



Appointment of Catholic Church Bodies as Legal Entities Capable of Owning Land Rights: Juridical Analysis Based on Hans Kelsen's Theory of Legal Rights

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Abstract

This study analyzes the Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/PNJ/KEM-ATR/BPN/VI/2024 concerning the Appointment of Catholic Church Bodies in the Territory of Indonesia as Legal Entities that Can Have Land Ownership Rights. This study aims to determine the implementation of the granting of land ownership rights for Roman Catholic Church bodies in Indonesia based on the applicable appointment. The analysis was carried out using Hans Kelsen's legal rights theory, which emphasizes the importance of law in protecting the rights of citizens and providing legal certainty for each individual. The results of the study indicate that the decision provides legal certainty for Catholic Church bodies to have land ownership rights used for religious and worship purposes. This study also provides suggestions for developing the authority to implement the decision and creating implementation guidelines at the City and Regency Land Office levels. The findings indicate that the decree represents a significant step in formalizing the legal status of church-owned properties while maintaining the state's regulatory oversight. The study concludes by recommending further policy refinements to ensure smooth implementation at regional levels and suggests areas for future research on the socio-legal impacts of this regulatory change.

Keywords:

Land Ownership Rights, Catholic Church Body, Decree of the Minister of Agrarian Affairs, Hans Kelsen's Theory of Legal Rights

Introduction

Article 19 of the *Basic Agrarian Law Number 5 of 1960* regulates land registration, while Articles 20 and 21 regulate land ownership rights. According to Article 20, ownership rights are hereditary, the strongest, and most complete rights that a person can have over land, subject to certain conditions. Government Regulation of the Republic of Indonesia Number 18 of 2021, Article 1, paragraph 3, emphasizes that the owner manages the land under authority granted by the state. These ownership rights can then be transferred and assigned to other parties. Meanwhile, Article 21 stipulates that only Indonesian citizens can own land ownership rights, and the government can designate legal entities that can own ownership rights under certain conditions.

Article 20 (1) states that ownership rights are hereditary, the strongest, and most complete rights that a person can own over land, subject to the provisions of Article 6. (2) Ownership rights can be transferred and assigned to other parties. Article 21 (1) provides that only

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Indonesian citizens can own ownership rights. (2) The government determines legal entities that can have property rights and the conditions thereof.

The purpose of land registration and the granting of ownership rights is to provide legal certainty for citizens. This guarantee is realized as a form of state protection for its citizens' land ownership rights. Article 19, paragraph (1), of the *Basic Agrarian Law Number 5 (UUPA)* stipulates that the government organizes land registration throughout the Republic of Indonesia to ensure legal certainty, with provisions stipulated in Government Regulations. The land registration process to obtain ownership rights involves several stages: land measurement and mapping, registration of land rights and the transfer of those rights, and the issuance of valid proof of ownership documents that serve as strong evidence.

Land registration and the granting of ownership rights aim to support the economic welfare of the community by utilizing and managing land effectively. Article 19, paragraph (3), emphasizes that land registration must take into account the state and community conditions, as well as socio-economic traffic needs. In this context, the government plays a crucial role in determining policies for granting land ownership rights to its citizens, in accordance with applicable regulations and considering community needs.

Land registration and the granting of ownership rights not only have economic value but also serve other important functions, such as meeting socio-religious needs, including those of Catholic Church legal entities. In this context, the Ministry of Agrarian Affairs and Spatial Planning has the authority to regulate and manage land, as well as provide effective legal certainty for individuals and bodies recognized by the government (cf. Piet Go, 2002:50). This authority is realized through the issuance of a decree of the Minister of Agrarian Affairs and Spatial Planning, which specifically provides recognition to Catholic Church bodies to have land ownership rights. Government Regulation No. 38/1963 Concerning the Appointment of Legal Entities that can have land ownership rights, Article 4, states: "Religious and social bodies can have ownership rights to land used for purposes directly related to religious and social endeavors" (Piet Go, 2002:49).

The Ministry of Agrarian Affairs and Spatial Planning, through the Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/PNJ/Kem-ATR/BPN/VI/2024, designated Catholic Church bodies in Indonesia to hold land ownership rights. This decree, entitled "*Appointment of Catholic Church Bodies in Indonesia as Legal Entities Capable of Holding Land Ownership Rights*," serves as a guideline for the implementation of land ownership rights for Catholic Church bodies.

Catholic Church bodies in Indonesia are an integral part of the Catholic Church, operating throughout the country, with unity forged through the *Indonesian Bishops' Conference (KWI)* (www.kawali.org/profil-kwi/accessed December 12, 2024). The KWI welcomed this decree with an appropriate and wise response. Based on this, the author is interested in examining the implementation of this decree in depth, as well as providing a critical analysis and normative legal review based on relevant legal principles.

This paper aims to examine the implementation of land ownership rights granted to Roman Catholic Church entities in Indonesia based on the applicable designation. This implementation serves as a practical, normative, legal guideline governing the rights of Catholic Church entities in Indonesia. Further analysis will be conducted using Hans Kelsen's

legal rights theory, which emphasizes the importance of law in protecting citizens' rights and ensuring legal certainty for every individual. Therefore, this paper will review and analyze the implementation of land ownership rights granted to Roman Catholic Church entities from the perspective of Hans Kelsen's legal theory.

Therefore, the author will analyze the implementation of land ownership rights in the *Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/Pnj/KEM-ATR/BPN/VI/2024* from a normative, legal perspective. Furthermore, Roman Catholic Church legal entities can implement this decree, and it is implemented by Roman Catholic Church entities. The implementation of these rights will be examined in more depth according to legal provisions.

Methods

The research method in this article is a qualitative approach with descriptive analysis (Rafiqi, Arie Kartika & Marsella, 2021:73). Data was obtained through a comprehensive literature study from various sources such as laws, regulations, official reports, academic journals, and books related to the performance of the theme discussed (Peter Mahmud Marzuki, 2005:133–140). The main source used for the research is the *Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/Pnj/KEM-ATR/BPN/VI/2024 Appointment of Catholic Church Bodies in the Territory of Indonesia as Legal Entities That Can Have Land Ownership Rights*. The researcher also uses the main ideas of Hans Kelsen's legal theory of legal rights in his works *General Theory of Law and State* and *Pure Theory of Law*. This research will also analyze secondary data that includes materials that support the theme. These were collected and analyzed using thematic methods to identify key patterns and themes relevant to the research objectives.

Results and Discussion

Discussion of Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/PNJ/Kem-ATR/BPN/VI/2024:

Analysis and Implications

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The Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia issued the "Appointment of Roman Catholic Church Bodies in Indonesia as Legal Entities Capable of Land Ownership Rights" (PBBGRK). The PBBGRK was determined by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, namely Agus Harimurti Yudhoyono. This decree applies to Roman Catholic Church Bodies in Indonesia. These bodies were outlined in Decree No. 23 of 2024 of the Director General of Catholic Community Guidance, Ministry of Religious Affairs of the Republic of Indonesia, dated February 15, 2024 (ARMA Law, 2023; i-Latinnotary, 2022; EEAS, 2018; Licas News, 2024).

The PBBGRK is addressed directly to the Director of the Office of the Indonesian Bishops' Conference (KWI), a federation of bishops in Indonesia that aims to foster unity and cooperation in providing services and leading Catholics in Indonesia. KWI consists of a collection of legal entities established in accordance with applicable regulations, both in the

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form of legal entities and foundations. (<https://www.kawali.org/profil-kwi/> accessed December 12, 2024)

The PBBGRK was established by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, Agus Harimurti Yudhoyono, on June 11, 2024. This decree designates and directs Catholic Church bodies in Indonesia to obtain land ownership rights, as well as instructions and guidelines that these bodies must follow.

Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 21/Pnj/KEM-ATR/BPN/VI/2024 stipulates that Roman Catholic Church bodies in Indonesia can own land. This provision states that the validity period for the designation is one year from the date of the decree. Catholic Church bodies are instructed to register the land they control or own, stating its status, location, area, and use, with the local Land Office, with a copy sent to the Minister of Agrarian Affairs and Spatial Planning. The PBBGRK (Ground Land Reclamation) clause (1) reads as follows:

"Within 1 (one) year from the date of this Decree, Roman Catholic Church Agencies in Indonesia must submit a list of the lands they control/own, stating the land's status, location, area, and use, to the Head of the local Land Office, with a copy to the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency and the Head of the local National Land Agency Regional Office."

PBBGRK stipulates that Roman Catholic Church Agencies may obtain land ownership rights, provided that the land is used for purposes directly related to religious endeavors and the implementation of religious activities, not for profit-making purposes. The use of religious endeavors and practices is stated in number 1 paragraph a.2), as follows:

"Land ownership rights may only be granted if the land is used for purposes directly related to religious endeavors and the implementation of its activities is not solely for profit-making." The granting of property rights is based on the religious use function within the Roman Catholic Church.

This designation also clarifies that government-recognized Catholic Church bodies include the Indonesian Confederation of Catholics (KWI), Archdioceses, Dioceses, Prefectures, Parishes, Stations, Seminaries/Colleges of Philosophy and Theology, Orders and Congregations of Monks and Nuns/Consecrated Life Orders/KOPTARI, and bodies or foundations that carry out religious functions within the Catholic Church, as outlined in the Attachment to Decree of the Director General of Catholic Community Guidance Number 23 of 2024 (ARMA Law. 2021; Kementerian Agama RI. 2024; Kementerian ATR/BPN. 2024). This decree provides certainty and clarity regarding the use of the names of government-recognized Catholic Church bodies. Furthermore, the PBBGRK also instructs the Head of the Land Office to record in the Land Register and the Property Rights Certificate any permits for the transfer of property rights (Roestamy et al. 2025).

The PBBGRK requires Roman Catholic Church bodies to request permission for the transfer of property rights from the official issuing the land rights granting decision, whether in part or in full, taking into account the land use function. If the Property Rights are not used for religious purposes, the Head of National Land Affairs or an appointed Official may revoke the Property Rights status of the land. PBBGRK has a strong binding force and must be implemented by Roman Catholic Church Agencies. With the enactment of PBBGRK, the Decree of the Director General of Agrarian Affairs and Transmigration, Ministry of Home

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Affairs Number 1/Dd AT/Agr/67 dated February 13, 1967 concerning Roman Catholic Church Agencies as Legal Entities that can Own Land with Property Rights, was revoked and declared no longer valid, so that PBBGRK became a new and valid stipulation.

The Legal Position of Catholic Church Bodies in Indonesia Regarding Ownership Rights to Land Based on the Applicable Hierarchy of Laws

According to Law of the Republic of Indonesia Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011 concerning the Formation of Legislation, the hierarchy of laws and regulations in Indonesia consists of:

1. The 1945 Constitution of the Republic of Indonesia
2. Decrees of the People's Consultative Assembly
3. Laws/Government Regulations in Lieu of Laws
4. Government Regulations
5. Presidential Regulations
6. Provincial Regulations
7. Regency/City Regulations

This is as regulated in Article 7 paragraph (1) of Law Number 12 of 2011. According to Maria Farida Indrati et al. (2023), the hierarchy of laws and regulations in Indonesia consists of several levels, namely:

1. The 1945 Constitution of the Republic of Indonesia
2. Decrees of the People's Consultative Assembly
3. Laws/Government Regulations in Lieu of Law
4. Government Regulations
5. Presidential Regulations
6. Provincial Regulations
7. Regency/City Regulations

This hierarchy demonstrates that the 1945 Constitution of the Republic of Indonesia holds supreme authority (Roestamy et al. 2025). Lower-level laws and regulations must not contradict higher-level laws. Indonesian laws and regulations are established by various institutions, including:

1. The People's Consultative Assembly (MPR)
2. The People's Representative Council (DPR)
3. The Regional Representative Council (DPD)
4. The Supreme Court
5. The Constitutional Court (MK)
6. The Supreme Audit Agency
7. The Judicial Commission
8. Bank Indonesia
9. The Minister
10. Agencies, institutions, or commissions of the same level established by law
11. The Provincial People's Representative Council (DPRD) and Regency/City DPRD
12. Governors, regents/mayors, village heads, or equivalent bodies

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concerning the Designation of Roman Catholic Church Bodies in Indonesia as Legal Entities Capable of Land Ownership is an implementing regulation subordinate to the Law and Government Regulations and has a clear position in the hierarchy of laws and regulations in Indonesia (Widiyono & Khan, 2023). This is seen based on the Republic of Indonesia Law Number 13 of 2022. Maria Farida Indrati et al., also revealed, "The MPR's Decree on the Sequence of Legislation in Indonesia, as follows Hans Nawiasky's Theory, states that laws in Indonesia are the highest regulations, serving as the source and basis for other laws and regulations below them" (2023: 4.17-5.14).

With the enactment of the PBBGRK by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, this regulation serves as a concrete implementation of the Basic Agrarian Law (UUPA) Number 5 of 1960, which regulates land-related rights and obligations in Indonesia. All officials under the Minister of Agrarian Affairs, from the central to the regional levels, are responsible for effectively implementing these provisions (Widiyono & Khan, 2023). Thus, the PBBGRK serves as a binding reference for Roman Catholic Church bodies throughout Indonesia in exercising their rights and obligations regarding land (Cammack (2023; LiCAS.news, 2024; Fenwick & Wrbka, 2016; Permen ATR/BPN 3/2023).

Analysis

The state guarantees land ownership rights for every citizen, including legal entities. Article 20 paragraph 2 stipulates that legal entities may own land under conditions determined by the government. The appointment of PBBGRK (Gross Property Property) by the Minister of Agrarian Affairs is an implementation of this provision, which aims to provide legal certainty for Roman Catholic Church bodies to own land ownership rights in accordance with applicable regulations.

The Roman Catholic Church obtains legal certainty when implementing the provisions stipulated in the PBBGRK, namely by using land for religious purposes and carrying out religious activities. Registration and administration of land ownership rights can be carried out through the Land Office in the area where the land is located. Land ownership rights are granted on the condition that the land is used for religious purposes, not for economic purposes.

According to the provisions, land ownership rights can only be granted if the land is used for purposes directly related to religious activities and not solely for profit. Therefore, the Head of the National Land Office or a designated official can revoke the ownership right status if the land is used for economic purposes, but can grant or maintain the ownership right status if the land is used for appropriate socio-religious purposes.

According to Hans Kelsen's legal theory, the state has an obligation to protect individual rights and impose sanctions for violations of regulations. In the context of PBBGRK, the Ministry of Agrarian Affairs and Spatial Planning is working to establish land ownership rights for Catholic Church entities as part of the state's legal obligation to protect the rights of its citizens. Therefore, granting property rights to Catholic Church entities is an implementation of the state's legal obligation to protect the rights of Catholics.

According to Hans Kelsen, recognition of individual or group interests is a societal need that must be protected by legal norms. In the context of the PBBGRK (Gross Land Retention Tax), Roman Catholic Church organizations, as Indonesian citizens, have the right to

guaranteed protection of land ownership rights used for social enterprises and religious services. The PBBGRK implements the state's obligation to protect community rights, including land ownership rights for Roman Catholic Church organizations.

The PBBGRK provides legal certainty for Roman Catholic Church organizations to own land ownership rights for religious and religious purposes. The Ministry of Agrarian Affairs and Spatial Planning, together with village and sub-district governments, city/district land offices, and regional land offices, supports the registration and granting of land ownership rights.

According to Hans Kelsen, legal rights foster the belief that everyone must comply with regulations and be prepared to face sanctions for their actions. The PBBGRK also imposes strict sanctions on Roman Catholic Church organizations that do not use land for religious purposes and religious services. Thus, the PBBGRK guarantees the protection of property rights and regulates land use in accordance with applicable regulations.

Conclusion

The conclusion of this study is that *PBBGRK* serves as a guide for Catholic Church bodies to obtain land ownership rights, provided that the land is used for religious purposes and Catholic religious worship activities. Based on Hans Kelsen's Theory of Legal Rights, *PBBGRK* provides guaranteed protection for land ownership rights and can impose sanctions if land use is not in accordance with the interests of religious enterprises and worship. *PBBGRK* also ensures legal certainty by safeguarding the process of obtaining land ownership rights and verifying that land use aligns with religious aims. Moving forward, future research could delve into comparative studies of similar regulations in other countries, assess the socio-legal impact of the decree on communities, or explore implementation challenges faced by local authorities and religious institutions. Additionally, applying alternative legal theories or proposing policy enhancements could further optimize the decree's effectiveness and fairness. Such contributions would not only refine Indonesia's land management policies, but also strengthen the balance between legal norms and societal needs.

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