

**IMPLEMENTATION OF THE REGULATION OF THE MINISTER OF
AGRARIAN AFFAIRS AND SPATIAL PLANNING/HEAD OF THE
NATIONAL LAND AGENCY OF THE REPUBLIC OF INDONESIA
NUMBER 14 OF 2024 CONCERNING THE ADMINISTRATION OF
LAND AFFAIRS AND REGISTRATION OF CUSTOMARY RIGHTS OF
CUSTOMARY LAW COMMUNITIES IN BANGAH CUSTOMARY
VILLAGE, BATURITI VILLAGE, BATURITI DISTRICT, TABANAN
REGENCY**

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Abstract

The recognition of customary land rights (Hak Ulayat) constitutes an important component of the Indonesian national agrarian legal system as stipulated in Law Number 5 of 1960 concerning Basic Agrarian Principles. Nevertheless, such recognition has not been fully accompanied by an administrative mechanism capable of ensuring legal certainty over customary land ownership. To address this issue, the Government enacted Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 14 of 2024 concerning Land Administration and Registration of Customary Land Rights. This study aims to analyze the implementation of the Regulation in Bangah Traditional Village, Baturiti District, Tabanan Regency and to identify the factors affecting its implementation. The research employed an empirical legal method using statutory, sociological, and conceptual approaches. Data were collected through interviews, observations, documentation, and literature studies and analyzed qualitatively. The results indicate that implementation has been conducted through the identification of indigenous communities, inventory of customary lands, verification of legal and physical data, institutional coordination, and land registration procedures. The implementation has been supported by government institutions and indigenous communities. Nevertheless, administrative limitations, insufficient supporting documents, limited human resources, and differences between customary law and the national land administration system remain significant challenges.

Keywords: Policy Implementation, Customary Land Rights, Indigenous Communities, Land Registration.

INTRODUCTION

Land is a natural resource of strategic importance to the life of the Indonesian nation, as it possesses not only economic value but also social, cultural, political, and religious significance. For customary law communities, land is not merely an object of ownership but a communal identity passed down through generations—an integral part of the community's very

existence. Therefore, regulations governing land rights must provide legal protection while respecting the status of customary law communities as legal subjects recognized by the Constitution.

Recognition of the customary communal rights (*hak ulayat*) of customary law communities is affirmed in Article 3 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles. This provision stipulates that the exercise of customary communal rights is recognized insofar as such rights exist in reality and their exercise does not conflict with national interests or prevailing laws and regulations. This recognition is further reinforced by Article 18B, Paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which affirms that the state recognizes and respects customary law community units and their traditional rights.

Despite normative recognition, the administration of customary land (*tanah ulayat*) continues to face various challenges. A significant portion of such land remains unregistered in the national land administration system, frequently leading to land disputes, overlapping claims, and legal uncertainty for customary law communities. This situation highlights a gap between normative legal recognition and the actual implementation of policies on the ground.

To refine the national land administration system, the government issued Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024 concerning the Implementation of Land Administration and the Registration of Customary Land Rights (Hak Ulayat) of Customary Law Communities. This regulation marks a new milestone by establishing a mechanism for registering customary land through the granting of Management Rights (Hak Pengelolaan) to Customary Law Communities, thereby ensuring that communal rights gain administrative recognition and legal certainty. This subject matter forms the focus of this thesis research.

In Bali Province, the implementation of this policy possesses unique characteristics due to the existence of Desa Adat (Customary Villages)—communities governed by customary law that remain active and effectively uphold those traditions. Desa Adat Bangah, located in Baturiti District, Tabanan Regency, is one such village that has begun the administrative process for recognizing ulayat (customary communal) land rights in accordance with the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 14 of 2024. This process requires synergy among the government, the Land Office, and customary institutions to achieve the goal of providing legal certainty regarding ulayat land.

This research is significant as it provides an empirical overview of the implementation of the latest land policies and identifies the factors that facilitate or hinder their execution, serving as a basis for government evaluation regarding the administration of land based on customary law communities.

METHODS

This study is an empirical legal research project that examines the practical implementation of the law by analyzing the behavior of implementing officials and the customary law community, as well as the applicable legal provisions. An empirical legal research approach was selected because the study goes beyond merely analyzing the legal norms contained in the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024; it also evaluates how these provisions are applied in land administration within the Bangah Customary Village. This approach enables the researcher to gain insight into the effectiveness of land policy implementation based on actual conditions in the field.

The approaches employed include the statute approach, the socio-legal approach, and the conceptual approach. The statute approach is used to examine the legal provisions governing the customary land rights of indigenous legal communities, while the socio-legal approach is utilized to understand policy implementation in the context of indigenous community conditions. Meanwhile, the conceptual approach is applied to examine theories regarding the rule of law, legal certainty, law enforcement, and legal protection, serving as the analytical framework for the research.

The research data consists of primary data obtained through interviews with officials from the Tabanan Regency Land Office, the (Customary Village Head) of Bangah, the Prajuru Desa Adat (Customary Village Council), and members of the customary law community. Secondary data was obtained through a literature review comprising Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Government Regulation Number 24 of 1997 concerning Land Registration, Regulation of the Minister of ATR/BPN Number 14 of 2024, Bali Provincial Regulation Number 4 of 2019 concerning Customary Villages in Bali, as well as scholarly books, legal journals, and findings from previous research.

Data analysis was conducted qualitatively through the stages of data reduction, data display, and conclusion drawing, as outlined by Miles and Huberman. This analytical technique was employed to gain an overview of the implementation of land policy and the factors influencing its success.

RESULTS AND DISCUSSION

Implementation of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) Number 14 of 2024 regarding the Administration of Customary Land Rights

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024 establishes an administrative mechanism for the customary land rights (hak ulayat) of customary law communities. This regulation serves to strengthen state recognition of the existence of customary law communities, as guaranteed under Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia and Article 3 of the Basic Agrarian Law. Conceptually, policy implementation is the process of executing legal norms to achieve the objectives set by policymakers. According to George C. Edward III, the success of policy implementation is influenced by communication, resources, the disposition of implementers, and bureaucratic structure. These four factors are also evident in the implementation of ATR/BPN Ministerial Regulation Number 14 of 2024 in Tabanan Regency.

Based on research findings, the Tabanan Regency Land Office has carried out the various administrative stages stipulated in the Regulation of the Minister of ATR/BPN Number 14 of 2024. These stages began with identifying the existence of an indigenous legal community meeting the requirements as a legal subject, followed by an inventory of customary land, verification of physical and juridical data, mapping of the customary territory, and coordination with the local government and the Bangah Customary Village prior to the registration process for customary land rights. These stages demonstrate that the implementation of the regulation has proceeded in accordance with national land administration mechanisms.

This implementation also reflects a paradigm shift within the national land administration system. While customary land previously relied largely on sociological recognition, the issuance of Minister of ATR/BPN Regulation Number 14 of 2024 has reinforced this recognition through formal land administration, thereby providing legal certainty to customary law communities.

According to interviews with officials from the Tabanan Regency Land Office, the implementation of this regulation provides a clearer legal basis for recording customary land rights, as administrative procedures have been detailed—ranging from the identification of customary law communities to the issuance of management rights as a form of communal

tenure. This successful implementation is attributed to effective coordination among the Tabanan Regency Land Office, the Tabanan Regency Government, and the Bangah Customary Village. Such synergy is a crucial factor in ensuring the validity of both physical and juridical data used as the foundation for land administration.

Stages of Land Administration and Registration of Customary Land Rights

The administration of customary land rights (*hak ulayat*), as stipulated in the Regulation of the Minister of ATR/BPN Number 14 of 2024, is carried out through several interconnected stages.

1. The first stage involves identifying the existence of an indigenous customary law community as a legal subject. This identification is based on the presence of an indigenous community that remains active and possesses customary territory, customary governance institutions, and customary law that is still observed, as well as a strong connection to its customary land (**wilayah ulayat**). This stage serves as the basis for determining whether an indigenous community meets the requirements to obtain recognition regarding land administration.
2. The second stage involves the inventory of customary land (**hak ulayat**) objects. This inventory is conducted by gathering data on territorial boundaries, the history of land tenure, land use, and the social function of customary land. In practice, the inventory is carried out collaboratively by the Land Office, the local government, and the officials of the Bangah Customary Village, ensuring that the data obtained reflects actual conditions on the ground.
3. The next stage involves administrative verification and mapping. This stage entails the examination of customary documents, *awig-awig* (customary regulations), *pararem* (customary decrees), minutes of customary deliberations, and other supporting data. Subsequently, land parcel measurement and mapping are conducted using the national land information system so that territorial boundaries can be delineated on a registration map.
4. The final stage involves the granting of Management Rights in the name of the Customary Law Community, serving as a form of state recognition of the community's communal control over the land. With the issuance of these Management Rights, the customary law community gains both legal certainty and legal protection regarding its customary territory.

According to Boedi Harsono, land registration is a primary instrument for establishing legal certainty in the land sector, as it provides certainty regarding the subject, object, and legal

status of a parcel of land. Therefore, the administrative mechanism stipulated in the Regulation of the Minister of ATR/BPN Number 14 of 2024 serves as a strategic measure to mitigate future land conflicts.

The Role of the Land Office, Local Government, and Customary Villages in the Implementation of Customary Land Rights Registration

The implementation of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024 depends not only on the existence of the regulation itself but is also influenced by the synergy among various institutions authorized to administer land affairs. Research conducted in Bangah Customary Village indicates that the policy's implementation involves the Tabanan Regency Land Office, the Tabanan Regency Government, Bangah Customary Village, and the customary law community as the holders of customary land rights (*hak ulayat*). These findings align with the discussion in the thesis regarding the roles of the various parties involved in the registration of customary land.

1. The Role of the Tabanan Regency Land Office

The Tabanan Regency Land Office plays a central role in administering land affairs. Its authority encompasses identifying rights holders, inventorying customary land rights (*hak ulayat*), collecting physical and legal data, surveying and mapping land parcels, conducting administrative verification, and issuing administrative decisions in accordance with the provisions of the Minister of ATR/BPN Regulation Number 14 of 2024. In carrying out these duties, the Land Office also provides guidance to customary law communities regarding the administrative requirements that must be met prior to the registration process. Such guidance is crucial, given that many community members do not yet fully understand the modern land administration mechanisms, which mandate the submission of complete formal documentation.

Interviews with officials from the Tabanan Regency Land Office indicate that the registration process for customary land is not solely focused on issuing Management Rights ; it also aims to establish legal certainty regarding customary territories, thereby minimizing the potential for future land disputes. According to Boedi Harsono, land administration serves as a state instrument for guaranteeing legal certainty regarding land rights through a registration system that provides clarity concerning the subject, object, and legal status of a specific plot of land. Therefore, the successful implementation of ATR/BPN Ministerial Regulation Number 14 of 2024 depends heavily on the professionalism of the Land Office as the policy implementer.

2. The Role of Local Government

The Tabanan Regency Government plays a coordinating role in the administration of customary land rights (*hak ulayat*). This coordination is realized through facilitating the recognition of customary law communities, providing administrative territorial data, ensuring alignment with regional development policies, and coordinating across various regional government agencies. The role of the local government is crucial, as the recognition of customary law communities involves not only land-related aspects but also regional governance, cultural preservation, and the protection of indigenous communities.

In Bali, this coordination is further strengthened by Bali Provincial Regulation Number 4 of 2019 concerning *Desa Adat* (Customary Villages), which legitimizes the status of the *Desa Adat* as a customary law community unit possessing ancestral rights, traditional rights, and the authority to govern its customary territory. Consequently, the implementation of the Regulation of the Minister of ATR/BPN Number 14 of 2024 cannot be separated from the local government policy that recognizes the existence of the *Desa Adat* as a legal subject.

3. The Role of Bangah Customary Village

The Bangah Customary Village is a key actor in the implementation process, as the entire land administration process originates from the existence of the customary law community itself. The role of the Customary Village includes:

1. identify members of the customary law community;
2. establish customary territorial boundaries based on *awig-awig* (customary rules) and the history of land tenure;
3. facilitate customary deliberations;
4. provide customary documentation to serve as a basis for land administration;
5. assist in the process of inventorying customary land (*ulayat land*);
6. ensure that the land being registered is indeed communal land belonging to the customary community.

In practice, the *Bendesa Adat* (Customary Village Head) and the *Prajuru Desa Adat* (Customary Village Council) serve as liaisons between the community and the Tabanan Regency Land Office, ensuring that administrative processes comply with state law without disregarding enduring customary legal values. According to I Made Suwitra, the *Desa Adat* (Customary Village) in Bali is a customary legal institution with the authority to regulate customary land based on ancestral rights; consequently, its existence must be an integral part of every land policy in Bali.

Factors Influencing the Implementation of ATR/BPN Ministerial Regulation Number 14 of 2024

The implementation of a public policy is influenced by various interconnected factors. Research findings indicate that both supporting and inhibiting factors determine the effectiveness of implementing ATR/BPN Ministerial Regulation Number 14 of 2024 in Bangah Customary Village. According to Soerjono Soekanto, the effectiveness of law enforcement is influenced by five factors: the law itself, law enforcement officials, facilities and infrastructure, the community, and legal culture. The theory is relevant for analyzing the implementation of land policy in this study.

1. Supporting Factors

a. Existence of a Clear Legal Basis

The issuance of ATR/BPN Ministerial Regulation Number 14 of 2024 provides certainty regarding the administrative mechanisms for ulayat (customary) land rights, which had not previously been regulated in detail. This regulation serves as a guideline for all stakeholders in carrying out the ulayat land registration process.

b. Commitment of the Tabanan Regency Land Office

The Land Office demonstrates a strong commitment through administrative support, data verification, and coordination with Customary Villages. This commitment accelerates the administrative process while simultaneously boosting public trust in the government.

c. Customary Village Support

The successful implementation is inseparable from the active participation of the Bendesa Adat (Customary Village Head) and the Prajuru Desa Adat (Customary Village Board), who facilitated the inventory process for customary land, the provision of customary documents, and the resolution of various issues arising during the administrative process.

d. Participation of Customary Law Communities

The community has shown considerable enthusiasm, recognizing that the registration of customary land (ulayat) provides legal certainty and protection for communal assets that have been passed down through generations. According to George C. Edward III, effective communication and the disposition of implementers are key factors in successful policy implementation. This is evident in the effective coordination among the Land Office, the local government, and the Bangah Customary Village.

2. Inhibiting Factors

a. Limitations of Customary Administrative Documents

Most customary lands lack the written documentation required by modern land administration systems. Evidence of land tenure relies largely on oral history, customary regulations, and traditional agreements, thereby necessitating a more extensive verification process.

b. Differences in Perspective between Customary Law and National Law

Customary law recognizes communal land tenure based on historical and religious ties, whereas the national land administration system requires certainty regarding boundaries, rights holders, and the objects of rights. This divergence in paradigms often gives rise to difficulties in the administrative process.

c. Low Level of Public Understanding

There are still members of the community who believe that registering customary land (ulayat) will diminish customary authority over communal land. This perception necessitates ongoing outreach to ensure the community understands that registration actually provides legal protection for customary land.

CONCLUSION

Based on the research findings regarding the implementation of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 14 of 2024 concerning Land Administration and the Registration of Customary Rights Land (Hak Ulayat) of Customary Law Communities in Bangah Customary Village, Baturiti Village, Baturiti District, Tabanan Regency, several conclusions can be drawn as follows.

1. First, the implementation of ATR/BPN Ministerial Regulation Number 14 of 2024 has been carried out in accordance with the land administration stages stipulated therein. The process began with the identification of customary law communities and the inventory of customary land (tanah ulayat), followed by the verification of physical and juridical data, the mapping of customary territories, coordination with local governments and the Customary Village (Desa Adat), and finally, the registration of customary land under the Management Right (Hak Pengelolaan) scheme. This implementation demonstrates the government's commitment to providing legal certainty regarding the customary land of customary law communities through the national land administration system. It also reflects state recognition of the existence of customary law communities, as mandated by Article 18B paragraph (2) of the 1945

Constitution of the Republic of Indonesia, Article 3 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, and ATR/BPN Ministerial Regulation Number 14 of 2024. This implementation aligns with the research objectives of the thesis.

2. Second, the effectiveness of the implementation is influenced by various supporting and inhibiting factors. Supporting factors include the existence of regulations providing legal certainty, the commitment of the Tabanan Regency Land Office, effective coordination between the local government and Bangah Customary Village, and the active participation of the customary law community. Conversely, inhibiting factors include limited customary administrative documentation, a divergence in paradigms between customary law and the national land administration system, limited human resources, a land information system that is not yet optimal, and a low level of public understanding regarding the customary land registration mechanism. Therefore, the successful implementation of the policy depends not only on the quality of the regulations but also on institutional readiness, the community's legal culture, and the effectiveness of inter-agency coordination.

Suggestion

Based on the results of the study, the author offers the following suggestions.

1. Local governments are expected to strengthen coordination with the Land Office, the Customary Village Council, and customary villages during the process of inventorying customary territories. Local governments also need to establish an integrated database of customary law communities to ensure that the recognition and registration of customary land (*tanah ulayat*) can be carried out more swiftly, accurately, and transparently.
2. Customary law communities are expected to participate actively in the identification, inventory, and registration of customary land rights, as well as to safeguard communal land as a shared asset holding social, cultural, religious, and economic value for future generations.

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