

## Juridistic review of law of community awareness in Ulunggolaka village in land registration

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### Abstract

*This study aims to determine and analyze the legal awareness of the Ulunggolaka community in registering land and to find out and analyze the causal factors so that there are still ulunggolaka urban communities who do not register land. The research method used is empirical legal research that examines primary data obtained from observations, questionnaires, and interviews. The results of this study indicate that the legal awareness of Ulunggolaka Village community in conducting land registration is still relatively low by referring to the answers of respondents who have given their answers based on four legal awareness indicators, namely: (1) Legal Knowledge, (2) Understanding of the law, (3) Legal attitude and (4) Pattern of legal behavior. The causal factor so that there are still ulunggolaka urban communities who do not register their land is based on the low legal awareness of the community of the importance of securing assets (land) by obtaining guarantees and legal certainty so that ownership is not strongest and cannot be disturbed, and besides that the community is unable to meet the requirements that must be completed in carrying out land registration, especially proof of the origin of the land, plus the expensive costs and administrative arrangements that are difficult for the community.*

**Keywords:** land; UUPA; Registration; Community

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### 1. Introduction

Ownership right which is one of the types of land rights known in the Indonesian Agrarian Law (UUPA). Definition of Property Rights based on the provisions of Article 20 paragraph (1) of the UUPA stipulates that "*Hak milik adalah hak yang turun temurun, terkuat dan terpenuh yang dapat dipunyai orang atas tanah, dengan mengingat ketentuan Pasal 6*" (Property rights are rights that are hereditary, strongest and most fully owned by people on land, bearing in mind the provisions of Article 6)

With the issuance of the Indonesian Agrarian Law, the dualism of land rights was abolished, in the memory of the clarification of the UUPA it was stated that for land registration as referred to in Article 19 of the UUPA, aimed at the government to carry out land registration in all regions of Indonesia aimed at ensuring certainty Recht Kadaster's law (Ismaya, 2011), in the direction of granting certainty over land rights, has been regulated in Article 19 of the UUPA that states:

1. Land registration is carried out keeping in mind the state and community conditions, socio-economic traffic requirements and the possibility of organizing them according to the Minister of Agrarian's consideration.
2. In the Government Regulation above the costs related to registration are included in paragraph 1 above, provided that the people who are unable to be exempt from payment of these costs.

The regulations made by the government are aimed at all citizens to be implemented as they should, but there is still even a lot that we get in the scope of society, especially rural or inland communities and even people who live in urban areas do not register land (Lubis, A. R., & Lubis, 2011) This is caused by many factors so that there are still many members of a community who do not register land, so a special review of this is needed so that the causes can be identified so that there are still many people who do not register land. Land issues, from an empirical point of view, are very closely related to everyday events both for lower, middle and upper class economic communities. Evictions, making certificates, renting, and other problems we inevitably face. These problems appear to be increasingly complex with the issuance of various regulations and debureaucratization policies in the field of land in welcoming the era of free trade (Sumardjono & Maria, 2001).

## 2. Literature Review

### 2.1. Land Rights

In Law Number 5 of 1960 concerning Basic Agrarian Regulations Article 16 paragraph 1 states "Land rights are:

- a. Right of ownership
- b. Building rights
- c. Usage Rights
- d. Lease Rights (Tutik Quarterly Point: 2006, Jakarta)
- e. Right to Open Land
- f. The Right to Collect Forest Products
- g. Other rights not included in the rights mentioned above that will be determined by law and rights - temporary nature as mentioned in article 53 (Ismaya, 2011)

In the Registration of Transfer of Land Rights because the Grant referred to as Land Rights is the right to land with the status of ownership rights (Law no. 4 of 1996)

### 2.2. Transfer of Land Rights

*Transfer of land rights occurs because:*

- a. Legal actions of removal
- b. The elements and nature of the grant agreement
- c. Objects and restrictions in the grant agreement.

According to the provisions contained in article 1667 of the Civil Code which are "*Hibah hanyalah dapat mengenai benda – benda yang sudah ada. Jika hibah itu meliputi benda – benda yang baru akan ada di kemudian hari, maka sekadar mengenai itu hibahnya batal*" (Grants can only affect objects that already exist. If the grant covers items which will only be available in the future, then only about that the grant will be canceled)

Making a Deed of Grant Testament:

If you wish to make a will in accordance with Civil Code section 839, the making of a will may be made by an act made in the presence of a Notary or by a Will made under the hand or written by another person or typed and subsequently signed and subsequently passed to Notary to keep and then to that storage Notary will create the Storage Act.

If they are Muslims in accordance with article 195 paragraph 1 of the Compilation of Islamic Law (KHI), the will is taken orally in front of 2 (two) witnesses, or written in front of 2 (two) witnesses, or in the presence of a Notary. Article 196 of the KHI further

specifies that in written and oral will it must be stated clearly and clearly that any person or entity appointed shall receive the property in question. When a will is made in a closed (confidential) state then the will may be kept at the place of the Notary who made it or elsewhere, as specified in Article 203 paragraph (1) of the KHI.

*Land rights that can be transferred or transferred are:*

- a. Right of ownership.
- b. Cultivation Rights.
- c. Building rights.
- d. Usage Rights.
- e. Proprietary rights to flat units. (article 2 paragraph 3 of Law No. 21 of 1997)

In the Registration of Transfer of Land Rights because the Grant is clear, the intended Transfer of Rights is the Transfer of Rights caused by the Grant. (Law No. 21 of 1997)

### **2.3. PPAT**

In the Government Regulation of the Republic of Indonesia Number 37 of 1998 Concerning Regulation of Land Deed Making Officials Article 1 Paragraph 1 explains the definition of Land Deed Making Officials which reads:

*Pejabat Pembuat Akta Tanah, selanjutnya disebut PPAT adalah pejabat umum yang diberi kewenangan untuk membuat akta-akta otentik mengenai perbuatan hukum tertentu mengenai hak atas tanah atau hak milik atas satuan rumah susun.*

(Land Deed Making Official, hereinafter referred to as PPAT, is a public official who is authorized to make authentic deeds concerning certain legal actions regarding land rights or ownership rights over flats units).

### **2.4. National Land Agency (BPN)**

National Land Agency (abbreviated as BPN) is a non-ministerial government institution in Indonesia that has the task of carrying out governmental duties in the field of Land according to the provisions of the legislation. BPN was formerly known as the Agrarian Office. BPN is regulated through Presidential Regulation Number 20 Year 2015.

### **2.5. Land Registration**

#### **a. Definition of Land Registration**

The definition of Land Registration is explained in Government Regulation Number 24 of 1997 concerning Land Registration article 1 paragraph 1 which reads Land Registration is a series of activities carried out by the Government continuously, continuously and regularly including the collection, processing, bookkeeping, and presentation and maintenance of physical data and Juridical data in the form of maps and lists (Sumardjono & Maria, 2001).

#### **b. Object of Land Registration**

Based on Government Regulation No. 24/1997 article 9 states that land registration objects include:

- 1) Plots of land that are owned with ownership rights, business use rights, building rights and use rights.
- 2) Land Management Rights.
- 3) Land of Waqf.

- 4) Proprietary Rights in Flat Units.
- 5) Mortgage.
- 6) State Land.

#### c. Land Registration for the First Time and Maintenance of Land Registration Data

In Government Regulation Number 24 of 1997 it is explained that in the implementation of land registration, it includes land registration for the first time and maintenance of land registration data.

### **2.6. Legal Awareness**

#### a. understanding of legal awareness

Legal awareness is self-awareness without pressure, coercion, or orders from outside to submit to applicable law. The meaning of legal awareness in society has an important meaning in supporting the maintenance of law (law enforcement). Every community in the jurisdiction of the country is certainly demanded to have legal awareness (Arliman, 2015).

Some experts provide an understanding of "awareness" and legal compliance, mentioned only a view, they are: Soekanto, (1982) stated that Legal awareness is actually awareness or values found in human beings about existing laws or expected laws, while according to Arliman (2015) stated that within the limits of a broad understanding of legal awareness is the potential of a community that must culture culturally so that it is binding and can be forced.

#### b. Indicators of Legal Awareness

There are four indicators of legal awareness, each of which is a subsequent stage, namely; 1) Legal knowledge, 2) Understanding the law, 3) Legal attitude and, 4) Pattern of legal behavior.

### **3. Research methods**

The object of research in this study is the things that occur in the community that are not in accordance with the expectations and legal objectives to discipline administrative and juridical land registration by finding information and taking samples from research subjects .

The subject of this current research is within the scope of Ulunggolaka Subdistrict, regarding legal awareness of the Ulunggolaka community in registering land and the causal factors so that there are some people who do not carry out land registration. Thus this research is limited in the scope of the Ulunggolaka village.

The sources of the author are the officials of the Ulunggolaka village chief, the Ulunggolaka village head, the village secretary and the head of the environment. By taking 11 respondents from the Ulunggolaka community.

In collecting the data, this research obtained the data through employing some general methods of data collection, they are: 1) Interview Method; it is a method used by a person for a certain purpose, trying to get information or a verbal stand from several respondents through conversing, face to face with that person. The author conducted interviews with several residents; 2) The Observation Method, it is a data collection technique that is done by the writer with direct observation in the field to get data from the study population, both in the form of subjects and objects that are related to research; 2) Literature Study, it is a method of collecting data by means of a method of collecting

data by studying some literature that is relevant to research and aims to obtain supporting data to strengthen arguments. The library materials used in the preparation of this Final Project are particularly Law Number 5 of 1960 Concerning Agrarian Principles, Government Regulation Number 24 of 1997 Concerning Land Registration, Civil Code and other reference books

The population to be taken in this study is grouped into two groups, namely the group of citizens who own land with a middle to upper economy and the group of citizens who have land with a lower middle economy.

In this study the sample used is to take several residents from each group that has been categorized in the population.

This study uses qualitative data analysis, an analysis that combines data in the form of observations, interviews, written material in the form of laws, documents, books, and others.

**4. Results and Discussion**

**4.1. Legal Awareness Level of Ulunggolaka Kelurahan community in conducting land registration**

To find out the level of legal awareness of Ulunggolaka Village, Latambaga Subdistrict, Kolaka Regency in the land registration registration, the author uses indicators raised by Soerjano Soekanto, where there are four indicators of legal awareness, each of which is a stage for the next stage, namely: (1 ) legal knowledge; (2) understanding of law; (3) legal attitude; and (4) legal behavior patterns (Soerjano Soekanto: 1982: 140)

**Table 1.** Description of Legal Knowledge

No	Questions	Total				
		SK	K	FK	U	SU
1	Land registration is regulated through applicable laws.	-	-	2	12	186
2	The procedure for registering land is regulated in PP no 24 of 1997 concerning land registration.	-	-	-	-	200
3	In registering land, it must go through an authentic PPAT deed as regulated in Government Regulation No. 37 concerning Regulation of the Official Position of Land Deed Maker	-	-	-	-	200
4	Do you know that ownership of the Land Certificate is mandatory for community members?	-	-	2	5	193
5	Do you know the conditions for registering land?	-	-	2	10	188
6	Do you know how much it costs to arrange and make a land certificate?	-	-	2	6	192
7	Do you know the functions and uses of land registration?	-	-	13	24	163
8	Do you know the time and place of land registration?	-	-	4	18	178
9	If land registration that violates applicable regulations is subject to severe sanctions.	-	2	8	22	168
Total		-	2	33	97	1.650

Source: processed primary data

Information:

- EK : Extremely Know
- K : Know
- KE : Know Enough
- U :Unknown
- EU :Extremely Unknown

Based on the above table it can be seen that the most number of answers is "Unknown/U" which is followed by the answer "Extremely Unknown/EU". This shows that the legal knowledge of the respondents in this study can be categorized as very less. However, it should be appreciated because there are still some respondents who answered "Knowing/K and Know Enough / KE". But the numbers are very far below. Based on answers to questions about legal knowledge answered by research respondents it can be seen that the behavior patterns of respondents' legal knowledge are in the Low category.

As said by Soerjono Soekanto, legal knowledge is someone's knowledge of a number of certain behaviors that are regulated by law. Of course, the law in question is written and unwritten law. This knowledge is related to prohibited behavior or behavior that is allowed by law (Soerjono Soekanto: 1982: 141)

b. Legal understanding

Overall, the legal understanding examined through this questionnaire was in the form of 7 questions. Categorizing the responses of research respondents to the understanding of the law can be known through the answers of respondents who are residents of Kelurahan Ulunggolaka. Overall understanding of the respondent's law can be seen in the following table

Table 2

Description of Legal Understanding

No	Questions	Total				
		SU	U	FU	DU	SDU
1	Do you understand the conditions needed for land registration?	-	20	37	23	120
2	Do you understand the mechanism instructions in the Land Registry?	-	5	15	20	160
3	Do you understand all the forms listed in the land registration?	-	-	-	-	200
4	Do you understand the purpose of land registration?	-	3	5	5	187
5	Do you understand the procedure for making a Land Certificate?	-	5	15	20	160
6	Do you understand that if you do not have a Land Certificate, you are vulnerable to unilateral claims, land disputes, and so on.	-	20	37	30	113
7	Do you understand the use of the Land Certificate?	-	8	13	37	142
Total		-	61	122	135	1.082

Source: processed primary data.

Information:

- SU = Strongly Understood

- U= Understood
- FU = Fairly Understood
- DU = Don't Understand
- SDU= Strongly don't understand

Based on the table above it can be seen that the most number of answers is "Don't Understand / DU". This shows that the legal understanding of respondents in this study can be categorized as Very Low.

c. Legal Attitude

Description of Legal Attitudes

No	Questions	Total				
		SA	A	FA	D	SD
1	What is your attitude towards the requirements for land registration?	6	12	31	38	113
2	What is the attitude of the parent / guardian to the system of landmarking in the land registry?		4	13	37	146
3	What is the attitude of Mr / Mrs to the service of officials in land registration (eg, slow service, etc.)?	-	-	6	8	186
4	What is your attitude towards the fees charged in registering land?	-	-	2	9	189
5	What is your response to the registration mechanism in making a Land Certificate?	-	2	6	6	186
6	What is your attitude towards the obligation to have a land certificate?	-	5	9	17	169
7	What is your response regarding PTSL (Complete Systematic Land Registration)?	2	6	11	88	93
Total		8	29	78	203	1.082

Source: processed primary data.

- SA : Strongly Agree
- A : Agree
- FA : Fairly Agree
- D : Disagree
- SD : Strongly Disagree

Based on the table above, it can be seen that the most number of research respondents' answers were "Strongly Disagree / SD". This shows that the legal attitude of the respondents is lacking or low. This is supported by the subsequent vote from the respondent who stated "Disagree / D" which shows that the legal attitude of the respondents of this study was classified as very low or very low.

d. Pattern of legal behavior

Description of Legal Behavior Patterns

No	Questions	Total				
		SA	A	FA	D	SD
1	Before registering your land, you ask in detail the relevant Government Official / PPAT.	86	79	32	2	-
2	Mr / Mrs registered the land through an official process, good and right, not through brokers or other things.	27	69	55	42	7

3	Before registering the land Mr / Mrs prepare things that need to be prepared.	97	86	7	6	4
4	You will not violate the regulations on registering land because it is against the law and can be convicted.	99	67	25	9	-
5	You are more interested in registering the land if the local government often holds socialization.	188	12	-	-	-
6	What is your attitude towards the program carried out by the government to accelerate the making of land certificates?	189	9	1	1	-
7	What is your attitude towards the obligation to own a Land Certificate?	-	3	5	11	181
Total		686	325	125	71	192

- SA : Strongly Agree
- A : Agree
- FA : Fairly Agree
- D : Disagree
- ED : Extremely Disagree

Based on the table above, it can be seen that the most number of research respondents' answers are "Strongly Agree / SA". This shows that the pattern of respondents' legal behavior can be categorized very well, which is supported by respondents with the second most votes "Agree / A", which shows that the respondent's answers are categorized very well. Then based on the description of the research respondents' answers above it can be seen that the legal behavior of the respondents is classified as very good.

#### 4.2. Cause Factors Ulunggolaka sub-district community does not register their land.

There are several factors that cause the Ulunggolaka Kelurahan community not to register their land, as follows:

##### 1. Lack of public awareness to obtain guarantees and legal certainty.

Based on our interview with one of the speakers, Mr. B. Abbas, as the Head of the Land Management Section at the Kolaka Regency BPN Office regarding the legal awareness of the Ulunggolaka Village community in conducting land registration said:

*“Ada beberapa masyarakat dari kelurahan Ulunggolaka yang datang untuk mengurus sertifikat tanah, tapi alasannya untuk kepentingan lain, yaitu untuk dijadikan jaminan di bank dan sebagainya”.*

(There are some people from the village of Ulunggolaka who come to take care of the land certificate, but the reason is for other purposes, namely to be used as collateral in banks and so on)

This was also strengthened by the blessing of the Head of the Kelurahan Ulunggolaka Village who said *“sama sekali tidak pernah kami persulit warga yang mau mengurus sertifikatnya, bahkan kami bantu jika perlu”* (We have never made it difficult for residents who want to take care of their land certificates, we even help if necessary).

##### 2. Costs

Based on the economic level of 80%, the Ulunggolaka urban community is in the middle to lower economy, so that it becomes one of the obstacles when they want to register their

land where the cost of making certificates is relatively expensive for the community. This is also supported by the expression of a citizen who became our respondent who said that *“daripada urus sertipikat sendiri yang biayanya mahal lebih baik tunggu bantuan pemerintah saja ( kegiatan – kegiatan pendaftaran tanah dari BPN yang gratis”* (Instead of taking care of the certificate itself, which is expensive, it is better to wait for government assistance (land registration activities from BPN that are free).

### 3. Administration Management

This is supported by the actions of the community who are enthusiastic about registering land when there is a land registration project that enters the Ulunggoalaka Kelurahan with one of the reasons is that it is easy to manage, there is no need to go far to Kolaka to take care of this and that so it does not take much time which time is can be used to work for a living as expressed by Mr. Husen:

*”saya senang kalau ada bantuan sertifikat tanah yang datang, karna pengurusannya mudah sehingga kita tidak perlu jauh – jauh ke kolaka untuk mengurus semua itu karna semua pengurusannya di kelurahan, sehingga waktu kita untuk bekerja tidak terganggu.”*

(I am glad that land assistance came, because the management is easy so we don't have to go far to Kolaka to take care of all of that because all of the management is done in the village, so that our time to work is not interrupted).

### 4. Conclusion

The legal awareness of Ulunggolaka Village community in conducting land registration is still relatively low by referring to the answers of respondents who have provided answers based on four legal awareness indicators, namely: (1) Legal Knowledge, (2) Understanding of the law, (3) Legal attitude and (4) Pattern of legal behavior. The contributing factor so that there are still ulunggolaka village communities who do not register their land is based on the low legal awareness of the community of the importance of securing assets (land) by obtaining guarantees and legal certainty so that their ownership is not strongest and cannot be disturbed, and besides that the community is unable to fulfill the requirements that must be completed in registering land, especially proof of the origin of the land, plus the expensive costs and administrative arrangements that are difficult for the community.

### Reference

- Arliman, L. (2015). *Penegakan hukum dan kesadaran masyarakat*. Yogyakarta: deepublish.
- Ismaya, S. (2011). *Pengantar Hukum Agraria*. Yogyakarta: Graha Ilmu.
- Khuzafah Dimiyati, K. W. (2004). *Metode Penelitian Hukum*. Surakarta.
- Lubis, A. R., & Lubis, M. Y. (2011). *Pencabutan Hak, Pembebasan, dan Pengadaan Tanah*. Bandung: Mandar Maju.
- Soekanto, S. (1982). *Kesadaran Hukum & Kepatuhan Hukum*. Jakarta: Rajawali.
- Sumardjono, & Maria, S. W. (2001). *Kebijakan Pertanahan Antara Regulasi dan Implementasi*. Jakarta: Kompas.