

# The Urgency of Regulating Funding Sources Under the Supervision of Land Title Officials in Indonesia

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## ABSTRACT

This research aims to identify the incompleteness of regulations in Ministerial Regulation Number 2 of 2018 concerning the Guidance and Supervision of Land Title Officials. The regulation does not concretely address the sources of funding and the honorarium entitled to those who perform additional duties to carry out the guidance and supervision required by the regulation. As a result, this lack of clarity may hinder the effective implementation of policies and lead to potential disparities in how Land Title Officials are compensated for their responsibilities. This research has a problem formulation in the form of, "How urgent is the regulation of funding sources in the coaching and supervision of Land Title Officials?" This type of research is normative juridical, with research approaches including the statute approach and conceptual approach. The research results indicate that there is an incompleteness in the regulations regarding funding sources and honorariums for the Supervisory and Supervisory Council of Land Title Officials, and the urgency of regulating funding sources is to create legal certainty, especially related to state financial regulations that require these rules to be strictly regulated.

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## INTRODUCTION

Guidance and supervision are integral parts of law enforcement itself (Dineu Raudhina Anwar and Agus Sudaryanto, 2021). Law enforcement is an effort to demonstrate that regulations function effectively and serve as behavioral guidelines within society, as well as to ensure legal protection for other members of the community (Titik Triwulan Tutik, 2006: 6). To enforce regulations, there are many efforts that can be made, such as conducting socialization through various media, providing guidance and supervision, and even imposing sanctions (Wicipto Setiadi, 2009: 604). Therefore, guidance and supervision have an important function, one of which is to ensure that a regulation functions properly by promoting compliance and understanding among the populace. This proactive approach not

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only strengthens community ties but also fosters a culture of accountability and respect for the law.

Guidance and Supervision of Land Title Officials are intended so that every regulation related to it can be truly implemented well by each Land Title Officials. Moreover, Land Title Officials directly interact with the community in providing legal services in the form of land rights management, especially related to land registration. This is very vital, especially concerning the birth and extinction of a person's rights and obligations over the land they possess, so that these legal events can often lead to bloody legal disputes, especially with the increasing value of land and the growing economic demand for land, making it more likely to cause disputes among individuals (Reda Manthovani and Istiqomah, 2017: 23). Therefore, the position of the Land Title Officials is a crucial one, especially in relation to the economic wheel of a country.

Regulations regarding the guidance and supervision of Land Title Officials can be found in the Minister of Agrarian Affairs and Spatial Planning/National Land Agency Regulation Number 2 of 2018 concerning the Guidance and Supervision of Land Title Officials (hereinafter referred to as Minister Regulation No. 2 of 2018). In this regulation, it is stipulated that the task of implementing guidance and supervision lies with the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency or the Minister in the field of land, which can then be delegated to the Head of the National Land Agency Regional Office at the provincial level and the Head of the Land Office at the district/city level, and finally can be delegated to the PPAT Supervisory and Guidance Council, hereinafter referred to as the supervisory and guidance council (Eka Marwahyuni Wira, 2020: 249). The guidance referred to can take the form of policy formulation related to the implementation of the duties of the Land Title Officials, providing instructions to stakeholders in the land sector, ensuring that the Land Title Officials performs their duties in accordance with the mandate of other relevant regulations, and ensuring that the Land Title Officials carries out their functions based on the professional code of ethics (Dian Prilia, 2022:10). The supervision can be carried out by monitoring the implementation of the duties of the Land Title Officials, especially by conducting direct inspections at the office of the concerned Land Title Officials (Miftahul Huda and Ani Suhaini, 2024: 16). It can also be conducted by investigating alleged violations up to the imposition of administrative sanctions if proven to have committed violations, where the regulations regarding the criteria for violations and the imposition of sanctions are included in the Appendix, which is an inseparable part of the Ministerial Regulation.

Ministerial Regulation No. 2 of 2018 has actually done quite well in regulating various matters necessary as a regulatory basis for the guidance and supervision of Land Title Officials. However, there are still some shortcomings, or more precisely, the incompleteness of regulations regarding the sources of funding and honorarium that someone performing additional duties to carry out these guidance and supervision functions is entitled to receive. This is in stark contrast to other similar public positions, such as notaries. In the Notary Supervisory Council regulated by the Minister of Law and Human Rights Regulation No. 16 of 2021 concerning the Organization and Work Procedures, Appointment and Dismissal Procedures, and Budget of the Notary Supervisory Council (hereinafter referred to as the Minister of Law Regulation No. 16 of 2021), the sources of funding and even the honorarium entitled to the supervisory task executors for Notaries are concretely regulated.

Several previous studies appear to be almost identical to the topic of this research, such as Ahmad Fadil Fakhari (2023), which focuses on the aspect of regulation implementation in the field related to the coaching and supervision of PPAT and to identify the less effective implementation obstacles. Then there is also the research by Miftahul Huda and Ani Suhaini (2024), which has similar characteristics to the previous research, focusing on the aspect of implementing regulations for coaching and supervision of Land Title Officials, but with the

research location in Mojokerto Regency. This research also has similarities with the study by Eka Marwahyuni Wira (2020), which also focuses on the aspect of regulation implementation in the field, particularly in the city of Payakumbuh.

Although this research has similarities in that it also discusses the topic of coaching and supervision of Land Title Officials, this research still has novelty, because the fundamental difference of this research compared to previous studies lies in its focus on the normative aspect, namely to identify the weaknesses in the Minister of Agrarian Affairs Regulation Number 2 of 2018, which is the incompleteness where there is no article that explicitly regulates the source of funding. Thus, due to the different type of research, as this study is a normative legal research rather than an empirical legal research like the three previous researchers, all research techniques, including the analysis techniques used, are also different, and so are the final results.

The Land Title Officials, who has very crucial duties and responsibilities because they are related to the birth and termination of a person's rights and obligations regarding land ownership, should be subject to proper and even very strict supervision and guidance, so as to reduce the potential for land disputes and material and non-material losses for the community. Based on this, it is certainly interesting to examine the urgency of regulating funding sources under the supervision of the Land Title Officials.

## **RESEARCH METHOD**

This research falls under the category of normative legal research, which employs two research approaches: the statute approach and the conceptual approach. The sources of legal materials in this research are divided into primary and secondary legal materials, where the primary legal materials come from several regulations such as the 1945 Constitution of the Republic of Indonesia, Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials, which has been amended by Government Regulation Number 24 of 2016, Ministerial Regulation No. 2 of 2018, and others. Meanwhile, secondary legal materials consist of legal theories and others that help clarify the primary legal materials. The technique for tracing legal materials used is in the form of library research. The technique for analyzing legal materials used is in the form of legal argumentation and analogy.

## **ANALYSIS AND DISCUSSION**

Indonesia, as an independent country, was formerly a colony of several countries in Europe, one of which ruled for a considerable time in the homeland of the Netherlands. This has implications for many aspects of life in the archipelago, one of which is the legal culture. Indonesia, as a former Dutch colony, has many legal systems derived based on the principle of concordance, namely the 'civil law' system or also known as 'continental law' (Rai Mantili, 2019: 301). This has a significant impact on the formation of the laws within it, especially one of its characteristics being that every regulation formed must be codified or concretely created first by the authorized institution as the regulatory body, or simply that the regulation must be made in the form of a law first before it is said to be binding for the public. In the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the Constitution), this is also emphasized, specifically in Article 1 Paragraph (3) which states, "The State of Indonesia is a legal state" (Haposan Siallagan, 2016: 132). The Constitution, as the fundamental basis of all existing laws and regulations in Indonesia, already implies the basic principle that a new norm/rule becomes applicable in Indonesia only if there is a law governing it first. However, the position of norms there is not limited to written legal rules alone, but also includes other norms, such as

religious norms, norms of decency, moral norms, and other norms as long as they are still alive and recognized by society and do not contradict other general moral norms.

If this is related to the issues in this research as outlined in the introduction above, it certainly raises something that can be discussed. In the Ministerial Regulation on the Guidance and Supervision of Land Title Officials, there is not a single article that states the source of funding or budget that can be used to implement the guidance and supervision policy. That phenomenon, from the perspective of legal theory, is referred to as 'legal incompleteness' (Vieta Imelda Cornelis and Susianto, 2005: 37). Legal incompleteness is a condition where a regulation already exists, but it does not fully regulate certain aspects, making the regulation require further refinement, which in this study is related to funding sources or budgets and also honorariums. Therefore, this research will be discussed in greater depth from the perspective of analysis using the theory of legal certainty, the theory of regulation formation, and the theory of state financial law.

To clarify the existing incompleteness, based on the type of legal material analysis technique in the form of legal analogy, the researcher attempts to compare the incompleteness of the regulations on the guidance and supervision of Land Title Officials with the regulations on the guidance and supervision of Notaries. The analogy is not without basis, but rather due to the similarity between the two positions, both of which are public officials authorized to create authentic deeds regarding certain legal acts. The Notary is related to legal acts in the civil field, while the Land Title Officials is also related to legal acts in the civil field but more specifically concerning land rights.

Additionally, both positions can be held by the same person as long as they meet the qualifications for each position and have the same office, namely at the Notary's office if they also hold the position of Notary. Therefore, the analogy that the Land Title Officials is similar to the Notary is an acceptable analogy, and the author here aims to show the existence of an 'incomplete norm' in this research, one of which is through a comparison with the Notary position. In the position of Notary, supervision and guidance are regulated by the Minister of Law Regulation No. 16 of 2021, where Article 39 stipulates the right of the Supervisory Council to receive honoraria in accordance with the provisions of the legislation regarding honoraria, which can be found in the Minister of Finance Regulation No. 32 of 2025 concerning Input Cost Standards for the 2026 Budget Year (hereinafter referred to as the Minister of Finance Regulation No. 32 of 2025).

Furthermore, Article 40 of the Minister of Law Regulation No. 16 of 2021 also regulates the source of financing for the supervision carried out by the Notary Supervisory Council, which is sourced from the Budget Implementation List in the General Administration Directorate General. Additionally, it is important to note one of the general principles in state finance, as outlined in the Constitution, the detailed regulations of which have been delegated to the Law, specifically Law Number 17 of 2003 concerning State Finance (hereinafter referred to as the State Finance Law), which contains several basic principles regarding state finance such as the annuality principle, universality, unity, and specificity (Paulina Y. Amtiran, 2020: 204).

In the principle of specificity, it means that every budget preparation in a state organization requires the formulation of articles in concrete terms that indeed necessitate expenditures for a specific item or purpose. Thus, the expenditure is purely due to the will of the legislation and no longer the subjective will of the head of the state organization/institution. In other words, the expenditure is legitimate and can be officially accounted for in the name of the state institution, not in the name of an individual. This (principle of specialty) when related to the conditions in the Minister of Agrarian Regulation No. 2 of 2018, which does not regulate funding sources, and when compared to the Notary Supervisory Council in the Minister of Law Regulation No. 16 of 2021, which fully regulates funding sources in the guidance and supervision of Notaries,

clearly indicates the existence of an incomplete norm. Therefore, this situation brings a legal implication in the form of legal uncertainty that has the potential to make the implementation of guidance and supervision of Land Title Officials less effective and efficient.

Legal certainty is an important principle, especially for Indonesia, which adheres to the civil law legal system, as mandated in its Constitution, which designates it as a state of law or also known as the rule of law. In Gustav Radbruch's view, legal certainty is characterized by four elements, namely the existence of legislation, based on facts, formulated in detail and concretely to avoid ambiguity or multiple interpretations, and the rules are not easily changed in the sense that there must be an authorized institution and can be changed through a specific mechanism (Mario Julyano and Aditya Yuli Sulistyawan, 2019: 15). Based on this, it is clear that the absence of regulations governing the sources of funding in the coaching and implementation means that the Minister of Agrarian Affairs Regulation No. 2 of 2018 does not sufficiently detail various matters that should be regulated, thus causing legal uncertainty.

The legal uncertainty in the guidance and supervision of Land Title Officials will have implications on various aspects. However, before delving deeper into this matter, if we examine the Minister of Agrarian Regulation No. 2 of 2018 in relation to the theory of legislative formation, according to Bagir Manan in Maria Farida, such a regulation must be issued by an official authorized to bind the public or certain parties, then the regulation contains specific rights, obligations, functions, and statuses, the regulation applies generally without referring to specific concrete events, and the regulation must be materially enforceable (Maria Farida Indrati Soepapto, 2012: 3). In the Minister of Agrarian Affairs Regulation No. 2 of 2018, there is no provision regarding the source of funding for the guidance and supervision of Land Title Officials, making its implementation difficult. This is due to the fact that the number of Land Title Officials that need to be supervised is around twenty-three thousand Land Title Officials. And all of these Land Title Officials are spread across various parts of the country, with one district/city having around 400 Land Title Officials (Rizal Rasyuddin, 2023, 3). That number is certainly very large, especially when considering the topography of Indonesia, which can include highlands and lowlands, as well as being an archipelago. Therefore, this certainly requires at least adequate accommodation to carry out the functions of guidance and supervision. Therefore, funding sources for the training and supervision of Land Title Officials are absolutely necessary to maximize that function.

A good rule is a regulation made based on strong reasons. A strong reason there can be in the form of philosophical, juridical, and sociological foundations. The philosophical foundation, when linked to the legal framework of the Indonesian nation-state, can simply be interpreted as a reason based on the worldview and legal ideals derived from Pancasila and the Constitution (M. Khozim, 2009: 14). As previously mentioned, Indonesia, as a state governed by law, requires that any matter must have a legal basis to create legal certainty. The requirements for legal certainty, as outlined by Bagir Manan above, include that the regulations must be concrete and clearly govern various matters, and when related to the State Finance Law, they must meet the principle of specificity or be explicitly stated as expenditure items that can use state finances. Considering that the function of coaching and supervising Land Title Officials is the task of the Minister of Agrarian Affairs, the source of financing in its implementation should certainly use state-sourced finances with the conditions regulated in the State Finance Law. Thus, philosophically, the Ministerial Regulation does not yet guarantee the aspect of legal certainty, which is the philosophical basis for the formation of regulations in Indonesia.

From a legal aspect, the regulation has a legal basis up to the highest rule, which in this case is the Constitution (King Faisal Sulaiman, 2017: 24). The Minister of Agrarian Regulation No. 2 of 2018, when traced hierarchically, is sourced from Article 33 Paragraph (3), which serves as the legal basis for land law in Indonesia, and is then detailed in Law No. 5 of 1960

concerning the Basic Agrarian Law (hereinafter referred to as the Basic Agrarian Law). Among other things, this regulation mandates the state's obligation to carry out land registration to ensure legal certainty, legal protection, and orderly land administration related to land rights in Indonesia. Which is then further regulated in Government Regulation Number 24 of 1997 concerning Land Registration in conjunction with Government Regulation Number 18 of 2021 (hereinafter referred to as the Government Regulation on Land Registration). In Article 6 Paragraph (2) of the government regulation, it grants some authority to the Land Title Officials to assist in the land registration process. Furthermore, Article 33 of Government Regulation Number 37 of 1998 concerning Land Title Officials in conjunction with Government Regulation Number 24 of 2016 (hereinafter referred to as the Government Regulation on Land Title Officials), states that the Minister conducts guidance and supervision of Land Title Officials, which led to the issuance of Minister of Agrarian Regulation Number 2 of 2018. Thus, from a legal perspective, the ministerial regulation is quite adequate.

From a sociological aspect, or simply put, it can be seen as fulfilling the needs of society (John Kenedi, 2016). As is known, the number of deeds made by Land Title Officials (PPAT) continues to increase, as can be seen from the data of the Central Statistics Agency. For example, in the Central Java province, in 2014, it only reached around 150 thousand deeds, then jumped significantly in 2025 to around 391 thousand deeds, or in just over a decade, it has increased by more than double (Central Java Central Statistics Agency). This indicates that the demand for deeds made by PPAT continues to rise. Along with this, the number of PPAT also continues to increase, with the latest data showing around 23 thousand. However, in addition to the continuously increasing demand from the public for Land Title Officials' certificates, the community is still haunted by various land disputes for various reasons, with data from 2025 showing there are still 1,736 land disputes (Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, 2025: 83). That figure is certainly very serious, especially when we consider the potential material and non-material losses incurred due to these land disputes. Therefore, in addition to the Government needing to build legal awareness regarding land issues, it would also be beneficial to strengthen the role of Land Title Officials through the guidance and supervision functions of the Land Title Officials Supervisory Council, one of which includes concretely regulating the funding sources for such guidance and supervision.

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If viewed from the aspect of legislative formation according to Law Number 12 of 2011 on the Formation of Legislation, jo. Law Number 15 of 2019, jo. Law Number 13 of 2022 (hereinafter referred to as the Law on the Formation of Legislation), mandates that every good

legislative formation process must adhere to principles, one of which is the principle of utility and the principle of feasibility (Hizkia Sitorus, et al., 2024). Additionally, if viewed from the general principles of good governance, such as legal certainty, utility, accuracy, and good service (Muhammad Fakhurrahman Arif, 2023: 58), as regulated in Law Number 30 of 2014 concerning Government Administration (hereinafter referred to as the Government Administration Law), the government, in this case represented by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, should formulate a more concrete and detailed policy to ensure effective guidance and supervision of Land Title Officials. After all, the services provided by Land Title Officials to the public will directly prevent potential land disputes, making the role of the Ministry of Agrarian Affairs as the regulator very important in refining the existing regulations, especially Ministerial Regulation Number 2 of 2018.

## **CONCLUSION**

The conclusion that can be drawn from the various problem descriptions and discussions above is that there has been an incomplete norm in the Minister of Agrarian Affairs Regulation Number 2 of 2018 concerning the Guidance and Supervision of Land Title Officials. The incompleteness lies in the absence of provisions regarding the sources of funding and honorarium for the Supervisory and Supervisory Council of Land Title Officials. This creates legal uncertainty as mandated by Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the principle of specificity in the State Finance Law, which emphasizes that the type of expenditure for a specific item must be clearly stated in the legislation. Therefore, if it is not explicitly stated, state funding for conducting guidance and supervision cannot be carried out, and this will certainly affect the effectiveness of its implementation.

The urgency of regulating funding sources in the training and supervision of Land Title Officials can be viewed from various aspects. First, from a philosophical aspect, the state is obliged to provide legal certainty in the implementation of land registration, ensuring that land rights are free from any potential disputes. Second, from a juridical aspect, the rules for the training and supervision of Land Title Officials are mandated by higher regulations, thus they must be implemented to the best of their ability. Third, from a sociological aspect, the demand for authentic land deeds continues to increase, yet the community remains concerned about potential disputes that could threaten their legitimate land rights. This necessitates the strengthening of the role of Land Title Officials through training and supervision. In addition, from the aspect of the Law on the Formation of Legislation, namely from the principles of legal certainty and utility, as well as based on the principles of accuracy and good service, the Ministry of Agrarian Affairs should be able to improve the regulations to better ensure the enhancement of the competence of Land Title Officials, thereby reducing the potential for land disputes.

## **AUTHOR CONTRIBUTION**

AR acts as the main author with the obligation to conduct research and formulate it into this research article. MHM contributed by providing insights related to legal concepts and revising the writing of this research article. RIRS contributed by offering insights related to the legal practices of Land Title Officials in the field, as well as recommending the necessary data for this writing and refining the manuscript.

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Tentang Perubahan Kedua Atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-undangan (Lembaran Negara Republik Indonesia Tahun 2022 Nomor 143, Tambahan Lembaran Negara Republik Indonesia Nomor 6801).

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