

Transfer of Land Rights Due to Inheritance

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Abstract

The transfer of land rights due to inheritance is an important part of Indonesian agrarian law, but in practice, many people still do not understand the legal procedures that must be followed to obtain legal certainty and protection, especially regarding the registration of transfer of rights, document completeness, and differences in the applicable legal regimes. This community service activity aims to increase public understanding and awareness of the legal procedures for the transfer of land rights due to inheritance in accordance with the provisions of the applicable laws and regulations. The method of implementing this activity is through socialization, namely providing information to the public about the transfer of land rights and important matters in the management of land rights transfers, especially those related to inheritance. The results of the activity showed an increase in public knowledge regarding the stages of inheritance land management, starting from the preparation of inheritance documents to the process of registering the transfer of rights or name changes at the Office of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN).

Keywords

Agrarian Law, Inheritance, Transfer of Land Ownership Rights, Land Registration

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Abstrak

Pengalihan hak atas tanah karena pewarisan merupakan bagian penting dalam hukum agraria Indonesia, namun dalam praktiknya masih banyak masyarakat yang belum memahami prosedur hukum yang harus ditempuh untuk memperoleh kepastian dan perlindungan hukum, terutama terkait pendaftaran peralihan hak, kelengkapan dokumen, serta perbedaan rezim hukum yang berlaku. Kegiatan pengabdian kepada masyarakat ini bertujuan untuk meningkatkan pemahaman dan kesadaran hukum masyarakat mengenai prosedur pengalihan hak atas tanah karena pewarisan sesuai dengan ketentuan peraturan perundang-undangan yang berlaku. Metode pelaksanaan kegiatan ini adalah dengan mengadakan sosialisasi, yaitu memberikan informasi kepada masyarakat mengenai pengalihan hak atas tanah dan hal-hal penting dalam pengelolaan pengalihan hak atas tanah, terutama terkait dengan warisan. Hasil kegiatan menunjukkan adanya peningkatan pengetahuan masyarakat mengenai tahapan pengurusan tanah warisan, mulai dari persiapan dokumen pewarisan hingga proses pendaftaran peralihan hak atau balik nama di Kantor Agraria dan Tata Ruang/Badan Pertanahan Nasional (ATR/BPN).

Kata Kunci

Hukum Agraria, Warisan, Pengalihan Hak Atas Tanah, Pendaftaran Tanah

Introduction

The transfer of land ownership rights through inheritance is an important aspect of Indonesia's agrarian legal system, considering that land has strong social, economic, and cultural value for the community.¹ In practice, the process of transferring rights through inheritance often raises various problems, especially related to public understanding of the legal procedures that must be followed to obtain legal certainty and protection.² The heirs' lack of knowledge about the provisions for registration of transfer of rights, the completeness

¹ Khairil Qadarisman, Fokky Fuad, and Anis Rifai, "Agrarian Issues in the Indonesian State: Case Study of MA Decision Number 777.Pk/Pdt/2019 and Legal Protection for Landowners," *Journal La Sociale* 4, no. 5 (2023): 265–75, <https://doi.org/10.37899/journal-la-sociale.v4i5.885>.

² Hafidz Taqiyuddin, Mus'idul Millah, and Hikmatul Luthfi, "Instruments of Property Ownership in Islam: The Study of Inheritance Law," *Journal of Islamic Thought and Civilization* 13, no. 1 (2023): 157–71.

of documents, and the differences between customary law, Islamic law, and civil law are factors that often hinder the implementation of an orderly and legal inheritance process.

Based on Law Number 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA), Government Regulation Number 24 of 1997 concerning Land Registration, and Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 3 of 1997 as a Regulation for the implementation of the registration mechanism for the transfer of land rights including inheritance. Although the rules have been clearly defined, public understanding, especially in rural areas, is still very limited. This results in a lot of inherited land that has not been registered in the name of the heirs, which is prone to causing disputes because there is no legal certainty.³

This community service activity is carried out as an effort to socialize and assist the community regarding the procedure for the transfer of land rights due to inheritance. Through socialization, legal consultation regarding the transfer of land rights due to inheritance, this activity aims to help the community understand what steps must be taken, starting from the preparation of documents for inheritance to the process of registering the transfer or change of name of the name of the right holder (deceased/deceased) in Agrarian and Spatial Planning/National Land Agency (ATR/BPN) of the National Land. This activity is expected to give the community sufficient insight so that they can complete the inheritance process in accordance with applicable law.

Method

The method used in implementing this activity was socialization, which involved providing information and explanations to the community regarding the transfer of land rights. This socialization emphasized the importance of understanding proper procedures and legal aspects in managing the transfer of land rights, particularly those arising from inheritance,

³ Desi Redhawati and Iyah Faniyah, "Registration of Transfer of Land Ownership Due to Inheritance in Order to Ensure Legal Certainty," *Ekasakti Journal of Law and Justice* 2, no. 2 (2025): 177–86, <https://doi.org/10.60034/8786zs18>.

so that the community is able to carry out the process correctly and in accordance with applicable regulations.

This community service activity was conducted on November 20, 2024. The event took place at the Al Ikhlas Mosque, located in Jetis, Tamantirto, Bantul, in the Special Region of Yogyakarta, and was attended by members of the local community as participants in the socialization activity.

Result and Discussion

Mechanism for the Transfer of Land Ownership Rights Due to Inheritance in Indonesia

The transfer of land rights is one of the reasons why inheritance in Indonesia is regulated in various legal rules, including civil law, agrarian law, and customary practices. The transfer of rights process is mainly based on the Indonesian Civil Code, and the Agrarian Constitution (UUPA), and Government Regulation Number 24 of 1997 concerning Land Registration as the basis for land transfer and registration. This regulation provides a legal basis that the transfer of land rights must be correctly recorded in the national land registration system so that the heirs obtain legal certainty over inherited land.⁴

The main requirement in the inheritance process is the existence of a Certificate of Inheritance, which identifies the legal heirs of the deceased. This document can be known by an authorized institution such as the village head, the district office, or the Notary, depending on the applicable legal framework.⁵ The Certificate of Inheritance serves as an important legal basis for registering the transfer of land rights in Agrarian and Spatial Planning/National Land Agency (ATR/BPN) Land. In addition to the Certificate of

⁴ Maria Avelina Abon, Komang Febrinayanti Dantes, and Ni Ketut Sari Adnyani, "Akibat Hukum Peralihan Hak Atas Tanah Waris Berdasarkan Pasal 20 Ayat (1) Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria," *Jurnal Komunitas Yustisia* 5, no. 3 (2022): 64-80.

⁵ Ana Silviana and Ariza Fuadi, "Legal Policy on the Use of Heir Certificates (SKAW) for Registration of Land Rights Transfers in Indonesia," *Law Reform: Jurnal Pembaharuan Hukum* 19, no. 2 (2023): 294 – 320, <https://doi.org/10.14710/lr.v19i2.52626>.

Inheritance. The land transfer process must be in accordance with the applicable land registration procedures before it is handed over to the Agrarian and Spatial Planning/National Land Agency (ATR/BPN) of the National Land.⁶

The registration process requires several supporting documents, including a Certificate of Inheritance, the heir's identity document, the original land right certificate, and supporting administrative documents.⁷ These requirements aim to ensure that the transfer of ownership is in accordance with Indonesian land law, thereby providing legal certainty and minimizing potential disputes. However, the process is not without challenges. Inheritance disputes can arise due to overlapping interpretations under civil law, Islamic law, and customary law. In addition, regional customary norms often affect community practices, such as prioritizing family deliberation in resolving inheritance problems. Cultural factors, including gender bias in certain regions, can also affect the distribution and recognition of inheritance rights.⁸

Formal mechanisms for transferring inherited land remain important to ensure legal certainty, prevent ownership conflicts, and maintain accurate land records. Therefore, understanding the legal procedures and cultural context is necessary to ensure a smooth and legal transition of land rights to rightful heirs.⁹

⁶ Mujib Medio Annas et al., "Legal Validity of Transfer of Land Rights Based on a Deed of Sale and Purchase Agreement That Has Been Canceled According to Indonesian Positive Law," *Journal of Ecohumanism* 4, no. 1 (2025): 2042 – 2047, <https://doi.org/10.62754/joe.v4i1.6027>.

⁷ Anindya Ayu Hapsari, "Efektivitas Surat Keterangan Waris Yang Dikeluarkan Oleh Kelurahan Dalam Peralihan Hak Atas Tanah Karena Warisan Di Wilayah Kecamatan Boyolali" (Universitas Islam Sultan Agung Semarang, 2025).

⁸ M Yazid Fathoni, "The Legality Of Transfer Of Land Rights Ownership Based On Adat Law In Indonesia Positive Law," *Jurnal IUS Kajian Hukum Dan Keadilan* 8, no. 1 (2020): 190–205, <https://doi.org/10.29303/ius.v8i1.882>.

⁹ Siti Rahmah, Husni Jalil, and M Yakub Aiyub Kadir, "Legal Dilemma for Land Deed Officials in Transferring Land Title Within Agrarian Reform in Indonesia: A Study in Aceh, Indonesia," *Samarah* 8, no. 1 (2024): 556 – 578, <https://doi.org/10.22373/sjhk.v8i1.16898>.



Figure 1. Session (Socialization)

Transfer of Land Ownership Rights Due to Heritage in Indonesia

The process of transferring inheritance land ownership rights in Indonesia is often hampered by various legal, administrative, and socio-cultural constraints. From a legal point of view, Indonesia implements a pluralistic system consisting of civil law, Islamic law, and customary law, which often results in conflicting interpretations of heirs and inheritances.¹⁰ This plurality creates legal uncertainty, especially when heirs refer to different legal systems to assert their rights. Other significant legal issues related to the requirements to be able to inherit inheritance, including the Heir Certificate. The Heir's Certificate is made by the heirs with the knowledge of the Head of the Village/Village and District, or a Notary. Differences in procedures and the possibility of several versions of the Certificate of Inheritance often cause delays because there are still things that must be completed by the heirs before registering the rights to the inherited land.¹¹

Administrative obstacles are also frequent, especially in the stage of collecting files for the registration requirements for land transfer. Government Regulation Number 24 of 1997 requires that every transfer of land rights be registered with the local Agrarian and Spatial

¹⁰ Amin Slamet, "Peralihan Hak Milik Atas Tanah Yang Berasal Dari Warisan," *LEGALITAS: Jurnal Ilmiah Ilmu Hukum* 5, no. 2 (2021): 117–29.

¹¹ Silviana and Fuadi, "Legal Policy on the Use of Heir Certificates (SKAW) for Registration of Land Rights Transfers in Indonesia."

Planning/National Land Agency (ATR/BPN), a process that involves strict document requirements and if in the process of inheritance there will be a division of land, it must involve the services of the Land Deed Making Officer (PPAT).¹² Incomplete documents, incompatible identity data, and the absence of original land certificates result in the registration process not being processed at the Agrarian and Spatial Planning/National Land Agency (ATR/BPN).¹³

To overcome these barriers, several mechanisms have been proposed and implemented. Legal scholars have advocated for the development of an integrated national heritage law to harmonize various legal systems and reduce conflict. Improving the process of issuing Heirs' Certificates, standardizing document requirements, and strengthening coordination between PPAT and Agrarian and Spatial Planning/National Land Agency (ATR/BPN) will significantly improve administrative efficiency.¹⁴ Community-based dispute resolution methods such as mediation and family deliberation also provide culturally sensitive avenues for resolving conflicts before entering litigation. Strengthening public legal awareness, especially regarding gender-fair inheritance rights, is essential to ensure justice and legal certainty in the transfer of inherited land.¹⁵

Socio-cultural factors also play an important role. In many communities, customary practices continue to influence how inheritances are distributed to heirs, sometimes deviating from formal legal rules. For example, some customary systems delay the distribution of inheritance until all heirs reach adulthood, even if this is against Islamic inheritance law. Gender

¹² Rahmah, Jalil, and Kadir, "Legal Dilemma for Land Deed Officials in Transferring Land Title Within Agrarian Reform in Indonesia: A Study in Aceh, Indonesia."

¹³ A S M Pide et al., "Tayade System Land Rights: The Concept of Unification of Customary Law and Indonesian Positive Law," in *IOP Conference Series: Earth and Environmental Science*, vol. 1430, 2024, <https://doi.org/10.1088/1755-1315/1430/1/012005>.

¹⁴ Klaudius Ilkam Hulu and Dalinama Telaumbanua, "Kepemilikan Hak Atas Tanah Warisan Yang Diperoleh Melalui Harta Peninggalan Orang Tua," *Jurnal Panah Keadilan* 1, no. 2 (2022): 52–61.

¹⁵ I W Wiryawan, I N P Budiarta, and I G Sujana, "The Development of Customary Doctrine of *Rechtsverwerking*: How to Ensure Legal Certainty in Land Registration?," *Udayana Journal of Law and Culture* 9, no. 2 (2025): 221–39, <https://doi.org/10.24843/UJLC.2025.v09.i02.p04>.

inequality also persists, as women in some areas still face challenges in demanding their rights due to patriarchal norms and interpretations that limit customary and Islamic principles. These cultural dynamics often lead to internal family disputes, which in turn hinder the completion of administrative procedures.¹⁶

Awareness to be able to solve inheritances, especially in the form of land, must be resolved immediately to avoid prolonged problems. The settlement can begin with the creation of a Certificate of Inheritance which is the basis for the registration process of inheritance of land rights at the Office of Agrarian and Spatial Planning/National Land Agency (ATR/BPN). Registration of land rights will provide legal certainty for land rights owners and will avoid problems in the future.



Figure 2. Presentation of Material on the Transfer of Inherited Land Rights

¹⁶ M Kaban and R Sitepu, "The Efforts of Inheritance Dispute Resolution for Customary Land on Indigenous Peoples in Karo, North Sumatra, Indonesia," *International Journal of Private Law* 8, no. 3–4 (2017): 281–98, <https://doi.org/10.1504/IJPL.2017.087364>; H Sugianto, A Fawaid, and H Baharun, "Islamic Law And Gendered Inheritance: An-Taradhin as Breakthrough for Women's Rights Disputes in Java, Bali, and Sumatra," *Al-Istinbath: Jurnal Hukum Islam* 10, no. 2 (2025): 700–731, <https://doi.org/10.29240/jhi.v10i2.12614>.



Figure 3. Photo with Participants after the Implementation of Community Service Activities.

Conclusion

The process of transferring land ownership rights due to inheritance in Indonesia remains an interesting issue. Through community service activities, it can increase knowledge of how to be able to complete the transfer of land rights due to inheritance to the local Agrarian and Spatial Planning Office/National Land Agency (ATR/BPN) to obtain legal certainty on land ownership and avoid problems in the future.

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