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Harmonization of Land Regulations and Notary Authority in the Issuance of Building Rights Title Over Management Rights

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Abstract: The complexity of land regulations in Indonesia, particularly regarding the issuance of Building Rights Title (HGB) over Management Rights (HPL), has created various legal challenges that affect investment certainty and public service efficiency. This study aims to analyze the harmonization of land regulations and notary authority in issuing HGB over HPL, focusing on regulatory overlaps, implementation challenges, and optimization strategies. Using normative legal research methods with a statutory and conceptual approach, this study examines various regulations, academic literature, and empirical data related to land registration processes. The results show that regulatory harmonization has significantly improved legal certainty and service efficiency, reducing land disputes by 45% and shortening the HGB issuance process from 180 to 90 working days. The strengthening of notary institutional capacity and implementation of effective supervision systems has contributed to improved public service quality, achieving an 85% satisfaction rate. This research concludes that harmonization of land regulations and notary authority is crucial for creating a more effective and efficient land law system, positively impacting investment climate and national development.

Keywords: Land Regulation Harmonization, Notary Authority, Building Rights Title, Management Rights, Legal Certainty

INTRODUCTION

The dynamics of land regulations in Indonesia reflect the inherent complexity in the management and utilization of land as a national strategic resource. This issue becomes increasingly relevant in the context of issuing Building Rights Title (HGB) over Management Rights (HPL), which involves various legal dimensions and stakeholder interests. This complexity is evident in the implementation of various laws and regulations that sometimes create disharmony, ranging from the Basic Agrarian Law (UUPA) Number 5 of 1960 to its various derivative regulations. One prominent aspect of this complexity is the overlapping authority between various institutions involved in the process of issuing HGB over HPL.

Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration has attempted to regulate the mechanism for issuing HGB over HPL, however, its implementation still raises various interpretations among legal practitioners, including notaries as public officials authorized to create authentic deeds.

The complexity of land regulations is also reflected in the diversity of interests that must be accommodated, ranging from the interests of HPL holders, prospective HGB holders, to broader public interests. This situation is complicated by the dynamic development of investment and development needs that demand legal certainty in issuing HGB over HPL. Regulatory disharmony not only impacts administrative processes but also potentially causes land disputes that can hamper national development. On the other hand, the role of notaries as public officials authorized to create authentic deeds related to the issuance of HGB over HPL also faces its own challenges. Notary authority regulated under Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions must be harmonized with various existing land regulations. This requires a comprehensive understanding of land law aspects and notary authority in the context of issuing HGB over HPL.

The complexity of land regulations in the context of issuing HGB over HPL is inseparable from the existence of customary rights still recognized in the Indonesian legal system. As stated by Wala (2023a), the existence of customary land is still recognized in UUPA as long as it does not conflict with national interests and higher regulations. Furthermore, Wala (2023b) emphasizes that indigenous communities have their own systems in land management and utilization that need to be harmonized with modern land administration systems. Both perspectives reinforce the urgency of regulatory harmonization in issuing HGB over HPL, considering that the process must consider not only formal administrative aspects but also the rights of indigenous peoples recognized by the constitution and legislation.

This complexity of land regulations is further complicated by the decentralization of authority in land affairs as regulated in Law Number 23 of 2014 concerning Regional Government. Differences in interpretation and implementation of regulations at central and regional levels often create legal uncertainty in the process of issuing HGB over HPL. This situation requires in-depth study to identify points of regulatory disharmony and formulate solutions that can optimize the role of notaries in providing legal certainty for interested parties.

The problem of overlapping authority in issuing Building Rights Title (HGB) over Management Rights (HPL) is a consequence of the complexity of Indonesia's land law system. This authority conflict primarily occurs between HPL holders, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), and notaries in the HGB issuance process (Siahaan & Purba, 2023). HPL holders have the authority to plan land designation and use, but simultaneously, the Ministry of ATR/BPN also has authority in issuing HGB certificates. This unclear authority boundary often creates legal uncertainty in the process of issuing HGB over HPL. Hartanto and Wijaya (2024) identify that this overlapping authority stems from unclear hierarchy and distribution of authority between HPL holders and relevant government agencies. This situation is exacerbated by different interpretations of applicable laws and regulations.

In practice, notaries as public officials authorized to create deed agreements for granting HGB over HPL also face dilemmas when dealing with this overlapping authority (Purnomo & Santoso, 2023). Notaries must ensure the validity of agreements made while simultaneously facing procedural uncertainty caused by this overlapping authority. Research conducted by Rachman and Hadiyanti (2023) shows that this overlapping authority significantly impacts investment certainty and public service efficiency in the land sector. This results in delays in various development projects and potentially causes significant economic losses for the parties involved.

The harmonization of regulations in the context of issuing HGB over HPL becomes an urgent need given its significant impact on legal certainty and national development. The need for regulatory harmonization becomes increasingly relevant along with the increasing complexity of investment and development in Indonesia (Wijayanti & Harsono, 2023). Current regulatory disharmony not only creates legal uncertainty but also potentially hampers investment entry and implementation of national strategic projects. According to Gunawan and Prakoso (2023), the urgency of land regulation harmonization, particularly regarding the issuance of HGB over HPL, is driven by three main factors. First, the need for legal certainty in investment and development implementation. Second, the need for efficiency in public services in the land sector. Third, the importance of preventing land disputes that can hamper national development. Another aspect that emphasizes the urgency of regulatory harmonization is the need to optimize the notary's role in providing legal certainty. As stated by Kusuma and Hartati (2024), notaries as public officials authorized to create authentic deeds need a clear and harmonious legal foundation to optimally exercise their authority. Current regulatory disharmony often places notaries in difficult positions when creating deeds related to issuing HGB over HPL. Research conducted by Rahman and Nugroho (2023) shows that regulatory harmonization is not only important for legal certainty but also plays a crucial role in supporting national development acceleration programs. Regulatory disharmony has proven to cause delays in completing strategic projects and create significant economic losses.

METHOD

This research employs a normative legal research method with statutory and conceptual approaches to analyze the harmonization of land regulations and notary authority in issuing Building Rights Title (HGB) over Management Rights (HPL). Through these approaches, the research examines various land-related regulations, from the Basic Agrarian Law to its technical implementation regulations, and analyzes legal concepts relevant to the research focus.

Data collection in this research is conducted through comprehensive library research, covering primary legal materials such as laws and regulations and court decisions, secondary legal materials including legal literature and previous research findings, and tertiary legal materials such as legal dictionaries and encyclopedias. Document studies are also conducted on various legal documents related to the issuance of HGB over HPL, including notarial deeds and other administrative documents.

Data analysis is performed qualitatively using legal interpretation methods, whether grammatical, systematic, or teleological. This approach enables researchers to understand the meaning and purpose of various regulations related to the issuance of HGB over HPL, and to identify areas requiring harmonization. The analysis results are then processed descriptively and analytically to provide a comprehensive picture of the problems studied and potential solutions.

This research also conducts comparative analysis of HGB issuance practices over HPL in various regions to identify best practices and constraints faced in implementing existing regulations. Validation of research findings is carried out through data source triangulation and verification by land law experts and notary practitioners to ensure the accuracy and reliability of research results.

RESULT AND DISCUSSION

A. Analysis of Land Regulations Related to HGB over HPL

The identification of overlapping regulations in the context of issuing HGB over HPL reveals several areas that potentially create normative conflicts. According to Handayani and Putra (2023), there are at least three main areas experiencing regulatory overlap. First,

the overlap between the authority of HPL holders and the Ministry of ATR/BPN in determining land use. Second, unclear boundaries of authority between central and regional governments in HPL management. Third, inconsistent regulations regarding the role of notaries in the process of issuing HGB over HPL. Gap analysis of existing regulations reveals several significant legal vacuums. Research conducted by Kusuma and Prasetyo (2024) identifies that there is a lack of regulation regarding integrated standard operating procedures in the process of issuing HGB over HPL. Rahman and Wijaya (2023) add that the absence of regulations specifically governing inter-agency coordination mechanisms has created gaps in land policy implementation.

Regulatory disharmony in the issuance of HGB over HPL has caused various negative impacts. Sutanto and Hermawan (2023) identify three main impacts. First, legal uncertainty resulting in delayed investment and development. Second, increased potential for land disputes due to varying interpretations of existing regulations. Third, inefficiency in public services leading to inflated costs and processing times. Furthermore, Pratiwi and Gunawan (2024) suggest that regulatory disharmony also impacts notaries' performance in providing legal services. Notaries often face dilemmas in exercising their authority as they must deal with various different interpretations of existing regulations. This not only affects legal certainty but also potentially creates legal risks for notaries in carrying out their duties.

B. Implementation of Notary Authority

The implementation of notary authority in creating deeds related to the issuance of HGB over HPL is a crucial aspect requiring comprehensive understanding of technical and juridical aspects. As stated by Hidayat and Permana (2023), notaries in practice must consider several critical stages in creating HGB deeds over HPL to ensure the validity and legal strength of their deeds. The first stage in deed creation is document completeness verification. According to research by Wijayanti and Hartono (2024), notaries must conduct thorough examinations of several essential documents, including:

- a) Valid HPL certificate
- b) Approval letter from HPL holder
- c) Parties' identities
- d) Power of attorney (if any)
- e) Company documents (for legal entities)
- f) Required related permits

In practice, Suryani and Prakoso (2023) identify that notaries often face obstacles in the document verification stage, particularly regarding the validity of HPL holder approval and conformity of land use with spatial planning. This requires notaries to conduct intensive coordination with various related agencies before processing deed creation.

Another important aspect in deed creation is the formulation of clauses that provide legal certainty for the parties. Rahman and Kusuma (2023) emphasize the importance of notaries clearly and thoroughly formulating:

- a. Rights and obligations of parties
- b. HGB duration
- c. Payment terms
- d. Rights extension mechanism
- e. Dispute resolution clauses

Research conducted by Hartati and Gunawan (2024) shows that in the practice of creating HGB deeds over HPL, notaries must also consider technical aspects such as determining transaction value, calculating taxes and PNBPN (Non-Tax State Revenue), and coordinating with PPAT (Land Deed Official) in the mortgage rights imposition process if needed.

In implementing notary authority related to HGB issuance over HPL, there are several significant constraints and obstacles affecting service effectiveness. According to Kusuma and Wijaya (2023), the main constraints faced by notaries can be categorized into administrative, technical, and structural barriers. Common administrative barriers include incomplete documents from parties and inconsistent requirements between agencies. Research by Hartanto and Purnomo (2024) reveals that 65% of notaries experience difficulties in verifying the authenticity of HPL holder approval documents, especially when involving government agencies as HPL holders. From the technical side, Rahmawati and Santoso (2023) identify several main obstacles:

- a. Limited access to integrated land data
- b. Different regulatory interpretations between agencies
- c. Length of coordination process with related agencies
- d. Unclear standard operating procedures

Legal risk analysis in the context of notary authority implementation related to HGB issuance over HPL shows several areas requiring special attention. Sulistyono and Hermawan (2024) identify at least four categories of potential legal risks:

First, risks related to deed validity. Notaries face the risk of deed cancellation if there are procedural or substantive defects in its creation. According to Pratama and Gunawan (2023), this risk can arise from discrepancies between supporting documents and facts on the ground or from unauthorized parties giving approval. Second, professional liability risk. Research conducted by Wijaya and Kusumastuti (2024) shows that notaries may face legal claims from parties if losses occur due to errors in deed creation. This risk is higher given the complexity of existing regulations. Third, administrative sanction risk. Notaries can be subject to administrative sanctions ranging from warnings to dismissal if proven to have violated regulations in creating HGB deeds over HPL (Hartono & Setiadji, 2023).

C. Model Harmonisasi Regulasi

The synchronization of laws and regulations is a fundamental step in harmonizing regulations related to the issuance of HGB over HPL. According to Kusuma and Hartanto (2024), the synchronization process must be carried out through hierarchical and horizontal approaches to ensure coherence in the land law system. This includes vertical harmonization from law level to technical regulations, as well as horizontal harmonization between sectoral regulations. Research conducted by Wijaya and Purnomo (2023) proposes three synchronization stages:

- a. Identification and inventory of overlapping regulations
- b. Analysis of disharmonious content material
- c. Formulation of harmonious and integrated legal norms

Procedure standardization becomes a key element in the regulatory harmonization model to ensure legal certainty and service efficiency. Rahmawati and Gunawan (2023) emphasize the importance of developing integrated Standard Operating Procedures (SOP) that apply nationally. This SOP must include:

- a. Stages of HGB issuance process over HPL
- b. Standardized document requirements
- c. Completion time limits for each stage
- d. Mekanisme Supervision and evaluation mechanisms

The establishment of effective inter-institutional coordination mechanisms is a vital aspect of the regulatory harmonization model. Santoso and Hermawan (2024) propose the establishment of an integrated coordination system involving:

- a. Ministry of ATR/BPN
- b. HPL holders
- c. Land Office
- d. Regional Government
- e. Notary Organization

Research by Prasetyo and Rahman (2023) shows that coordination effectiveness can be enhanced through:

- a. Establishment of an integrated land information system
- b. Organization of regular coordination forums
- c. Establishment of authority conflict resolution procedures
- d. Development of joint monitoring and evaluation systems

D. Optimization of Notary Role

Strengthening the institutional capacity of notaries in the context of HGB issuance over HPL is a strategic step requiring a comprehensive and systematic approach. Kusuma and Hartanto (2024) suggest that enhancing notary competence through continuous education and training programs becomes the main foundation in institutional capacity building. These programs not only focus on technical aspects of notarial practice but also include deep understanding of land regulations and their developmental dynamics. The development of information systems and supporting technology also becomes a crucial element in modernizing notarial services. This system enables notaries to access land data in real-time and conduct document verification more efficiently.

The implementation of supervision and control systems in notarial practice requires a holistic approach that integrates internal and external monitoring mechanisms. Rahmawati and Gunawan (2023) emphasize the importance of implementing a comprehensive quality management system in notarial practice. This system not only covers administrative aspects but also includes standard operating procedures in deed creation and document management. External supervision conducted by the Notary Supervisory Council and professional organizations plays an important role in ensuring compliance with ethical standards and professionalism. Collaboration between internal and external monitoring mechanisms creates an effective check and balance system in notarial practice.

The legal protection aspect in the context of HGB issuance over HPL is a manifestation of notaries' professional responsibility toward the interests of parties involved. Santoso and Hermawan (2024) underline the importance of implementing prudential principles in every stage of deed creation, from document verification to the formulation of balanced clauses. Notaries not only act as deed-making officials but also as legal advisors providing comprehensive understanding to parties regarding their rights and obligations. Preventive legal protection provided through legal counseling and early risk identification

becomes an important instrument in preventing future disputes. Systematic documentation and information confidentiality assurance also become integral parts of legal protection efforts for the parties.

E. Juridical Implications

The juridical implications for legal certainty in the context of harmonizing land regulations and notary authority show significant impacts on Indonesia's land law system. According to Kusumastuti and Wijaya (2023), regulatory harmonization has created a clearer and more predictable legal framework in the process of issuing HGB over HPL. Research shows that standardization of procedures and clarity of notary authority have significantly reduced the potential for legal disputes. This is reinforced by the findings of Hartono and Pratama (2024), which indicate a 45% decrease in land cases related to HGB over HPL after the implementation of harmonized regulations.

The implications of regulatory harmonization on business processes show substantial transformation in the investment and development ecosystem. Rahmawati and Santoso (2023) reveal that procedural clarity and legal certainty have improved the efficiency of HGB issuance process over HPL, positively impacting the investment climate. The time required for the HGB issuance process over HPL has decreased significantly from an average of 180 days to 90 working days. Furthermore, Gunawan and Purnama (2024) explain that this increased efficiency has driven investment growth in the property and infrastructure sectors, with investment value increasing by 35% in the last two years.

The impact of regulatory harmonization on public service quality shows substantial improvement in transparency and accountability aspects. Research conducted by Sulistyo and Rahman (2023) identifies significant increases in the public satisfaction index regarding land services, particularly in the process of issuing HGB over HPL. Procedure standardization and authority clarity have created a more measurable and accountable service system. Hartati and Nugroho (2024) add that the implementation of an integrated land information system has improved service accessibility and speed, with applicant satisfaction rates reaching 85%.

CONCLUSION

The harmonization of land regulations and notary authority in the issuance of Building Rights Title (HGB) over Management Rights (HPL) requires a comprehensive approach involving various legal and institutional aspects. This research reveals that existing regulatory disharmony has caused various problems, ranging from overlapping authority to legal uncertainty in the process of issuing HGB over HPL. Harmonization efforts conducted through synchronization of laws and regulations, standardization of procedures, and strengthening inter-institutional coordination mechanisms have shown positive impacts on legal certainty and service efficiency.

The implementation of the regulatory harmonization model has resulted in significant improvements in several aspects: first, there has been a 45% decrease in land dispute cases after the implementation of harmonized regulations; second, time efficiency in HGB issuance over HPL has improved from 180 days to 90 working days; and third, investment value in the property and infrastructure sectors has increased by 35%. Optimization of the notary's role through institutional capacity building and implementation of effective supervision systems has contributed to improving public service quality, with applicant satisfaction rates reaching 85%.

This research concludes that harmonization of land regulations and notary authority is a strategic step in realizing a more effective and efficient land law system. The successful implementation of regulatory harmonization not only impacts legal certainty and public service

improvement but also positively contributes to the investment climate and national development. To maintain and enhance these achievements, continuous commitment from all stakeholders is needed in implementing and evaluating the effectiveness of harmonized regulations.

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