywords:** Formerly Customary-Owned Land, Land, Land Registration.

## 1. Introduction

Customary ownership rights are land rights regulated under customary law. Prior to the enactment of Law Number 5 of 1960 on the Basic Agrarian Regulations (UUPA), the applicable land law was dualistic in nature, as customary land law and Western land law were simultaneously in force. The enactment of the UUPA on September 24, 1960 created a unification of land law, so that land rights under customary law and land rights under Western law were converted into one of the types of land rights regulated by the UUPA. The Conversion provisions are affirmed in Articles I through IX of the UUPA. Customary ownership rights are converted into ownership rights if the rights holder is an Indonesian citizen, because the subject of ownership rights under Article 21 paragraph (1) of the UUPA is Indonesian citizens. Ownership rights based on Article 20 paragraph (1) of the UUPA are land rights that are hereditary, the strongest, and the fullest, taking into account social function.

Customary ownership rights as land rights do not possess proof of rights that can serve as the strongest evidence of land ownership in the same way as a certificate. This is understandable because customary law is law that lives within society, and most of its rules



are unwritten. Customary law also does not recognize land registration, whose product is proof of land ownership, because this was originally not needed by members of customary communities. Within customary communities, all members know each other and know who owns which land.

During the Dutch colonial period, land tax collection was applied to everyone who owned land. Harsono (2013) explains that until 1961, there were three types of land tax collection, namely *Eigendom Verponding* for Western-right land, *Verponding* Indonesia for customary-owned land within a *gemeente*, and *Landrente* or *Pajak Bumi* (Land Tax) for customary-owned land outside the *gemeente* area. Tax imposition was carried out by issuing tax assessment letters in the name of the land owner, referred to as *petuk pajak* (Land Tax Receipt), *pipil* (Land Tax Ticket), *girik* (customary land title), and others. The *petuk pajak*, which was essentially a tax assessment and payment document, was regarded by the public as proof of land ownership, which is understandable because the one who paid was the land owner.

Pursuant to Article 19 of the UUPA, the government is constitutionally required to undertake land registration throughout the entire jurisdiction of the Republic of Indonesia as a guarantor of legal certainty. This process encompasses geodetic measurement, cadastral mapping, systematic land recording, the registration of both land rights and their transfers, and the issuance of certificates of right that operate as strong evidentiary documents. Consequently, through these registration activities, landholders obtain a certificate recognized as the highest form of evidentiary proof of land ownership.

In 1991, from a total of roughly 55 million registrable land units, only 16.3 million had undergone official registration, indicating a substantial gap between eligible parcels and those actually recorded within the national land administration system (Harsono, 1997). The number of registered parcels has increased due to systematic land registration activities. By 2025, the total number of certified land parcels reached 95.3 million. The national target is 126 million parcels. This means many land parcels remain unregistered, including formerly customary-owned land that existed prior to the enactment of the UUPA.

Sihotang et al. (2025) note that the obstacles faced by rural communities in registering formerly customary-owned land are costs, the length of the process, and the distance to the land office. Meanwhile, Huanda (2025) in his research explains that the paucity of public engagement in land registration is attributable to inadequate legal consciousness regarding the significance of sporadic registration, coupled with the prevailing misconception that documentary evidence of formerly customary-owned land suffices as valid and compelling proof of ownership, a lack of government responsibility in guaranteeing legal protection, complicated land registration service procedures, uncertainty regarding timeframes for registration procedures and a tendency for slow processes, as well as widespread collusion, corruption, and nepotism among land officials.

The failure to register ex-customary land deprives the rights holder of any enforceable legal certainty over ownership, leaving their position highly vulnerable in the face of potential land conflicts. Official figures from the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency indicate that from October 2024 through October 2025, the Ministry recorded a cumulative total of 6,015 land disputes. Of that number, 3,019 cases were resolved through mediation, data verification, and coordination with law enforcement agencies and local governments. These data indicate that land owners can experience land disputes and find it difficult to prove ownership when the land does not yet have the strongest proof of ownership.

On February 2, 2021, Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Flat Unit Ownership, and Land Registration was promulgated. Article 96 of that regulation affirms that written evidentiary documents of formerly customary-owned land held by individuals must be registered within a maximum period of 5 (five) years from the time the regulation comes into force. Based on this provision, the problem formulation of this paper is how to understand the obligation to register formerly customary-owned land.

The issue of formerly customary-owned land remains a critical challenge in Indonesia's land system, as many members of the public still rely on fiscal documents such as *girik* (customary land title), *petuk pajak* (land tax receipt), or letter C as proof of land ownership without formally registering the land. This condition creates legal uncertainty and has the potential to give rise to land disputes. Therefore, this study addresses the following research question: what are the legal consequences of non-compliance with the registration obligation for formerly customary-owned land, specifically examining the constitutional validity of the five-year registration deadline and its relationship with existing customary community rights? To offer an original contribution to the field, the study adopts a doctrinal legal approach to analyze the tension between statutory registration obligations and the protection of customary land rights, an issue that remains underexplored in the existing literature.

## 2. Literature Review

### 2.1. The Concept of Land Rights in Agrarian Law

Land rights constitute a juridical bond between a legal subject and land, granting the rights holder the lawful power to use, exploit, and enjoy the proceeds of the land in accordance with prevailing laws and regulations. The general regulatory framework for land rights within Indonesia is encapsulated in Law Number 5 of 1960 on the Basic Agrarian Regulations (UUPA). The UUPA establishes that all land situated within the territory of Indonesia is subject to state control, intended to serve the greatest possible welfare of the people.

Based on this foundational provision, the state is empowered to regulate matters pertaining to land allocation, land utilization, land availability, and land stewardship. Within the national agrarian legal system, land rights are subdivided into several recognized forms, including ownership rights, cultivation rights, building use rights, use rights, as well as other rights created under statutory authority.

Compared with other proprietary interests in land, ownership rights are characterized by the highest degree of legal strength and substantive completeness (Rahmatia et al., 2024). They confer upon the holder the lawful authority to make use of the land, provided that such use remains consistent with the social function doctrine. However, to secure legal certainty in matters of land ownership, registration of every land right is obligatory under the applicable legal regime (Basana et al., 2023).

### 2.2. The Concept of Customary Land Ownership Rights

Prior to the enactment of the UUPA, land tenure in Indonesia was largely based on customary law applicable in various regions. Customary ownership rights are a form of land tenure recognized by customary law communities based on customary norms that have been passed down through generations. Such land is usually obtained through inheritance, land clearing, or continuous possession by a family or customary community.

Although customary ownership rights are recognized, this system is often not supported by strong written evidence. Land tenure is usually based only on recognition by the local community or traditional evidence such as *girik* (customary land title), *petuk pajak* (Land Tax

Receipt), or letter C. Therefore, following the enactment of the UUPA, the government adjusted the system of land rights that had previously been based on customary law to align with the national agrarian legal system. In this context, formerly customary-owned land refers to land that was previously held under customary law but must subsequently be adjusted to the national agrarian legal system through the land registration process.

### **2.3. Formerly Customary-Owned Land**

Formerly customary-owned land is land that, prior to the enactment of the UUPA, was owned or controlled based on the provisions of customary law, but after the enactment of the national agrarian legal system must be converted into one of the types of land rights recognized by the state, primarily ownership rights (Usman, 2020). The transformation of rights in question refers to the procedural mechanism for reconciling land status, originally governed by the customary legal system, with the requirements of the national agrarian legal regime. Land that was previously under customary ownership rights may be converted into ownership rights provided it meets the requirements stipulated by statutory regulations (Zahra & Priyono, 2025).

Formerly customary-owned land is still found in abundance throughout Indonesia. Such land often does not yet have a certificate because it has not been formally registered at the land office. This condition can give rise to various legal problems, such as land ownership disputes, legal uncertainty, and difficulties in transferring rights (Usman, 2020). It can thus be understood that the existence of formerly customary-owned land within the national agrarian legal system is fundamentally still recognized as long as actual possession by the rights holder can be demonstrated.

However, such recognition is not absolute, because within the national agrarian legal system, land tenure must be proven through the land registration mechanism organized by the state. Therefore, the conversion of customary ownership rights into ownership rights under the UUPA is not merely a change of legal status, but also demands orderly land administration through land registration. Without land registration, the legal standing of formerly customary-owned land becomes relatively weak as it does not possess a strong evidentiary instrument in the form of a land rights certificate.

### **2.4. Land Registration in the Agrarian Legal System**

Land registration constitutes a continuous sequence of state-conducted activities aimed at collecting, processing, recording, and disseminating both physical and juridical data concerning land units. The principal objective of such registration is to afford legal certainty and legal protection to parties holding rights in land. Within the Indonesian legal framework, the relevant provisions governing land registration are codified in Government Regulation Number 24 of 1997 on Land Registration. This regulatory instrument stipulates that every land right is subject to registration as a necessary condition for ensuring juridical certainty on the part of the rights holder. As an outcome of land registration, the government issues a certificate evidencing the right, which functions as a strong evidentiary instrument regarding the physical and juridical data of the subject land parcel. Accordingly, a land certificate represents an essential document that guarantees legal certainty for the landowner.

In the domain of land, legal certainty serves as a pivotal component for fostering socioeconomic stability among the populace. Registered land accompanied by a certificate confers a juridical safeguard upon the rights holder, as the relevant physical and juridical data have been officially entered into the national land administration registry. Conversely, unregistered land has the potential to give rise to various legal problems, particularly related

to proving land ownership. In practice, many land disputes arise because there is no strong ownership evidence, which opens the possibility for other parties to claim the same land.

The existing literature confirms that land registration is mandatory and its absence invites disputes, but it has not systematically examined the legal status of formerly customary-owned land that remains unregistered after the statutory five-year deadline particularly the legal consequences of non-compliance and the constitutional tension between this deadline and surviving customary community rights. This manuscript fills that gap through a doctrinal analysis of (i) legal consequences for non-registration, (ii) the deadline's constitutional validity, and (iii) the normative conflict between state registration obligations and continued customary tenure recognition under the UUPA.

### 3. Methods

A normative juridical research typology forms the basis of this study, whereby legal research is performed through the assessment of library-based materials and secondary data associated with the legal issue at hand. Normative juridical research focuses on the examination of legal norms derived from statutory regulations, doctrinal writings, and diverse literary sources relevant to the research topic. Applied to the present study, this analytical approach seeks to elucidate the obligation to register formerly customary-owned land as situated within Indonesia's legal framework governing land tenure.

The research methodologies adopted in this study are the legislative approach and the doctrinal approach. The legislative approach is justified as the primary method because the core research question involves examining the legal consequences of a statutory deadline and its constitutional validity, requiring systematic interpretation of the UUPA and Government Regulation Number 24 of 1997. The doctrinal approach is equally essential because the concept of "formerly customary-owned land" derives not only from statutes but also from legal scholarship; analyzing scholarly and judicial reasoning is necessary to map the existing normative framework. The combination of both methods is methodologically justified as they operate complementarily: the legislative approach addresses positive law commands, while the doctrinal approach addresses conceptual coherence and normative tensions.

Descriptive-analytical in nature, this research seeks to offer a systematic elaboration of the legal provisions concerning the registration obligation for formerly customary-owned land, and to scrutinize both their operationalization and their legal ramifications within the land tenure system. Through this research design, the author not only describes the applicable legal norms, but also analyzes the legal problems that arise in practice.

The data utilized in this research consist of secondary data acquired through library-based documentary research. Such secondary data are categorized into three tiers: primary legal sources, secondary legal sources, and tertiary legal sources. Primary legal sources refer to statutory enactments that regulate agrarian law and land registration. Secondary legal sources encompass treatises, academic journals, published research outcomes, and expert commentaries relevant to the subject matter. Tertiary legal sources comprise legal lexicons, encyclopedias, and ancillary reference works that assist in elucidating the terms or concepts adopted in the research.

This research adopts a library research method for data collection, encompassing the accumulation of varied scholarly literature, institutional documents, and statutory provisions related to the object of inquiry. Following collection, the data undergo qualitative analysis, defined as the process of interpreting and methodically examining legal materials so as to

obtain a thorough understanding of the registration obligation for erstwhile customary-owned land and its juridical ramifications within the Indonesian land system.

## 4. Results and Discussion

### 4.1. Formerly Customary-Owned Land in the UUPA

The UUPA was promulgated with the objective of laying the groundwork for the development of national agrarian legislation, establishing consistency and reduction of complexity within land law, and furnishing juridical certainty regarding land rights. To realize the unification of land law across Indonesia, the prior dualistic system was abolished through the consolidation of land law and the standardization of land rights. Whereas before the UUPA came into force, land rights originating from Western legal traditions and those derived from customary law coexisted, after its enactment both categories were subjected to conversion. Western land rights, specifically *eigendom*, *erfpacht*, *opstal*, and *gebruiksrecht*, were recast into one of the land right types enumerated under the UUPA. In parallel, customary land rights, such as customary rights of ownership, were also converted. The land rights within the national agrarian legal order as stipulated in the UUPA include ownership rights, cultivation rights, building use rights, and use rights. Given that each of these rights possesses its own legal definition, permissible subjects, temporal scope, and functional objectives, the conversion of formerly Western rights or previously held customary ownership rights is contingent upon the legal personality of the holder and the designated purpose of the land.

Customary ownership rights under customary law are individual land rights granted to an individual because they use the land continuously, for example for wet rice fields. Whereas if the manner of using the land is not fixed, meaning not continuous and regular, then the individual only obtains use rights, for example for shifting cultivation. Ownership rights have an indefinite duration, while use rights have a specific duration. One fundamental matter regulated in customary law is that the ownership rights holder must be a member of that customary law community and not an outsider. The *ulayat* rights of the customary law community serve as the underlying legal foundation upon which both customary ownership rights and use rights are established. *Ulayat* rights constitute the legal nexus connecting the customary law community to the land throughout its territorial domain, extending also to the water and natural resources contained within that territory. The authority to regulate such matters resides in the customary head, to whom regulatory power has been delegated by the customary law community.

During the Dutch colonial period, all parties who owned land were required to pay land tax. Those who held customary ownership rights were also subject to the obligation to pay land tax. The name of the land tax differed depending on the location of the land, whether within a *gemeente* or outside the *gemeente* area. *Gemeente* refers to a city area. If customary-owned land was located within a *gemeente*, the land tax was *Verponding* Indonesia. If customary-owned land was located outside the *gemeente*, the land tax was *landrente* or *pajak bumi* (land tax), also called *ketitir* (unregistered or unlisted land), *girik* (customary land title), *pipil* (Land Tax Ticket), *petuk pajak* (Land Tax Receipt), and others. During that colonial period, the one who paid the land tax was the land owner. Thus, although *girik* (customary land title), or land tax, or *ketitir* (unregistered or unlisted land) was essentially proof of tax payment or could be called a fiscal document, the public regarded it as proof of land ownership. The absence of written documentation for customary ownership rights is attributable to the inherent nature of customary law itself, which exists and operates within the living traditions of society rather than through formal written instruments. In its subsequent development, *girik* (customary

land title) or letter C was replaced by the Land and Building Tax (*Pajak Bumi dan Bangunan/PBB*), as regulated under Law Number 12 of 1985 on Land and Building Tax (Lusiana, 2025). Taxpayers of the Land and Building Tax are individuals or legal entities that use land.

Based on Article II of the Conversion Provisions in the Basic Agrarian Law, customary ownership rights are converted into ownership rights, unless the holder does not meet the requirement of being an Indonesian citizen, because ownership rights under the UUPA may only be held by Indonesian citizens. After the enactment of the UUPA, customary ownership rights are referred to as formerly customary ownership rights to indicate that such rights were originally customary ownership rights that had not yet been certificated. In accordance with Article 19 of the UUPA, which stipulates that the government is obliged to perform land registration throughout the entirety of Indonesian territory to guarantee legal certainty, the same duty to register extends to holders of customary ownership rights.

For owners of formerly customary-owned land registering their land for the first time, the party concerned carries out an affirmation of conversion from the old right to a newly registered right. For the purpose of land registration at the Land Office, the following documents must be brought: *girik* (customary land title) or letter C or *petuk pajak* (Land Tax Receipt) legalized by the Village/Kelurahan office, a statement of physical possession, a letter of land history, identity documents (National Identity Card, Family Card), proof of Land and Building Tax payment, and a letter from the Village/Kelurahan certifying that the land is not disputed. The applicant then fills in the application form and submits the documents, followed by payment of measurement and land inspection fees in accordance with Non-Tax State Revenue rates, after receiving a schedule for a measuring officer to visit the location. During measurement, boundary markers are installed with the agreement of the owners of adjacent land (contradictory delimitation). The measuring officer prepares a registration map and measurement letter. A land book is then prepared, and ultimately a certificate of ownership is issued to the land owner.

The foregoing account permits the analysis that the process of converting customary ownership rights into formal ownership rights pursuant to Law Number 5 of 1960 on the Basic Agrarian Regulations serves as a pivotal measure in realizing the consolidation of land law across Indonesia. This conversion is not merely administrative in nature, but also carries important juridical significance, as it transforms the system of rights recognition from one based on unwritten customary law into a national legal system based on land registration, which functions as the primary means of creating legal certainty and legal protection for rights holders (Evitasari et al., 2024; Simarmata, 2021). Accordingly, recognition of land rights is no longer based solely on physical possession or acknowledgment by the customary community, but must be reinforced through official recording by the state.

However, in practice, the process of converting customary ownership rights has not yet run optimally. Many formerly customary-owned land parcels have not been registered and therefore have not received juridical recognition within the national legal system. This condition reflects a gap between the law as it should apply (*das sollen*) and the reality in society (*das sein*), where people still rely on traditional evidence such as *girik* (customary land title) or letter C, which carries weak probative force and does not provide perfect legal certainty (Jannah et al., 2025; Sagala et al., 2025). Indeed, Aiza et al. (2024) affirm that unregistered land has a higher level of vulnerability to disputes compared to certificated land.

Furthermore, the public commonly misconstrues the evidentiary value of instruments such as *girik*, letter C, or *petuk pajak*, which are fundamentally no more than receipts for tax payments, as valid documentation of land ownership rights. Yet pursuant to Government

Regulation Number 24 of 1997 on Land Registration, a certificate is affirmed to carry robust evidentiary weight so long as its physical and juridical data are congruent, whereas all non-certificate documents function merely as initial or provisional evidence in the course of registration. This misunderstanding indicates that legal awareness among the public remains low, which has also been identified as one of the inhibiting factors in the implementation of land registration (Nathania et al., 2024).

Article 96 of Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flat Unit Ownership, and Land Registration imposes a duty to register formerly customary-owned land, thereby reflecting the state's initiative to hasten the formal legalization of communal land holdings. The policy is prescriptive in nature, intended to generate legal certainty and to preclude agrarian conflicts. This underscores the significance of state intervention via regulatory frameworks and targeted programs in fostering systematic land administration.

It can therefore be concluded that the existence of formerly customary-owned land within the national agrarian legal system demands a transformation from the traditional system toward a modern system based on land administration. Without registration, customary ownership rights will not obtain optimal legal protection and will remain in a condition vulnerable to disputes, as affirmed by Apriani & Bur (2021) who state that legal certainty can only be achieved when land data is officially registered and documented.

#### **4.2. Land Registration to Guarantee Legal Certainty**

In Indonesia, there are 2 types of land registration: land registration for the purpose of land tax collection (*fiscal cadastre*), and land registration to provide a guarantee of legal certainty (*juridical cadastre*). The present study concentrates specifically on land registration insofar as it provides a guarantee of legal certainty, a fundamental principle articulated in Article 19 of the UUPA. To implement Article 19 of the UUPA, Government Regulation Number 10 of 1961 on Land Registration was initially enacted; this regulation was later declared no longer in force following the enactment of Government Regulation Number 24 of 1997 on Land Registration. According to Government Regulation Number 24 of 1997, land registration denotes ongoing, continuous, and regular governmental operations comprising the collection, processing, recording, presentation, and maintenance of physical and juridical data in the form of cartographic maps and land registers pertaining to land parcels and flat units. The scope of such operations also extends to the issuance of certificates as instruments evidencing rights for land parcels already subject to rights, for ownership rights over flat units, and for any specified rights encumbering them.

Land registration is intended to achieve three principal aims: first, to furnish juridical certainty and legal protection for land rights holders; second, to supply information to stakeholders, the government included; and third, to effectuate systematic land governance. The objects falling within the scope of land registration comprise: (a) land parcels encumbered with ownership rights, cultivation rights, building use rights, and use rights; (b) land held under management rights; (c) land designated as waqf; (d) ownership rights pertaining to flat units; (e) mortgage rights; and (f) land belonging to the state.

Land registration implementation is divided into two main types: first-time registration for parcels that have never undergone registration, and data maintenance registration. First-time land registration is distinguished between systematic registration and sporadic registration. Systematic land registration is carried out on the government's own motion within areas specified by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency. Sporadic land registration, conversely, is instigated by the party who possesses a lawful entitlement to the land. As noted by Santoso (2017) land registration yields

multiple benefits for rights holders: a) it instills a sense of legal security; b) it allows for unambiguous knowledge of physical and juridical attributes; c) it streamlines the process of rights transfers; d) it increases the land's market value; e) it enables the land to serve as collateral through mortgage rights; and f) it renders the calculation of Land and Building Tax less susceptible to inaccuracies.

In Indonesia, a rights registration system and a negative publication system with positive tendencies are applied. The rights registration system is a system affirming that what is registered is the right, while the negative publication system indicates that proof of land ownership constitutes the strongest evidentiary instrument of land ownership. This implies that a certificate as proof of land title holds strong probative value, such that all information contained within it is presumed trustworthy and valid unless rebutted by contrary evidence adduced by another claimant. Hence, in a legal system embracing a negative publication framework, the certificate falls short of providing absolute proof of ownership; whenever an opposing party can demonstrate factual inaccuracies, the entries set forth in the certificate may be duly amended. In essence, this reflects that the negative publication system prioritizes fairness for the party who genuinely owns the land, whereas in the positive publication system, legal certainty is paramount, because even if there is an error in the preparation of the proof of land ownership, what is contained in that proof cannot be changed, as the state guarantees the accuracy of the data.

Article 32 paragraph (2) of Government Regulation Number 24 of 1997 on Land Registration serves to reinforce legal protection concerning the evidentiary weight of land ownership certificates. It provides that once a land parcel has been validly certificated in the name of an individual or legal entity who acquired it in good faith and is in actual possession, any party claiming a competing right over that land is precluded from enforcing such claim if, within a five-year period from the certificate's issuance, they have neither lodged a written objection with the certificate holder and the relevant Head of the Land Office, nor filed a court action contesting possession of the land or the certificate's grant. This provision illustrates that, even though Indonesia operates under a negative publication system, legal certainty remains available to the good-faith possessor who is entered in the land register, and the certificate continues to serve as a strong evidentiary instrument.

Historically executed via manual means resulting in analog certificates, land registration has since evolved such that, pursuant to Government Regulation Number 18 of 2021, it may now be administered and carried out electronically, comprising data, electronic information, and/or electronic documents. Electronic data and information, as well as any printouts thereof, are deemed to constitute admissible legal evidence. An electronic certificate is issued to the holder of land rights. Electronic certificates are considered superior to analog certificates, as they are protected by a multilayered security framework (Muri et al., 2025).

Furthermore, the organization of land registration in practice is not only understood as a purely administrative activity, but also as a strategic instrument in realizing legal order and land order in Indonesia. Through the systematic consolidation of physical and juridical information, land registration serves to mitigate the likelihood of land disputes originating from unclear tenure status. The legal certainty thus generated offers dual benefits: it provides safeguards for rights holders while simultaneously promoting social and economic equilibrium, especially insofar as land carries significant economic worth and commonly serves as security in financing arrangements. This is consistent with Susanti (2017), who states that land registration functions as an instrument to guarantee legal certainty while also increasing the economic value of land.

On the other hand, although land registration has been normatively designed to guarantee legal certainty, various problems affecting its effectiveness are still found in practice, such as duplicate certificates, overlapping ownership, and land administration errors. This condition shows that the legal certainty provided through certificates is not yet absolute, but remains dependent on the accuracy of the physical and juridical data registered. This is consistent with Dimas (2021) who affirms that the negative publication system in land registration in Indonesia means that a certificate is only a strong evidentiary instrument, but not an absolute one.

The government's efforts through the Complete Systematic Land Registration (PTSL) program demonstrate a commitment to accelerating the realization of comprehensive legal certainty (Putrisasmita, 2023). This program aims to increase the number of registered land parcels while also improving the quality of national land data. Thus, land registration not only functions as an instrument for proving rights, but also as a public policy instrument in supporting agrarian reform and equitable land tenure.

### **4.3. Understanding the Obligation to Register Formerly Customary-Owned Land**

In recognition of the fact that land registration aims to provide a guaranty of juridical certainty, the state has undertaken measures to execute countrywide land registration through initial systematic land registration. The increase in the number of certificates issued between 1961 and 2016 has proven relatively inadequate to achieve comprehensive registration of all land across Indonesia, notwithstanding the acknowledged necessity of registration outcomes as a prerequisite for legal certainty and legal protection (Santoso, 2017; Susanti, 2017). The prevalence of land disputes is attributable to the substantial volume of land lacking the strongest evidentiary documentation, thereby leaving legal certainty unsecured (Dimas, 2021; Nathania et al., 2024). Recognizing this situation, the National Land Agency (BPN) established the Complete Systematic Land Registration (*Pendaftaran Tanah Sistematis Lengkap*, or PTSL) program.

Pursuant to Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 6 of 2018 on Complete Systematic Land Registration, the PTSL program is executed by constitute initial land registration measures undertaken simultaneously for every registrable land object throughout the Republic of Indonesia within the boundaries of one village (*kelurahan*) or another administrative unit of comparable standing, involving the compilation of physical and juridical information regarding one or more land registration objects to give effect to registration. The coverage of PTSL encompasses all land parcels, irrespective of whether they lack land rights or already hold land rights, with the objective of improving the quality of land registration data.

The Head of the Land Office determines the locations for PTSL activities within their territorial jurisdiction. The locational designation principle for PTSL adopts a methodology of approaching, clustering, and comprehensive coverage, forming part of the strategic planning for PTSL activities to facilitate land registration implementation toward the realization of fully registered villages, fully registered sub-districts, and fully registered regencies/cities (Suyadi, 2024). Thereafter, the Head of the Land Office forms and designates an Adjudication Committee along with task forces. Working in collaboration with the Adjudication Committee, the Physical Task Force, and the Juridical Task Force, the Head of the Land Office carries out community socialization. This is succeeded by the gathering of physical data and the gathering of juridical data. A review of juridical data for rights verification is subsequently performed, after which the physical and juridical data are announced and then formally ratified.

As a strategic measure undertaken by the government to expedite the legalization of community land holdings, the Complete Systematic Land Registration (PTSL) program seeks to reduce the number of unregistered land parcels while promoting the realization of legal certainty over land ownership. As noted by Muri et al. (2025) and Putrisasmita (2023), in practice, however, multiple obstacles continue to hinder its implementation, such as constrained human resources, inadequate public legal consciousness regarding the importance of land registration, and the challenging topographical conditions of certain areas that render land measurement operations difficult. Thus, the success of the PTSL program depends significantly on the synergy between the government, land officials, and the proactive engagement of the community.

The organization of PTSL completion is arranged into four clusters. Cluster one comprises land parcels where the physical and juridical data satisfy the conditions for issuing a land rights certificate. Cluster two comprises land parcels that also satisfy the physical and juridical data conditions for certificate issuance, but which are subject to ongoing court cases and/or disputes. Cluster three comprises land parcels whose physical and juridical data cannot be recorded, and for which a land rights certificate cannot be issued, because the subject and/or object of the right does not yet meet certain specified requirements. Cluster four comprises land parcels whose objects and subjects have already been registered and already hold land rights certificates whether previously unmapped or already mapped but which are inconsistent with field conditions or show changes in physical data, and which must therefore be mapped into the complete systematic land registration map. According to Suyadi (2024), the benefit of this cluster system is that no inch of land goes unrecorded. Although not all parcels can immediately be certificated, their legal status is fixed within the map. The PTSL program has succeeded in increasing the number of registered land parcels.

Nevertheless, in the field, there is still customary-owned land that has not been registered, because the PTSL program has not yet been implemented in all regions, and public awareness about registering land remains low (Sihotang et al., 2025; Evitasari et al., 2024). As a result, land disputes continue to occur. There are disputes between holders of customary ownership rights who have not certificated their land and other parties who claim ownership of the same land and assert that the same land is already certificated. There is evidently an overlap of land ownership over the same land. There are also land disputes that arise because the disputing parties cannot agree on the boundaries of their land ownership.

The increasing number of land disputes has economic, social, and legal impacts. The economic impact felt is that disputed land becomes dead capital because the economic value of that land is lost. The social impact takes the form of physical clashes between residents, and can even result in the severing of family ties. Land disputes also have legal impacts, as they cause a backlog of cases in the courts, and during the court process the status of the land is in limbo, causing the land to go unused. Essentially, land disputes have negative impacts, and the government also feels the losses.

Pursuant to this matter, Article 96 of Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flat Unit Ownership, and Land Registration mandates that documentary proof of land previously held under customary tenure in the possession of private individuals shall be registered no later than five (5) years after the effective date of Government Regulation Number 18 of 2021. Should the prescribed timeframe expire, documentary proof of erstwhile customary land rights loses its legal validity and may no longer serve as admissible evidence for land rights, retaining only a guiding function in the context of land registration proceedings. This provision, in fact, indirectly aims to compel everyone who holds customary-owned land to immediately register their land, and a 5-year period has

been given from the time Government Regulation No. 18 of 2021 first came into force on February 2, 2021. This means that by February 2026, that period has already expired, and all written evidentiary documents of formerly customary-owned land are only accepted as guidance in the context of land registration.

In essence, the obligation to register formerly customary-owned land is to realize legal certainty, encompassing certainty of subject, certainty of object, and certainty of rights. If the registration of formerly customary-owned land is neglected by its owner, there are risks to be borne. These risks arise: 1) if formerly customary-owned land becomes the object of protracted inheritance disputes; 2) if there is a desire to use formerly customary-owned land as collateral, but banks are unwilling to extend credit because the pledged land is not yet certificated; and 3) in the event of land mafia activities that falsify data, since formerly customary-owned land has not been registered, data on that land does not exist in the National Land Agency's database.

The enactment of Government Regulation No. 18 of 2021, which requires the registration of formerly customary-owned land and stipulates that all written evidentiary documents of formerly customary-owned land serve only as guidance in the context of land registration, aims to compel people to register formerly customary-owned land. The obligation to register land is not merely an administrative obligation, but legal protection for rights holders to avoid disputes and land mafia practices. Neglecting the registration of formerly customary-owned land is tantamount to leaving the land in a state of legal uncertainty.

Failure to register formerly customary-owned land can give rise to various legal implications for rights holders. First, land owners do not have strong ownership evidence, making their legal standing weak in the event of a land dispute. Second, unregistered land generally cannot be used as credit collateral at banking institutions because it does not meet the legal requirements as a mortgage object. Third, unregistered land is more vulnerable to abuse by irresponsible parties, including land mafia practices that exploit weaknesses in land administration. Therefore, land registration is an important step in providing legal protection for rights holders and preventing land disputes from arising in the future.

From a legal perspective, the obligation to register formerly customary-owned land as regulated in Article 96 of Government Regulation Number 18 of 2021 on Management Rights, Land Rights, Flat Unit Ownership, and Land Registration reflects a paradigm shift from rights recognition based on customary evidence toward a modern land administration system based on registration. This provision demonstrates that the state no longer merely recognizes the existence of rights factually, but demands formal legalization through registration as the primary requirement for obtaining legal protection. Thus, legal certainty does not merely depend on physical possession or customary evidence, but on state recognition through the land registration system. Theoretically, this condition is consistent with the concept of legal certainty proposed by Gustav Radbruch, which emphasizes that law must provide clarity, be predictable, and be enforceable. In this context, land registration functions as an instrument to create such certainty through official recording and the issuance of a certificate as a strong evidentiary instrument (Putrisasmita, 2023).

The provision regarding the time limit for registering formerly customary-owned land of 5 (five) years demonstrates the coercive nature of government policy in the context of accelerating asset legalization (Yulianto & Pihawiani, 2023). This can be understood as an effort to close the gap for disputes and land mafia practices that often exploit unregistered land. However, in its implementation, this policy has the potential to create new problems if not balanced with infrastructure readiness, adequate socialization, and equitable access for the community, particularly in remote areas. Therefore, the effectiveness of the land

registration obligation is not only determined by the strength of the regulation, but also by the readiness of the land administration system and the level of legal awareness among the public. It can thus be analyzed that the obligation to register formerly customary-owned land is not merely an administrative obligation, but also a form of preventive legal protection against the potential for future disputes. However, without optimal implementation support, this obligation has the potential to create an imbalance in access to legal certainty, particularly for communities that do not yet have the capacity or opportunity to register their land.

## 5. Conclusion

This research affirms that the obligation to register formerly customary-owned land is a juridical consequence of the application of the national agrarian legal system, which demands a transformation from customary law-based tenure toward a standardized, registration-based land administration system. Within this framework, the existence of traditional documents such as *girik* (customary land title), letter C, and tax payment receipts no longer carries evidentiary force as land rights, but functions only as initial evidence in the process of conversion and rights registration. Accordingly, land registration becomes the sole mechanism that provides strong juridical legitimacy through the issuance of a certificate as a state-recognized evidentiary instrument of rights.

The research findings indicate a significant gap between the legal norm requiring land registration and the empirical reality in society, which continues to maintain informal land tenure practices. This gap is influenced by structural and cultural factors, such as low legal awareness, mistaken perceptions regarding the strength of traditional evidence, the complexity of administrative procedures, and limited access to land services. This condition not only weakens legal certainty, but also increases vulnerability to agrarian disputes and conflicts.

Normatively, the provisions of Government Regulation Number 18 of 2021 requiring land registration within a certain time frame reflect an imperative regulatory approach aimed at accelerating the legalization of community land assets. However, the effectiveness of this policy is highly dependent on the institutional capacity of the government and the success in building public trust in the land registration system. Therefore, an approach is needed that is not only regulatory, but also participatory and educational in order to improve community compliance.

The theoretical implications of this research indicate that legal certainty in the field of land is not determined solely by the existence of legal norms, but by the effectiveness of implementation and the internalization of those norms in social practice. Meanwhile, the practical implications emphasize the importance of administrative reform through the simplification of procedures, digitization of land services, and the strengthening of strategic programs such as Complete Systematic Land Registration (PTSL). Thus, the registration of formerly customary-owned land not only functions as an instrument of formal legalization, but also as a foundation in realizing legal order, agrarian justice, and sustainable socio-economic stability.

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