



## **Legal Dilemma for Land Deed Officials in Transferring Land Title Within Agrarian Reform in Indonesia: A Study in Aceh, Indonesia**

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**Abstract:** The agrarian reform policy in Indonesia is expected to reduce inequality in land ownership and control, provide legal certainty and reduce land disputes by making various changes to legislation and government policies. This article aims to explore the dilemma of transferring land rights in Indonesia in terms of legal certainty and justice for Land Deed Making Officials (*Pejabat Pembuat Akta Tanah/PPAT*) who have often faced legal proceedings, referring to cases in Aceh Province, Indonesia. This research uses empirical juridical methods with a case study approach, data collection techniques, interviews, observation and document study. The results of the research show that Land Deed Making Officials have a high legal risk in transferring land rights in Indonesia, especially if there are deviations, errors or mistakes in the procedures for making deeds, so that Land Deed Making Officials are held administratively, civilly and criminally responsible. This problem occurs because of differences in interpretation regarding PPAT's obligation to carry out field verification, lack of legal protection, and lack of village-based land data. This study offers new insights into strengthening customary land database institutions at the village level supported by the National Land Agency. So, this offer helps unravel the complexity of the land transfer process and offers a potential solution for better justice for Land Deed Making Officials under the Jokowi government's agrarian reform, and guarantees justice and certainty for land owners, as a way to achieve the welfare of the people in Indonesia.

**Keywords:** Land deed official, national land agency, legal certainty, agrarian reform

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**Abstrak:** Kebijakan reforma agraria di Indonesia diharapkan dapat mengurangi ketimpangan kepemilikan dan penguasaan tanah, memberikan kepastian hukum serta mengurangi sengketa pertanahan dengan melakukan berbagai perubahan perundang-undangan dan kebijakan pemerintah. Artikel ini bertujuan untuk menggali dilema peralihan hak atas tanah di Indonesia dalam hal kepastian hukum dan keadilan bagi Pejabat Pembuat Akta Tanah (PPAT) yang selama ini sering menghadapi proses hukum, mengacu pada kasus-kasus di Provinsi Aceh, Indonesia. Penelitian ini menggunakan metode yuridis empiris dengan pendekatan studi kasus, teknik pengumpulan data, wawancara, observasi dan studi dokumen. Hasil penelitian menunjukkan bahwa Pejabat Pembuat Akta Tanah memiliki risiko hukum yang tinggi dalam pemindahan hak atas tanah di Indonesia, terutama apabila terjadi penyimpangan, kesalahan, kekeliruan dalam tata cara pembuatan akta, sehingga Pejabat Pembuat Akta Tanah bertanggung jawab secara administratif, perdata maupun pidana. Persoalan ini terjadi karena adanya perbedaan penafsiran tentang kewajiban PPAT untuk melakukan verifikasi ke lapangan, kurangnya perlindungan hukum, dan kurangnya data pertanahan berbasis desa. Studi ini menawarkan wawasan baru untuk memperkuat kelembagaan adat basis data pertanahan di tingkat desa yang didukung oleh Badan Pertanahan Nasional. Sehingga tawaran ini turut mengurai kompleksitas proses pengalihan tanah dan menawarkan solusi potensial untuk keadilan yang lebih baik pada Pejabat Pembuat Akta Tanah di bawah reforma agraria pemerintahan Jokowi, dan menjamin keadilan serta kepastian bagi pemilik tanah, sebagai jalan untuk mencapai kesejahteraan rakyat di Indonesia.

**Kata Kunci:** Pejabat Pembuat Akta Tanah, Badan Pertanahan Nasional, kepastian hukum, reformasi agraria

## Introduction

Land is a social asset and a means of restraining social solidarity among Indonesian people. The growth of capital and land assets as economic objects has an important meaning, not only as commercial materials but also as objects of speculation. On the other hand, the land must be utilized as much as possible in order to maintain the welfare of the community.<sup>1</sup> The Government is obliged to carry out land registration through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (*Badan Pertanahan Nasional/BPN*). While, the

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<sup>1</sup>Article 19 paragraph (1) of Law Number 5 of 1960 concerning Basic Agrarian Regulations concerning land registration. Umi Supraptiningsih, et. al., "Inequality as a Cultural Construction: Women's Access to Land Rights in Madurese Society," *Cogent Social Sciences* 9, no. 1 (2023). Achmad Rubaie, *Hukum Pengadaan Tanah Untuk Kepentingan Umum* (Malang: Bayumedia, 2007), p. 1.

executor is the Head of the Land Office, Land Deed Official (PPAT) and other officials assigned to carry out certain activities.<sup>2</sup>

Transferring land title can be done by switching of ownership rights of land from the original owner to another party.<sup>3</sup> This also can be carried out through a traditional sale on underhand agreement, in front of the head of village and certain parties (relatives, neighbors, etc) as witnesses.<sup>4</sup> Land rights can be given to and owned by people, either alone or together with other people and legal entities,<sup>5</sup> through the sale and purchase of unregistered land.<sup>6</sup> Land rights through buying and selling can only be eligible if it is made with a deed by PPAT. However, such land transfer face several legal dilemma.<sup>7</sup>

This research uses empirical juridical methods with a case study approach, data collection techniques, interviews, observation and document study. This is to identify and conceptualize the issue as a real and functional social institution in a real-life system,<sup>8</sup> in term of the role of PPAT in the process of transferring land rights in agrarian reform in Indonesia, from a view of cases in Aceh Province. Interviews were conducted by the National Land Agency, PPAT, while observations were made at the PPAT and the Subdistrict office.

### PPAT's Role in Transferring Land Rights

The Land Deed Official (PPAT) has the authority to make a deed of sale and purchase of land rights based on the sale and purchase binding agreement by the parties,<sup>9</sup> as evidence for registering changes to land data at the BPN Office.<sup>10</sup> Article 1 number 24 of the General Provisions of Government Regulation Number

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<sup>2</sup>Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles Article 19 of the BAL.

<sup>3</sup>Rikardo Simarmata, "The Enforceability of Formalised Customary Land Rights in Indonesia," *Australian Journal of Asian Law* 19, no. 2 (2019). Muhammad Arba, *Hukum Agraria Indonesia* (Jakarta: Sinar Grafika, 2015), p. 145–146.

<sup>4</sup>Article 20 (2) on the Basic Regulations of Agrarian Principles; J. Andy Hartanto, *Hukum Pertanahan* (Surabaya: LaksBang Justitia, 2014). Keadu Mekonnen Gebremariam, "Kinship, Justice, and Inheritance: The Case of 'Rest' in Ethiopia," *Law and Philosophy* 42, no. 1 (2023).

<sup>5</sup>Supraptiningsih et al., "Inequality as a Cultural Construction."

<sup>6</sup>Madeleine Rose Powers and Prasasti Dyah Nugraheni, "Transfer from Land Rights to Right of Building Use of Land from Stock Capital in the Limited Liability Company," *Journal of Law and Legal Reform* 2, no. 1 (2021).

<sup>7</sup>Sjaifurrachman, *Aspek Pertanggungjawaban Notaris Dalam Pembuatan Akta* (Bandung: Mandar Maju, 2011). Article 19 and 37 of Law Number 5 of 1960 concerning Basic Agrarian Provisions, paragraph (1) and Government Regulation Number 24 of 1997.

<sup>8</sup>Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 2008), p. 51. Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif*, (Jakarta: Rajawali Press, 2022).

<sup>9</sup>Article 4 paragraph (1) of Government Regulation no. 37 of 1998 concerning the Regulation of the Position of the Official Making the Land Deed.

<sup>10</sup>Alusianto Hamonangan, et.al., "Perjanjian Pengikatan Jual Beli (PJBB) dalam Transaksi Peralihan Hak Atas Tanah dan Atau Bangunan," *Jurnal Rectum* 3, no. 2 (2021): 240.

24 of 1997 on Land Registration stated that "Land Deed Making Officer, as called PPAT is a public official who is given the authority to make certain deeds". An authentic deed is a formal truth regarding what was notified by the parties as stated by the PPAT to be included in the deed; where the format is regulated in the Regulation of the Head of National Land Body (BPN RI).<sup>11</sup>

There are three models of PPAT as contained in the general provisions of Article 1: (1) Land Deed Officials, are public officials who are authorized to make authentic deeds regarding legal acts on certain right to land or the Right of Ownership to a Flat House Unit;<sup>12</sup> (2) Temporary PPAT is a government official appointed because of his position to carry out the duties of PPAT by making a PPAT deed in areas where there is not enough PPAT. (sub-district head). (3) Special PPAT is an official of the National Land Agency who is appointed because of his position to carry out PPAT duties by making certain PPAT deeds specifically in the context of implementing certain Government programs or tasks. <sup>13</sup> Article 15 of Law Number 30 of 2004 concerning the Position of a Notary, paragraph (2) letter (f), <sup>14</sup> stated that 'a Notary is a legally authorized to make a land deed'. The authority of the Notary in making the land deed has strong legal force because the authority is based on the Act, when a Notary has been appointed as PPAT based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia. <sup>15</sup>

The PPAT carries out its duties in accordance with applicable laws and regulations and the PPAT code of ethics. Article 6 paragraph 2 of Government Regulation Number 24 of 1997 states that: 'in carrying out land registration, the Head of Land Office is assisted by PPAT and other officials assigned to carry out certain activities in accordance with this government regulation and relevant legislation'.<sup>16</sup>

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<sup>11</sup>National Head Land Body Regulation, number 8 of 2012 concerning Amendments to the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

<sup>12</sup>Government Regulation Number 37 of 1998 on the Regulation of the Department of Land Deed Makers.

<sup>13</sup>Government Regulation of the Republic of Indonesia Number 24 of 1997 concerning Land Registration.

<sup>14</sup>Law Number 30 of 2004 concerning the Position of Notary Article 15 paragraph (2) letter f.

<sup>15</sup>Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 31 of 2016 concerning Procedures for Examination, Internship, and Appointment of Land Deed Maker Officials.

<sup>16</sup>Regulation of the Head of BPN Number 1 of 2006 Article 55 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Maker Officials, and Government Regulation (PP) Number 24 of 1997 on Land Registration in Article 6.

According to the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 Article 101 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 states that: 'The making of the PPAT deed must be attended by the parties who carried out the legal act concerned or the person authorized by him with a written power of attorney in accordance with the applicable laws and regulations'. The making of the PPAT deed must be witnessed by at least 2 witnesses who according to the provisions of the applicable laws and regulations meet the requirements to act as witnesses in a legal act, who testify, among others, regarding the presence of the parties or their proxies, the existence of the documents shown in the PPAT deed.<sup>15</sup>

The task of PPAT is to record legal actions, meaning that every legal action that transfers land rights is in accordance with article 1320 and 1338 civil code.<sup>17</sup> An agreement cannot be withdrawn other than by agreement of both parties, or for reasons which are stated to be sufficient by law.<sup>18</sup> Civil sanctions can be given to PPAT if the violation committed by PPAT causes losses to the parties or one of the parties related to the implementation of the PPAT deed. Then the deed can be degraded to the strength of the a deed under hand.

The authority of PPAT in the making and ratifying authentic deeds of legal actions on certain land rights becomes the basis for recording registration, and as part of the land registration activities of 8 (eight) types of PPAT deeds which are evidence and the basis for changes to land registration data (Art. 95 paragraph 1).<sup>19</sup> When PPAT deed is problematic, the witnesses in the deed are also summoned to be witnesses in the police or court proceedings.<sup>20</sup>

PPAT and BPN are very bound and interrelated in buying and selling a land. Before the deed is made, the PPAT must check whether there is a block or dispute at the BPN. After all administration for the sale and purchase is done, the deed is then signed. The relationship between PPAT and BPN until the end of the signature is still tied to each other. This is stated at the end of the deed. As witnesses, and after being read and explained, as proof of the truth of the statements put forward by the First Party and the Second Party mentioned above, this deed is signed/thumb stamped by the First Party, the Second Party, the witnesses, and the PPAT; with 2 (two) original copies, 1 (one) copy of the first

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<sup>17</sup>Article 1320 Indonesian civil code explains about the terms of the validity of the agreement, four conditions are needed: Agree from those who bind themselves, the ability to make an agreement, a certain thing and a lawful cause.

<sup>18</sup>Anke Dwi Saputro, *100 Tahun INI, Jati Diri Notaris Indonesia: Dulu, Sekarang Dan Di Masa Mendatang* (Jakarta: Gramedia Pustaka, 2009).

<sup>19</sup>Andi Prajitno, *Pengetahuan Praktis Tentang Apa & Siapa PPAT* (Surabaya: Perwira Media Nusantara, n.d.), 45.

<sup>20</sup>Article 1 point 1 of Law Number 13/2006 concerning the Protection of Witnesses and Victims as amended by Law Number 31 of 2014. Article 1 number 26 of Law 8/1981 (KUHP).

sheet is kept at PPAT office, and 1 (one) copy of the second sheet is submitted to the Head of the Regency Land Office for registering the transfer of rights.

### Legal Dilemma of Transferring Land Rights

Land dispute is a dispute of land between individuals, legal entities, or institutions that have a wide impact.<sup>21</sup> All land rights have a social function.<sup>22</sup> Land disputes can be seen from the community's point of view, as a result of the ineffective functioning of the National Land Agency (BPN), as well as poor land management. While According to BPN, this is due to the falsification of information from the community, village heads, and even by PPAT/PPATS.<sup>23</sup>

Everyone who comes to see PPAT is a person who needs the assistance of services to obtain legal certainty through the legal products made. The clients bring letters and provide correct information. If there are false or untrue letters and information, is this the PPAT's fault? PPAT makes a deed based on a letter from that brought by the appearers. Before the deed was signed, he had done a clean check at the National Land Agency (BPN), and read the deed to the appearers. PPAT can be wrong if it does not carry out its obligations, such as to read the deed, and explain the contents of the deed.

The processes of transferring rights can become administrative defects if there are administrative issues.<sup>24</sup> Here are some notaries cases having problems with PPAT deeds.

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<sup>21</sup>Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency of the Republic of Indonesia Number 21 of 2020 concerning Handling and Settlement of Land Cases Article 1.

<sup>22</sup> Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Regulations on Agrarian Principles Article 6.

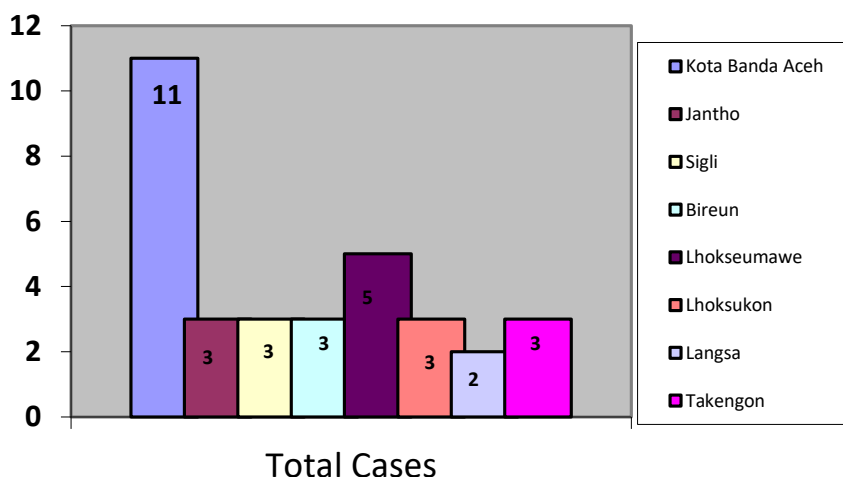
<sup>23</sup>Nandang Sambas, "Aspek Hukum Pidana Terhadap Jabatan Notaris Dalam Pembuatan Akta Otentik," in *Meningkatkan Kesadaran Hukum Notaris Dalam Melaksanakan Jabatannya Membuat Akta Otentik* (Bandung: Hotel Aston, 2018).

<sup>24</sup>Article 107 Of The Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency No. 9 of 1999 concerning Procedures for Granting and Canceling State Land Rights and Management Rights regulates about the administrative legal defects in the process of transferring rights, namely: a) Mistakes procedure; b) Misapplication of laws and regulations; c) Errors in the subject of rights; d) Error object rights; e) Error type of rights; f) Area calculation error; g) There are overlapping land rights; h) The juridical data or physical data is incorrect, or i) Other errors of an administrative nature.

**Table 1: Cases under the Honorary Council of Notaries**

No	Type	Year	Location	Information
1	PPAT	24 May 2018	Singkil regency	Police are not allowed to call Notaries.
2	Under Hand Deed Legalization Regarding the Deed of	9 January 2018	Banda Aceh city	Police are not allowed to call Notaries.
3	Establishment of company Vn	10 February 2019	Simeulue regency	Police are not allowed to call Notaries.
4	Fraud Crime	30 January 2019	Banda Aceh city	Police are not allowed to call Notaries.
5	Crime and Embezzlement	14 January 2019	Bireuen regency	Police are not allowed to call Notaries.
6	Procedural Errors in Making a Deed of Sale and Purchase of a House	15 February 2019	Banda Aceh city	Police are not allowed to call Notaries.
7	Garden Land Grant Deed Issue	04 April 19	Banda Aceh city	Police are not allowed to call Notaries.
8	Deed of sale and purchase	27 September 2019	Bireuen regency	Approved accompanied by

**Chart 1: Notary Cases in District Court, Aceh Province**



From the table and chart above, Banda Aceh City was ranked the first number with the most cases, i.e. 11 cases. The City of Lhokseumawe was followed by 5 cases. This shows the number of cases is increasing, and this raises questions about what are the reasons behind it.<sup>25</sup> The Facts show that many Notaries/PPATs are reported in criminal cases due to liability for the deeds they have made, including the case of Theresia Pontoh.<sup>26</sup>

PPAT is able to refuse to make a deed as regulated in Articles 39 and 40 of PP Number 24 of 1997 concerning Land Registration.<sup>27</sup> There are 8 (eight) types of PPAT acts that are a tool of evidence and basis for data changes in land registration: 1) Sale and Purchase Act, 2) Exchange Act, 3) Grant Act, 4) Entry into Company Act, 5) Division Act common rights, 6) Building use right/ right to

<sup>25</sup> Felix The and Endang Sri Kawuryan, “Perlindungan Hukum Atas Kriminalisasi Terhadap Notaris” *Jurnal Hukum dan Perundangan Islam* 7, no. 2 (2017), p. 468. Syarifah Rahmatillah and Sari Handayani, “Aspek Pidana Dalam Pemanfaatan Tanah Negara Tanpa Izin Perspektif Fiqh Jinayah (Studi Kasus Di Gampong Lamreung Kecamatan Krueng Barona Jaya Aceh Besar),” *Legitimasi: Jurnal Hukum Pidana Dan Politik Hukum* 8, no. 1 (2019). Sudirman Sudirman, et.al., “Dysfunction of Muslim’s Public Resource: A Study of Waqf Land Disorganization in Indonesia,” *De Jure: Jurnal Hukum dan Syariah* 22, No. 1 (2022).

<sup>26</sup> In the process of making the requirements for the sale and purchase of the land due to the lack of evidence of PBB, Theresia Pontoh suspended the deed of sale and purchase of land by giving a receipt to Rudi Doomputra as the buyer. The seller changes his mind and it turns out that he will not carry out the selling process to the prospective buyer, and the prospective buyer asks for the certificate. Theresia Pontoh did not want to give the certificate to the buyer because she kept the certificate and did not hand it over to the prospective buyer. This case made Theresia by the Jayapura Police investigators named a suspect on suspicion of embezzlement for keeping the certificate. Theresia was detained up to the level of the Supreme Court.

<sup>27</sup> Article 39 of Government Regulation of The Republic of Indonesia No 24 of 1997.



use over title land, 7) Dependents 'granting act, and 8) Dependents' empowerment act.<sup>28</sup>

Article 95 paragraph 1 of the Regulation of the Minister of Agrarian State/KBPN (Permenag/KBPN) Number 3 of 1997 on the Implementation Regulation of Government Regulation Number 24 of 1997 on Land Registration, Article 2 paragraph 2 of the Regulation of the Head of the National Land Agency Number 1 of 2006 on the Implementation of Government Regulation Number 37 of 1998 on the Regulation of the Official Land Deed Maker. This is stated in article 54 which mentions the procedure for making a deed.<sup>29</sup> This determines the obligations that must be performed by PPAT at the time of making the deed.

In the transfer of land rights, there are 2 important things to obtain a certificate of land rights, namely the making and signing of the deed of transfer of rights made by PPAT. In PP Number 24 of 1997 on Land Registration, article 37 paragraph 1 reads:

*“Transfer of rights to land and ownership of apartment units through sale and purchase, barter, grants, income in companies and other legal acts of transfer of rights, except the transfer of rights through auction, can only be registered if proven by a deed made by the PPAT authorized in accordance with the provisions of applicable laws and regulations.”<sup>30</sup>*

### **Lack of Legal Protection**

Article 55 of the Head of BPN regulation, No. 1 of 2006 concerning the Implementation Provisions of Government Regulation Number 37 of 1998 on the Regulation of the Department of Land Deed Making Official, there is a legal vacancy regarding the responsibility of PPAT on the registration of transfer of rights to land. It is only in this article that regulates the 'personal responsibility of PPAT for the deeds it makes.<sup>31</sup> Equally, PPAT is also responsible based on its position in keeping the deed, certificate, and relevant documents when returned by the Land Office in the event of a denial of registration by the Land Office.

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<sup>28</sup>Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Maker Officials.

<sup>29</sup>The Regulation of the Head of the National Land Agency Number 1 of 2006 article 54 on the Implementation of Government Regulation Number 37 of 1998 on the Regulation of the Official Land Deed Maker.

<sup>30</sup>Article 37 Paragraph 1 of Government Regulation of The Republic of Indonesia No 24 of 1997 regarding Land Registration.

<sup>31</sup>Elza Syarief, "Security Concerns in Digital Transformation of Electronic Land Registration: Legal Protection in Cybersecurity Laws in Indonesia," *International Journal of Cyber Criminology* 16, no. 2 (2022).

PPAT is required as an intermediary to keep the returned documents until the time of seizure by the court or revocation of the block by the petitioner.<sup>32</sup>

If the police want to call a Notary who is also PPAT in the investigation process, they need the approval of the Notary Honorary Council. This is regulated in article 66 of the Notary Office Law (UUJN). The police then wrote to the Honorary Board of Notaries and then the Honorary Board called the notary concerned with the matter for a meeting.

In the legislation of PPAT and Notaries are referred to as "Public Officials" who are given the authority to make certain "Authentic Deeds".<sup>33</sup> The difference is clearly reflected in the legal entity that is responsible for lifting and revoking its duties and authorities in order to make certain authentic deeds,<sup>34</sup> its guidance and supervision system. Notaries are appointed and dismissed by the Minister of Law and Human Rights. While PPAT is appointed and dismissed by the Minister of Agrarian.<sup>35</sup>

In the making of the PPAT deed, the content and method of making the deed have been determined by the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency on article 97, Number 3 of 1997 on the Implementation Provisions of Government Regulation Number 24 of 1997 on Land Registration.<sup>36</sup> The deeds made by PPAT are authentic deeds and have a very important position and role in both private and public law. Authentic deeds provide protection and legal certainty for related parties to be used as a tool of written, strongest and complete evidence.<sup>37</sup>

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<sup>32</sup> Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary.

<sup>33</sup>The PPAT is based on Law Number 5 of 1960 on the Basic Regulation of Agrarian Principles, Government Regulation Number 24 of 1997 on Land Registration, Government Regulation Number 37 of 1998 on the Position of Land Deed Making Official, and Regulation of the Head of the National Land Agency of the Republic of Indonesia Number 1 of 2006 on the Provisions for the Implementation of Government Regulation Number 37 of 1998 on the Position of Land Deed Making Officials. On the other hand, the position of a Notary is regulated in the provisions of Law Number 2 of 2014 on Amendments to Law Number 30 of 2004 on the Notary Position.

<sup>34</sup>Law of the Republic of Indonesia Number 30 of 2004 Article 2 concerning the Position of a Notary.

<sup>35</sup>Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provision 6 Implementation of Government Regulation Number 24 of 1997 Article 97 concerning Land Registration.

<sup>36</sup>Mohammad Jamin et .al., "The Impact of Indonesia's Mining Industry Regulation on the Protection of Indigenous Peoples," *Hasanuddin Law Review* 9, no. 1 (2023). Article 97 Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997.

<sup>37</sup>Arlene Agustina and Hanafi Tanawijaya "Tanggung Jawab Pejabat Pembuat Akta Tanah (PPAT) Dalam Penandatanganan Akta Jual Beli Yang Didasari Atas Blangko Kosong (Contoh Kasus: Putusan Mahkamah Agung Nomor 1201/K/Pdt/2016)" *Jurnal Hukum Adigama* 1, no. 2 (2018), p. 3.

In the making an authentic deed regulated in Article 1868 of the Civil Code.<sup>38</sup> Prior to the making of the deed, PPAT must check the conformity of the certificate with the data in the land book at the land office (BPN). When the parties will sign the deed, the PPAT must read and explain the contents of the deed in the presence of at least two witnesses.<sup>39</sup> Evenmore, PPAT has to verify any suspicious data from the client such as identity card, family card, and the likes.<sup>40</sup> Equally some cases shows that client is not in good faith when making a land deed,<sup>41</sup> privately Made Deed Sale signed before and attested by notary, <sup>42</sup> and PPAT is absent when the Credit Agreement at the Bank.

PPAT is asked to appear before, face to face, appear before the debtor/appearing for every credit agreement at the bank office, may not be represented to anyone, one thing or another and is not limited to referring to the applicable provisions. This is in order to fulfill the requirements for an authentic deed as regulated in the 1868 Civil Code.<sup>43</sup> However, the bank/creditor officials are not required to attend. But in reality it is sometimes present, but mostly absent. In fact, in order to fulfill the formality and authenticity of a deed, all appearers must be present at the same time, read/read the, deed and affix a signature/stamp together as well. The threat due to neglect of such a procedure is that the deed will

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<sup>38</sup>Article 1868 of the Civil Code: a. Established in the form prescribed by law, b. Established by and in front of the general office, c. A deed is done by or before an official public office at the place where the deed is done

<sup>39</sup>Article 1868 Indonesian Civil Code.

<sup>40</sup>The PPAT must ensure that the data brought in by the client is correct. For example: How does PPAT know that Mr. A is married to Mrs. B, PPAT must request a marriage certificate and KK (Family Card) from them. Match their names with KK and marriage certificate. Is there a name difference? If they find a difference in name, then PPAT must request a certificate of difference in name by the Village Head stating that the person in question is the same person. Missal in the ID card is listed as Bunga SE, while in the marriage book it is listed with the name Bunga. These name differences often occur. The name on the ID card is not the same as the Family Card, Certificate, Marriage Book and so on.

<sup>41</sup>The results of the meeting of the Aceh Notary Honorary Council decided that the Notary in his capacity and quality as a Notary has performed his duties and functions in accordance with the provisions and regulations in force where the Notary who is also PPAT refused to make a deed of sale and purchase of Mr. Y to Mr. ZA because of the house certificate of Mr. Y is still in grace at the Bank. Hence, the Honorary Council of Aceh Province dated 13 November 2020, refused to grant permits examination of the notary E because there was no link between the events of law and legal actions against criminal acts of fraud and embezzlement as referred to in Article 378 Criminal Code.

<sup>42</sup>Mr. M wants to buy 2 units of the store to Q in stages. 1 unit is worth RP. 500,000,000. Then Q and M made a sale and purchase agreement under the legalized hand of Notary C. In the investigation, it was found that the certificate had not been reversed in the name of M. The land was also still in the Bank Collateral in the name of Q. While M had paid in full for one shop. Because he felt harmed, M reported Q to the police. The result of the meeting of the Honorary Council of Notaries rejected and did not give permission to examine the notary C.

<sup>43</sup>An authentic deed is a deed made in the form determined by law by or before a public official authorized for that at the place where the deed was made.

be relegated to power under a private deed (not authentic). Notary/PPAT has the potential to be sued for compensation for the said negligence. If the PPAT does not work in accordance with professional standards or violates the provisions in the process of making an authentic deed, the Notary concurrently PPAT may be subject to sanctions in the form of administrative sanctions<sup>44</sup>, civil sanctions, and criminal sanctions., Also some document were false.

In practice, many Notaries who are also PPATs are questioned about their PPAT Deeds by other parties. Often, they are also drawn as parties who participate in committing or helping to commit a criminal act related to the deed made by them. For example, PPAT is suspected of forging a letter or accused of entering false information into an authentic deed, then the PPAT can be prosecuted as stipulated in Article 264 of the Criminal Code.<sup>45</sup> Another example can be seen from the case of alleged file falsification which was alleged to be PPAT Notary in Central Java. However, in the end, the complainant has withdrawn the allegation and has apologized to the PPAT notary concerned. The PPAT Notary's responsibility is formal, not material.<sup>46</sup>

### **Lack of Institutional Protection of PPAT**

The PPAT Supervisory Council is an assembly authorized by the Minister to conduct guidance and supervision of PPAT. In carrying out its duties, the PPAT Supervisory Council is assisted by a secretary. The MPP<sup>47</sup> (Supervisory and Supervisory Council) is formed and determined by the Minister and is domiciled in the Ministry. The guidance and supervision of PPAT at the regional level is carried out by the MPPD<sup>48</sup> which is PPAT Supervisory and Supervisory Council domiciled in the land office.<sup>49</sup> In regions level, the authority is in the form of

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<sup>44</sup>Notary/PPAT can be given administrative sanctions if the Notary is proven to have violated the provisions of his professional ethics that have been regulated in UUJN and in the Notary Code of ethics. Administrative sanctions can be given in stages, ranging from verbal warnings, written warnings, temporary dismissals, respectful dismissals to dishonorable discharges.

<sup>45</sup>Article 264 of Indonesian Penal Code.

<sup>46</sup>Because the material in the authentic deed is the will of the parties themselves. The PPAT Notary only records the will of the parties because all the procedures and requirements have been regulated by the relevant laws and regulations.

<sup>47</sup>The composition of MPP membership are a. 1 (one) chairperson, from an element of the Ministry held by the Director General or an appointed official, b. 1 (one) deputy chairman, which is held by an IPPAT element; and c. 9 (nine) members, with a composition of 5 (five) people from the Ministry element and 4 (four) people from the IPPAT element.

<sup>48</sup>MPPD is formed and determined by the head of the regional office of the National Land Agency on behalf of the Minister. In relation to the portion of authority of the PPAT supervisory organ.

<sup>49</sup>Teuku Fahryanda Irsal, "Fungsi dan Kedudukan Majelis Pembina dan Pengawas Pejabat Pembuat Akta Tanah (PPAT)" (Thesis: Universitas Sumatera Utara, 2021), p. 85.

giving recommendations for sanctions. Legal protection for PPAT is repressive through legal assistance after being processed in court.<sup>50</sup>

Looking at the development of determining the direction of land policy. The government has begun to involve PPAT, which in this case is represented by the Association of Land Deed Officials,<sup>51</sup> one of which is by issuing a Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency concerning the Guidance and Supervision of Land Deed Maker Officials Number 02 of 2018.<sup>52</sup> In Protecting PPAT the organization must also play an active role in protecting its members. The Association of Land Deed Maker Officials abbreviated as IPPAT is an association/organization for PPATs recognized and approved by the government as a legal entity (rechtspersoon) based on the Decree of the Minister of Justice dated April 13, 1989.<sup>53</sup>

It is not only a matter of legal protection but also the period of liability for the deed that has been made by PPAT. PPAT Immunity Rights must continue to be fought for. Currently, PPAT is actually taking refuge in his position as a notary.<sup>54</sup> PPAT and Notary are two different institutions. The government, in this case ATR/BPN, should immediately make a Law on PPAT Positions to protect PPAT, at least create a PPAT Honorary Council (MPP), as notarial institutions have MKN.<sup>55</sup> The membership of the PPAT Supervisory and Supervisory Council consists of elements of the Ministry and IPPAT.<sup>56</sup> In carrying out its duties, the PPAT Supervisory and Supervisory Council is assisted by the Secretary.<sup>57</sup>

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<sup>50</sup>Law on Amendments to the Law on Notary Positions, Article. 50 verse 1.

<sup>51</sup>Muhammad Akil. F and Widodo S, *Perbandingan Netralitas Organ Pengawas Pejabat Pembuat Akta Tanah Dengan Organ Pengawas Notaris Dalam Menjalankan Fungsinya* (Jakarta: Universitas Indonesia, 2019).

<sup>52</sup>Namely as stated in Article 1 paragraph (11) Ministerial Regulation ATR/Head of BPN No. 2 of 2018 concerning the Guidance and Supervision of Officials Land Deed Maker that the Minister in this case delegates authority supervision to a body with the name of the Supervisory Council and Supervisor.

<sup>53</sup>The role of IPPAT is related to having its members called to be witnesses, as long as they are still witnesses, then IPPAT has any role that is intended, namely assistance, this assistance is if the PPAT who is the witness requests or submits legal assistance to IPPAT, if PPAT is proven guilty of being a suspect in this case IPPAT does not provide assistance.

<sup>54</sup>from the data obtained in this study, the Notary Honorary Council summoned a notary because their PPAT deed which was disputed by other parties was not a notarial deed they made. The police sent the letter to the Notary Honorary Council, not to the PPAT Supervisory and Supervisory Council. This also shows that the police have not been able to distinguish between PPAT positions and notary positions.

<sup>55</sup>Addien Iftitah, "Kewenangan Pejabat Pembuat Akta Tanah (PPAT) Dalam Membuat Akta Jual Beli Tanah Beserta Akibat Hukumnya," *Lex Privatum* 2, no. 3 (2014).

<sup>56</sup>Teuku Fahryanda Irsal, *Fungsi Dan Kedudukan Majelis Pembina Dan Pengawas Pejabat Pembuat Akta Tanah (PPAT)* (Sumatera Utara: Universitas Sumatera Utara, 2021).

<sup>57</sup>The position of deputy chairman or member of the PPAT Supervisory and Supervisory Council who comes from the IPPAT element can be dismissed from the PPAT Supervisory and Supervisory Council because he is dismissed from his position as PPAT in accordance with the

IPPAT which is the only forum that serves as a shelter for everyone who holds the position of PPAT as regulated in Article 69 paragraph (1) of the Regulation of the Head of the National Land Agency Number 1 of 2006 concerning Provisions for the Implementation of Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials that in order to maintain the Dignity and Honor of the Temporary PPAT and/or PPAT Professionals it is mandatory to form a Temporary PPAT and/or PPAT Professional Organization or delete PPATS because every regency/district that has been filled by a Notary/PPAT.<sup>58</sup> Such as the Indonesian Notary Association (INI) and the Association of Land Deed Maker (IPPAT) for the East Nusa Tenggara (NTT) Region are very concerned about the determination and detention of Theresia Koroh Dimu<sup>59</sup> by investigators from the NTT High Prosecutor's Office (Kejati).<sup>60</sup> The weakness of the IPPAT organization from the internal conflict of the organization of land certificate makers who are members of the Central Management of the Association of Land Deed Maker Officials (PP IPPAT) since 2018 it has not ended.<sup>61</sup>

The Central Board of the Association of Land Deed Makers (PP IPPAT) noted that 137 Land Deed Officials (PPAT) were jailed. The majority, because they are not carrying out their duties and positions as PPAT. The General Chairperson of IPPAT, Syafran Sofyan noted, there are at least three potential

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provisions of the legislation. The addition of the number of MPPD members by calculating the composition of at least sixty percent from the Ministry and forty percent from IPPAT.

<sup>58</sup>Nurain Septiani, *Perlindungan Hukum Dan Peran Organisasi Ikatan Pejabat Pembuat Akta Tanah (IPPAT) Terhadap Pemanggilan PPAT Sebagai Saksi Oleh Penyidik Terkait Tindak Pidana Di Kota Gorontalo* (Yogyakarta: Universitas Islam Indonesia, 2018).

<sup>59</sup>Theresia, who works as a notary/PPAT is one of the suspects in the case of buying and selling land belonging to the West Manggarai Regency (Mabar) Regency in Labuan Bajo. The chairman of INI NTT, Albert Wilson Riwu Kore, emphasized that his party did not intervene in the investigation process carried out by the NTT Prosecutor's Office investigator. Meanwhile, the head of IPPAT NTT, Emmanuel Mali said that the deed made by Theresia in the matter of buying and selling land by parties in Labuan Bajo was a deed of sale and purchase. When traced by the NTT Notary Honorary Council, the process of making a deed of sale and purchase up to registration, there were no formal errors made by Theresia. The person concerned has carried out his job in a professional manner as mandated by the law. Theresia has fulfilled his responsibility as a notary. Furthermore, if the object being traded is allegedly owned by the state, then it is not an object of a notary/PPAT. In the case of the state, if it sees transactions involving land objects, the deed of sale and purchase made by a notary can be used as evidence by law enforcement officials to take action on the actions of the parties that are allegedly detrimental. Not a notary who later became a suspect.

<sup>60</sup>"Ikatan Notaris dan PPAT Prihatin Theresia Dimu Dijadikan Tersangka Kasus Tanah Labuan Bajo". Accessed on August 13, 2021. <https://rakyatntt.com/ikatan-notaris-dan-ppat-prihatin-theresia-dimu-dijadikan-tersangka-kasus-tanah-labuan-bajo/>.

<sup>61</sup>Ady Thea DA, "KLB IPPAT 2021 di Lombok Digugat, ini Alasannya". Accessed on August 14, 2021. <https://www.hukumonline.com/berita/baca/lt604f18ad68841/klb-ippat-2021-di-lombok-digugat—ini-alasannya?page=2>

problems that can easily ensnare PPAT and notaries for litigation, whether civil, administrative, or criminal. Another technique faced by PPAT during the examination process is the absence of assistance from colleagues. In fact, PPAT was expelled several times when he wanted to accompany the PPAT examination process in question. Even though there have been a number of jurisprudences from the MA where if the deed made before or by a notary and the PPAT is problematic by the parties themselves, then this is the business of the notary parties and the PPAT does not need to be involved. In fact, this has been confirmed in the jurisprudence of Supreme Court Decision Number: 702K/Sip/1973 dated 5 September 1973, Supreme Court Decision Number: 3199K/Pdt/1992, 27 October 1994, and Supreme Court Decision Number: 1140K/Pdt/1996, 30 June 1998 that the Notary and PPAT are not parties to the deed. From the experience above, it means that the IPPAT organization has not been able to protect its members. Despite there is a memorandum of understanding (MoU) with the National Police regarding the common perception of the duties and roles of PPAT, in relation to preventing the occurrence of task deviations and to improve the partnership between the Police and IPPAT.<sup>62</sup>

### **Agrarian Reform During Joko Widodo Government**

President Jokowi emphasized the state's commitment to resolving agrarian conflicts and realizing agrarian reform for the community and ensuring the availability and certainty of fair living space for the people.<sup>63</sup> Fundamentally, agrarian reform provides programs that can solve the poverty problem of rural communities, improve welfare with national food self-sufficiency, increase land productivity, provide recognition of land rights owned by private, state, and public land whose use is to meet the interests of the community.<sup>64</sup>

Agrarian reform can actually answer the inequality of land ownership and control, not just land redistribution. Fundamentally, agrarian reform provides programs that can solve poverty problems, improve welfare with national food self-sufficiency, increase land productivity, provide recognition of land rights owned by private, state, and public land whose use is to meet the interests of the community. The agrarian reform policy was continued during the Jokowi administration, through the Nawacita program which is one of the National

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<sup>62</sup> In the Memorandum of Understanding between the Indonesian National Police and the Association of Land Deed Makers No.Pol.:B/1055/V/2006, Number: 05/PP-IPPAT/V/2006 concerning Professional Development and Improvement in the Field of Law Enforcement.

<sup>63</sup> Mochammad Januar Rizki, "Rawa Sengketa, ini Prosedur Jual-Beli Tanah yang Tepat". Accessed on September 26, 2022. <https://www.hukumonline.com/berita/a/rawan-sengketa--ini-prosedur-jual-beli-tanah-yang-tepat-lt615abdc61102a/?page=3>

<sup>64</sup> Kominfo, "Reforma Agraria Menjamin Pemerataan Sosial Ekonomi Masyarakat Secara Menyeluruh". Accessed on September 26, 2022. <https://www.kominfo.go.id/content/detail/13688/reforma-agraria-menjamin-pemerataan-sosial-ekonomi-masyarakat-secara-menyeluruh/0/artikelgpr>

Priority Programs,<sup>65</sup> then followed up with the issuance of Presidential Decree Number 45 of 2016 concerning the 2017 Government Work Plan (RKP). 86 of 2018 concerning Agrarian Reform.<sup>66</sup>

There are three forms of agrarian reform, namely asset legalization, land redistribution and social forestry. It has been confirmed in the 2015-2019 RPJM targeting an area of 9 million hectares, in the scheme the legalization of 4.5 million hectares of assets which includes the legalization of transmigration lands that have not been certified, which is 600,000 hectares and the legalization of lands that are already under community control of an area of 600,000 hectares. 3.9 million hectares. For the redistribution of 4.5 million hectares of land, including Exhausted Cultivation Rights, abandoned land and other State lands covering an area of 400,000 hectares and lands derived from the release of forest areas covering an area of 4.1 million hectares.

One of the programs favored by the government in the context of implementing the land reform program is land redistribution. This land redistribution is an activity of granting land rights originating from land reform objects to farmers or cultivators who meet the requirements based on the provisions of Article 8 and Article 9 of Government Regulation Number 24 of 1961 concerning Implementation of Land Distribution and Compensation. The purpose of this land redistribution is to improve the socio-economic conditions of the people by holding a fair and equitable distribution of land for the livelihoods of the peasants in the form of land. The distribution of land is assumed to be a fair and equitable distribution of results based on the principle of social justice for all Indonesian people.

Agrarian Reform is not yet understood as a National Strategic and Priority Program that absolutely requires support from all relevant stakeholders, especially ATR/BPN, KLHK, and local government, especially the spearhead of implementation at the site level.<sup>67</sup> The success of agrarian reform must be accompanied by competent knowledge with full support from public awareness.<sup>68</sup>

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<sup>65</sup> The National Priority Program covers six aspects, namely 1. strengthening the regulatory framework and resolving agrarian conflicts, 2. structuring the control and ownership of land for the object of agrarian reform, 3. legal certainty and legalization of land rights for the object of agrarian reform, 4. Community empowerment in the use, utilization and production of land subject to agrarian reform, 5. Allocation of forest resources to be managed by the community, 6. Implementing institutions for central and regional agrarian reform (Presidential Staff Office 2017).

<sup>66</sup>Fitra Alvian and Dian Aries Mujiburohman, "Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo," *Jurnal Tunas Agraria* 5, no. 5 (2022), p. 2.

<sup>67</sup> Tim Dosen Sekolah Tinggi Pertanahan Nasional, *Permasalahan Dan Kebijakan Agraria, Pertanahan, Dan Tata Ruang Di Indonesia* (Yogyakarta: STPN Press, 2019).

<sup>68</sup>Yanis Maladi, "Performa Agraria Berparadigma Pancasila Dalam Penataan Kembali Politik Agraria Nasional," *Jurnal Mimbar Hukum* 1, no. 25 (2013), p. 28.



The implementation of Agrarian Reform in Indonesia emphasizes the concept of land redistribution<sup>69</sup>. Lands that have been designated as TORA are redistributed for agricultural and non-agricultural purposes. For agriculture, it is redistributed to the subject of Agrarian Reform with a maximum land area of 5 (five) hectares in accordance with the availability of TORA accompanied by the provision of certificates of ownership rights or Joint Ownership Rights. Redistribution for non-agricultural use can be carried out through land consolidation accompanied by the provision of a certificate of ownership rights or a certificate of ownership of the apartment unit.<sup>70</sup>

The government provides land for transmigration organizers, the land is given with the status of property rights. However, until now, there are still many transmigrants who have not received land certificates for various reasons including claims by local residents based on Land Certificates (SKT) from the village head, or their land being claimed by companies based on HGU certificates, or being claimed as forest land.<sup>71</sup>

The complexity of the legalization of transmigration land is because there are still many remnants of past problems that have not been resolved, including: transmigration land that has not been removed from the forest area; transmigration land with the status of Management Rights (HPL) belonging to the regional government and the HPL has not yet been issued; The issued HPL is different from the land used by the community; the object controlled by the community does not match the issued map/incompatibility between the object and the subject; differences in subjects proposed by the Transmigration Service and those who control the land (transition); different understanding of regulation; the status of conflicted lands with different typologies of conflict; The Department of Transmigration (central and regional) does not have adequate supporting documents (maps and list of participants); the presence of a land broker; and buying and selling under the hands.<sup>72</sup>

In realizing agrarian reform, there are many obstacles. This priority program was initiated due to the number of disputes and conflicts whose root problems stem from the granting of land rights to the community. According to data compiled by the Directorate General of Land Dispute and Conflict Handling the total number of land cases is 8,111 cases, which are divided into 60 land crimes cases; dispute 4,211 cases; cases 3,290 cases; 550 conflict cases, out of 51 million registered land parcels, 0.015% problem land.<sup>73</sup>

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<sup>69</sup> Law no. 86 of 2018 concerning Agrarian Reform.

<sup>70</sup> Sri Martini et al., "Implementasi Reforma Agraria Terhadap Pemenuhan Harapan Masyarakat Yang Bersengketa Lahan," *Jurnal Agraria Dan Pertanahan* 5, no. 2 (2019), p. 135.

<sup>71</sup> Alvian and Mujiburohman, "Implementasi Reforma Agraria Pada Era Pemerintahan Presiden Joko Widodo."

<sup>72</sup> Alvian and Mujiburohman, p. 6.

<sup>73</sup> Alvian and Mujiburohman, p. 8.

In order to obtain land rights, registration of the transfer of land rights must be carried out. But in reality, there are still many obstacles to the implementation of land registration in Indonesia as in the people in Karawang district. The problem experienced were caused by both internal and external factors.<sup>74</sup> For communities, especially remote areas, the costs incurred to transfer land rights are quite expensive, and the process is complicated and time-consuming. So they are reluctant to make the transition to PPAT and register the transfer at the Land Office.<sup>75</sup> Now those who want to register land in addition to having to meet the applicant's fees as stipulated by the land registration rules, there are also other costs based on the order of the law that cannot be ignored, such as Law Number 21 of 2001 concerning BPHTB and Law Number 12 of 1985 concerning Taxes. Earth and Building. All the fees charged from the provisions of the land registration regulations themselves make people reluctant to register their land, especially in rural areas. In addition to the high costs involved in implementing the transfer of property rights, the tax law investment also affects the public's lack of interest in registering their land.<sup>76</sup>

The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has a priority task to resolving agrarian disputes and conflicts, including land mafia problems. The reason is, the impact of the land mafia apart from not realizing legal certainty and justice for the community, can also hamper development and have an impact on business actors who have invested in Indonesia.<sup>77</sup> Some of the modus operandi of the land mafia is document falsification, illegal occupation, seeking legality in court, case engineering, collusion, corporate crime, falsification of the power of attorney to manage land rights, buying and selling land carried out as if formally, and the loss of land parcels.

The existence of the land mafia cannot be denied. The fact that there is and is ongoing land mafia can be referred to data in February 2020, namely, the

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<sup>74</sup>Barriers originating from internal factors have resulted in the community feeling disappointed because the registration service for the transfer of land rights seems slow, does not match the predetermined time and takes longer than the actual time. While the obstacles that come from external factors, there are still many people who in making the transfer of land rights are not made before the PPAT as well as the registration of the transfer at the Land Office.

<sup>75</sup>Pamungkas Satya Putra, "Reforma Agraria Hambatan Dan Tantangan Di Kabupaten Karawang," *Jurnal Ilmiah Hukum De'Jure* 1, no. 4 (2019), p. 123.

<sup>76</sup>Sumardjono Maria S.W, *Kebijakan Pertanahan Antara Regulasi Dan Implementasi* (Jakarta: Kompas, 2011). Fauzi Fauzi, et.al., "A Model of Extreme Poverty Reduction to Prevent Social Inequality in Indonesia Perspective of Sociology and Islamic Law," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 23, No. 2 (2023).

<sup>77</sup>Kementerian Agraria dan Tata Ruang, "Komitmen Berantas Mafia Tanah demi Wujudkan Kepastian Hukum bagi Pelaku Usaha". Accessed on September 26, 2022. <https://www.atrbpn.go.id/siaranpers/detail/3516/komitmen-berantas-mafia-tanah-demi-wujudkan-kepastian-hukum-bagi-pelaku-usaha>.

Ministry of ATR suspected and processed 61 land disputes involving and as a result of the performance of the land mafia, and on the same occasion the Polda Metro Jaya announced the arrest of a number of members of the land mafia as suspects.<sup>78</sup> The land mafia is a structured and organized group, which involves many actors or takes advantage of good relations with unscrupulous notaries/PPAT, village heads, sub-district heads, local government officials, and the Land Office. Efforts to prevent it can be done by fostering a notary/PPAT in both a professional attitude and a moral attitude in carrying out their duties, as well as supervision by the Land Office.

As public official who is authorized to make an authentic deed, notary/PPAT play a big role in overcoming the problems of the land mafia in Indonesia. In agrarian reform and land mafia, it is necessary to evaluate in the form of harmonization and synchronization of statutory arrangements, especially the arrangement of the announcement period for proof of land ownership, juridical data and physical data on land parcels and maps of land parcels. In addition, asset management needs to be accompanied by asset management or providing opportunities for access to capital or other assistance to Agrarian Reform Subjects in the context of community empowerment.<sup>79</sup>

## Conclusion

The legal protection for PPAT in the process of land rights transfer when the parties are in dispute is not specifically regulated under the PPAT Administrative Law and agrarian reform, so many PPAT has to take such risks for the sake of lack of evidence from the client (land owner). PPAT made the Deed due to the will of the parties based on the documents shown to PPAT, which is not problematic as long as the parties are not in dispute. However, it is not always the parties who come to PPAT are in good faith. This is where the accuracy and thoroughness of PPAT are highly needed to check the documents brought by the parties, covering to match the photocopy with the original data and to verify the document in the field. If this procedure has been completed, and there is a dispute, PPAT should be free from any allegation. The concept of agrarian reform is only understood as a process of land certification and land redistribution, it has not yet reached its main goal, namely overcoming inequality in land tenure and ownership. The level of inequality in tenure and transfer of land rights still occurs in the community, therefore the policy and institutional aspects to support agrarian reform must be strengthened. This agrarian reform has not been able to fully

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<sup>78</sup>Agung, "Pakar Hukum Tanah: Tutup Peluang Masuknya Mafia Tanah," last modified November 22, 2021, <https://ugm.ac.id/id/berita/21991-pakar-hukum-tanah-tutup-peluang-masuknya-mafia-tanah>.

<sup>79</sup>Article 1 number 3 of the Presidential Regulation of the Republic of Indonesia Number 86 of 2018 concerning Agrarian Reform.

resolve the dilemma of the transfer of land rights in Indonesia, that regulations for handling agrarian disputes and conflicts still have to be regulated further. This article highly suggests the government to propose a new bill on the clarity of PPAT status, particularly PPAT's responsibility which is not for material truth, but merely for formality instead

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