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Implications of public interest for the implementation of the registration of transfers of land rights due to inheritance by the Land Office

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Abstract

The registration of transfers of land rights due to inheritance plays a crucial role in the Indonesian land law system. The Regulation of the Government of the Republic of Indonesia No. 24 "On Land Registration" established two mechanisms for this process: the Deed of Joint Right Division and the Deed of Inheritance Property Division. This study aimed to analyse the factors

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that contribute to the reluctance of Land Offices to accommodate the Deed of Inheritance Property Division as a valid option for inherited land registration. A socio-legal research method was employed, involving interviews with Land Office officials and a review of relevant legal documents. It was found that, in practice, these regulations are not implemented consistently across all Land Offices, with some offices only recognising the Deed of Joint Right Division as a valid registration instrument. This inconsistency leads to administrative inefficiencies and financial burdens for the public, including prolonged procedures and double taxation due to the mandatory name change prior to the division of inheritance rights. Additionally, this study examined the impact of this practice on administrative efficiency and legal certainty for the public. The findings revealed that discrepancies in regulatory implementation across different Land Offices result in procedural inconsistencies in inherited land registration. The Jember Regency Land Office, for example, prioritises the Deed of Joint Right Division over the Deed of Inheritance Property Division on the grounds of legal prudence, despite existing regulations permitting both mechanisms. The study confirmed that registration using the Deed of Inheritance Property Division was more efficient, as it requires only a single administrative stage and prevents double taxation. From the perspective of Jeremy Bentham's utilitarian theory, the Land Office's restriction of registration options does not fully maximise public benefit. To enhance efficiency and legal certainty in Indonesia's land administration system, policy harmonisation is essential. A more flexible approach should be adopted to ensure that individuals have the freedom to select the inheritance land registration mechanism best suited to their needs and circumstances

Keywords: inherited land registration; joint right division; inheritance property division; land and building acquisition duty; legal certainty

Introduction

The issue of the transfer of land rights due to inheritance is highly relevant, as it directly impacts legal certainty, administrative efficiency, and financial burdens on heirs. Although the Regulation of the Government of the Republic of Indonesia No. 24 "On Land Registration" (1997) provides two mechanisms for registration – the Deed of Division of Inheritance (APHW) and the Deed of Division of Joint Rights (APHB) – inconsistent implementation across Land Offices has created significant obstacles for the public. Some Land Offices require heirs to first transfer ownership collectively before dividing the land, despite the regulation allowing a direct transfer to a single heir. This additional administrative step increases the time and financial costs for heirs, often requiring them to pay extra taxes and undergo

lengthy bureaucratic procedures. The lack of uniformity in the application of land registration laws not only contradicts the principle of legal certainty but also imposes unnecessary burdens on individuals navigating inheritance processes. Addressing these inconsistencies is crucial to ensuring that land registration practices align with the legal framework and serve the best interests of the public. Therefore, this research is essential for identifying the root causes of these discrepancies and proposing policy recommendations to enhance efficiency and fairness in the registration of inherited land rights.

Previous studies have examined various aspects of land rights registration and inheritance, both in Indonesia and other countries. For instance, a study explored the implementation of

a participatory approach in land administration in Indonesia through the Complete Systematic Land Registration Programme, which has been shown to enhance the efficiency and accuracy of land certification data. Another study compared land regulations in Indonesia and the Netherlands, demonstrating that despite adopting different approaches, both countries face similar challenges in land ownership disputes (Roestamy *et al.*, 2022).

Several previous studies have addressed issues related to the implementation of regulations on the registration of transfers of land rights due to inheritance. Research has highlighted disparities across the application of policies in various Land Offices, some of which require all heirs to first carry out a collective name transfer process before the division of rights can take place. This adds an administrative and financial burden on the public, contradicting fundamental principles of land registration, such as simplicity, affordability, and transparency. A study by J. Clementine and M.F.M. Putra (2023) found that an informal inheritance division letter can serve as the basis for the transfer of land rights as long as it complies with the provisions set out in the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia No. 16 (2021) (PMNA). However, this research also highlights that such a letter lacks the legal force authority of an authentic deed, meaning that if a signature is disputed, its validity may be challenged. For this reason, notarisation is considered a preventive measure to strengthen legal certainty in inherited land registration (Clementine & Putra, 2023). Meanwhile, H. Habibah (2022), in her study on the implementation of the registration of transfers of land rights due to inheritance at the Makassar City Land Office, found that registration can be completed with only a statement letter from the heirs appointing one of them as the rightful holder, without

the need for legal proceedings before a land deed official (PPAT). In practice, the transfer of rights can be directly registered at the Land Office without the need to follow the APHW or APHB mechanism, making the process administratively simpler and more efficient.

From these two studies, a gap in the research can be identified, which justifies this study. J. Clementine and M.F.M. Putra (2023) highlighted the legality of documents used as the basis for transferring inherited land rights, while H. Habibah (2022) focused on policy implementation at the Land Office level, which varies between regions. However, neither study has discussed in depth how inconsistencies in policy implementation impact the broader public interest. In addition, no previous research explicitly compares policies across various Land Offices in a single comprehensive study or examines their impact from the perspectives of legal certainty, administrative efficiency, and financial burden on the public. A study by S.L. Nugroho *et al.* (2024) highlights the legal implications of oral agreements preceding the formalisation of grant deeds, demonstrating the importance of official documentation in ensuring legal certainty and preventing disputes in land transactions.

Several international studies have also addressed similar issues in a broader context. D.A. Ali *et al.* (2021), in their research on land registration in Rwanda, found that although the country had successfully registered land on a national scale for the first time, the majority of land transactions in rural areas (87%) remained informal due to high costs and a lack of awareness regarding the importance of registering subsequent transactions. Similarly, R. Biddulph and E. Hillbom (2020), in their study of Tanzania, showed that despite the demand for land titling, complex registration procedures and high costs resulted in many transactions remaining unregistered, leading to uncertainty regarding the legal

status of land and exacerbating potential conflicts. Meanwhile, K.O. Asiama *et al.* (2019) examined the challenges of land consolidation in Ghana, emphasising the importance of accounting for social and cultural factors in land registration policies involving customary land.

Through this literature review, this study aimed to fill the existing gap by analysing the impact of inconsistent policies on the registration of the transfer of inherited land rights and offering solutions to improve legal certainty, administrative efficiency and reduce financial burdens. This study examines registration policies at various Land Offices, compares practices across several regions, and identifies factors that hinder the effective implementation of these policies.

An analysis of previous research reveals a gap between legal provisions and actual practices in the procedure for registering the transfer of land rights due to inheritance. As R. Rahmi and S. Sudjito (2020) found, this practice contradicts the principles of efficiency and legal certainty mandated by the Regulation of the Government of the Republic of Indonesia No. 24 (1997) and PMNA No. 16/2021 (2021). Therefore, this research aimed to fill a gap in academic studies, which have not sufficiently examined the misalignment between the implementation of this regulation and its underlying legal principles.

This study aimed to identify the key factors contributing to inconsistent registration of land transfers by way of inheritance and to provide policy recommendations for bringing the practice of land authorities in line with the current legal framework. Research objectives were to:

- 1) analyse the legal, administrative, and technical factors that contribute to the reluctance of Land Offices to fully implement the APHW following Article 42 (4) of the Regulation of the Government of the Republic of Indonesia No. 24 (1997);

- 2) evaluate the impact of policy inconsistencies on the public, focusing on administrative

obstacles, financial burdens, and legal uncertainty faced by heirs during the land rights transfer process;

- 3) develop policy recommendations to improve land registration practices, ensuring efficiency, affordability, and legal certainty for the public.

Materials and Methods

This study used the socio-legal method as conceptualised by I. Atikah *et al.* (2024), with a qualitative approach to examine inconsistencies in the implementation of regulations governing the registration of land rights transfers due to inheritance at various Land Offices, focusing on Jember Regency and Malang City. This method combines normative legal analysis with an empirical approach, involving interviews with Land Office officials. The approach was chosen due to a gap between the normative legal framework and its practical implementation, which results in variations in land administration policies across different regions.

The conceptual framework of this study was based on Jeremy Bentham's utilitarian theory, which states that a policy should provide the greatest benefit to society (Pratiwi *et al.*, 2022). In this context, the study evaluated whether the preference for the APHB over the APHW by Land Offices truly provides greater benefits or instead adds administrative and financial burdens on the public. This research relied on two main categories of sources: primary and secondary legal sources. The primary sources included legal and regulatory documents, such as the Regulation of the Government of the Republic of Indonesia No. 24 (1997), which serves as the principal legal foundation for registering the transfer of inherited land rights. Additionally, PMNA No. 16 (2021) outlines the mechanisms for inheritance distribution and the administrative procedures required for land registration. Another primary source was interviews with Land Office officials. To gain insight into the administrative challenges applicants face when

registering inherited land, in-depth interviews were conducted with ATR/BPN employees at the Jember Regency and Malang City Land Offices. The secondary sources included academic literature, such as journals and scientific articles discussing the registration of inherited land and administrative barriers within Indonesia's land system.

This study employed a statutory approach, an empirical approach, and qualitative data analysis. The statutory approach analysed legal frameworks, including the Regulation of the Government of the Republic of Indonesia No. 24 (1997) and PMNA No. 16 (2021), to ensure consistent legal application across Land Offices. The empirical approach included interviews with Land Office employees and case studies in Jember Regency and Malang City to assess regulatory implementation and challenges faced by the public. Surveys were conducted using in-depth (Fadhallah, 2021; Probe, 2022) and semistructured (Recruiteuse, 2024) interviews with ATR/BPN officials, notaries, and PPAT officials, focusing on procedures, policy variations, and obstacles in land registration. The Delphi method was applied in two stages to refine expert opinions on these challenges. All research adhered to ethical guidelines set by ICC/ESOMAR (2016), ensuring transparency, respondent privacy, and compliance with international ethical standards. Informed consent was obtained, and confidentiality was strictly maintained. Data analysis was conducted using qualitative descriptive methods, organising findings into key themes such as policy discrepancies and administrative barriers.

Results and Discussion

Dominant factors in the implementation of land rights transfer registration due to inheritance without using APHW. The registration of land rights transfers due to inheritance is part of the management of land registration data, which aims to ensure that the information contained in

land certificates remains accurate and reflects current ownership conditions. This process not only establishes legal validity for the heirs but also prevents potential disputes arising from discrepancies between the juridical data in the certificate and the actual ownership status. Therefore, an effective and efficient land registration system is crucial to supporting legal certainty for heirs.

In the context of inheritance-based land rights transfers, the Regulation of the Government of the Republic of Indonesia No. 24 (1997) establishes two mechanisms for registration, as outlined in Article 42, Paragraphs (4) and (5). These mechanisms represent two primary approaches to registering inherited land rights. The first approach involves the use of the APHW. According to Article 42, Paragraph (4) of the Regulation, land rights can be directly transferred to a single heir through an APHW issued by a notary. This deed serves as official proof that all heirs have agreed to transfer the land rights to one designated heir, allowing for immediate registration without requiring a prior name transfer to all heirs. The second approach relies on the APHB. As stated in Article 42, Paragraph (5) of the Regulation, if the inherited land must be divided among multiple heirs, or if no inheritance division deed exists at the time of registration, the land rights are first registered under the names of all heirs as joint owners. Under this mechanism, the name change must first be applied collectively before the land can be subsequently divided through an APHB, which is issued by a PPAT. Although both mechanisms are legally recognised, their implementation varies across regions. For instance, at the Jember Regency Land Office, registration policies tend to favour the APHB over the APHW. This practice prolongs the registration process, increases costs, and reduces efficiency for heirs who wish to register their rights directly through an APHW. The key differences between APHB and APHW are summarised in Table 1.

Table 1. Differences between APHW and APHB

Distinguishing aspect	Akta Pembagian Harta Warisan (APHW)	Akta Pembagian Hak Bersama (APHB)
Purpose	Separates inheritance into individual assets for certificates still registered in the name of the deceased	Separates inheritance into individual assets after certificates have been transferred into the names of all heirs (joint ownership)
Distribution	Allocated to a single heir in accordance with the agreement of the other heirs	Can be allocated to several multiple heirs or a single heir, depending on the agreement of the heirs
Authorised official	Notary, who records the agreement of the heirs and issues an official deed	PPAT, which issues the Deed of Division of Joint Rights
Stages of use	1. The applicant registers the transfer of rights using an APHW, with all heirs agreeing that land rights are transferred to one designated heir. 2. The APHW serves as the legal basis for registering the inheritance-based land rights transfer at the Land Office without requiring collective name transfer	1. The applicant must first transfer the inherited property into the names of all heirs at the Land Office. 2. If the heirs wish to divide the inherited land under joint ownership, they must use an APHB issued by a PPAT as the basis for registering the division at the Land Office

Source: developed by the authors based on research and interviews with staff from the Jember Regency Land Office

Several key factors have been identified that lead the Jember Regency Land Office to favour the APHB mechanism over APHW, despite both having the same legal force. One of these factors concerns differences in the interpretation of regulations. Although Article 42, Paragraphs (4) and (5) of the Regulation of the Government of the Republic of Indonesia No. 24 (1997) grants the public the option to choose between APHW and APHB, some Land Offices consider APHW to have a weaker legal force. Additionally, APHB is perceived as more legally robust because it involves a PPAT, who is administratively more directly involved in the land registration process than a notary. Another significant aspect is concern over potential future disputes. The Land Office fears that registering land using APHW without first completing the collective name transfer process could lead to conflicts, particularly if heirs who were not initially involved later assert claims to the land after registration. To prevent such disputes, authorities prefer to first transfer ownership to all heirs before registering the land under a single heir. Differences in internal administrative policies at the Jember Regency Land Office also play a role. Local policy requires all heirs to first change the

ownership name before dividing the land through APHB. This policy means that individuals cannot directly register a land rights transfer to a single heir using APHW without first completing the collective name transfer process. The administrative and financial burden on the community is another critical issue. The requirement to transfer ownership to all heirs before the land is divided results in two separate administrative stages, prolonging processing times and increasing costs. This policy also compels individuals to pay taxes twice – once for the collective name transfer process and again when rights are subsequently transferred to one of the heirs. Finally, a lack of public awareness further reinforces the preference for APHB. Many heirs are unaware that they have two registration options: APHW and APHB. Due to this lack of information, individuals often comply with Land Office guidance without realising that a faster and more cost-effective alternative is available.

Differences in interpretation regarding the implementation of APHW and APHB significantly impact society. First, legal uncertainty increases because the public struggles to understand the land registration procedure for inherited land, as it is applied inconsistently across different

Land Offices. Second, the administrative burden is heightened due to the requirement of ownership to all heirs before the division of rights occurs, even though this stage is not always necessary. Third, financial costs escalate because a prolonged procedure also increases tax and administrative expenses, thus placing a greater economic strain on heirs. As a solution, the Land Office should enforce regulations in accordance with normative legal provisions, ensuring flexibility for the public to choose between APHW and APHB based on individual needs. This approach aligns with the principles of good governance in public services, namely enhancing accessibility, transparency, and legal certainty for the community in managing inherited land rights.

From the results of this analysis, it can be concluded that the dominant factors preventing the Land Office from directly accepting APHW as the basis for registering the transfer of land rights due to inheritance include differences in regulatory interpretation, internal administrative policies, and concerns about future legal disputes. This policy results in longer procedures and higher costs for the public, potentially reducing efficiency in Indonesia's land registration system. The choice between APHW and APHB affects the administrative stages that applicants must complete. When using APHW, the applicant only needs to undergo one stage of registration, namely direct registration with the Land Office by submitting an APHW that has been agreed upon by all heirs. Conversely, when using APHB, the applicant must first change the ownership name to include all heirs before the joint rights can be divided through APHB.

This suggests that APHW is a more efficient option in terms of time and cost, as the applicant does not need to first complete the inheritance name transfer process. However, in practice, not all Land Offices provide this option, as evidenced in research by the Jember Regency Land Office. In many cases, the registration of inherited land

requires the initial transfer of ownership names to all heirs before rights can be distributed to specific individuals. This makes the process, which could be completed in one step through APHW, more complex and time-consuming. In the context of inheritance, the transfer of land rights is part of the maintenance of land registration data to reflect changes in ownership from the deceased to the heirs. Failure to register inherited land promptly can lead to legal uncertainty and potential disputes in the future. For example, in a case in Semarang City, the registration of the transfer of rights to one of the heirs based on a notarial or private Deed of Inheritance Division was not accepted as a direct basis for transferring land rights. The Land Office required that the transfer first be registered in the name of all heirs before the land could be divided through APHB. The inconsistency of such policies results in additional administrative costs and extends the time required for heirs to obtain legal certainty over inherited land (Sholihah, 2021). However, even though based on the Regulation of the Government of the Republic of Indonesia No. 24 (1997), the transfer of rights should be registerable directly in the name of the heir receiving the rights through APHW. In practice, this administrative barrier reflects a gap between legal certainty in theory and its practical implementation in land registration. This highlights the need for policy standardisation across all Land Offices, along with broader public awareness efforts, to ensure that the APHW mechanism can be implemented effectively without unnecessary procedures. Therefore, ownership changes resulting from inheritance must be registered promptly at the Land Office to ensure that land certificates accurately reflect ownership status.

The policy of the Jember Regency Land Office in the registration of transfers of inherited land rights. The registration of land rights transferred due to inheritance is part of land

registration data management, aimed at ensuring the legal validity of land ownership after the owner's death. This research found that the Jember Regency Land Office implements an administrative policy prioritising the initial process of changing the name of the inheritance before the inherited land can be distributed to specific heirs. The transfer to the heirs occurs as a legal consequence of the owner's death, resulting in the inheritance passing to the heirs. Through Balik Nama Waris, the transfer of land rights from the deceased to all heirs renders the land jointly owned. Subsequently, the division is re-registered using a deed issued by a PPAT, namely APHB.

Based on this explanation, it can be concluded that the registration process for the transfer of land rights due to inheritance to a specific heir at the Jember Regency Land Office comprises two steps. First, the name of the inheritance is changed to include all heirs, a process commonly referred to as "descending inheritance" (legal events). Second, the jointly owned land is divided or allocated

as individual ownership through APHB, with the agreement of all joint right holders (legal actions). In the registration process for the transfer of land rights due to inheritance, two key stages are required. First, a legal event occurs where inherited land automatically transfers ownership to all heirs through the inheritance name change process, thereby establishing joint ownership. Second, a legal action follows, in which the registered joint owners distribute ownership through an APHB. This process facilitates the inheritance of land by one or several heirs based on the agreement reached.

The Jember Regency Land Office favours this two-stage process on the basis that the collective name transfer mechanism enhances legal security and mitigates potential future disputes. In practice, inherited land registration at the Jember Regency Land Office adheres to the provisions outlined in Article 111, Paragraph (1), Section C of PMNA No. 16 (2021), which stipulates the documents that can be used as proof of heirship, such as outlined in Table 2.

Table 2. Requirements for registration of transfer of rights on inherited land

Type of requirement	Required documents
Proof of heirship	1. A will from the testator. 2. A court decision establishing inheritance rights. 3. A ruling by a judge or court chairman. 4. A statement from the heirs (for native Indonesian citizens), witnessed by two individuals and certified by the village head and sub-district head. 5. A certificate of inheritance rights from a notary (specifically for Indonesian citizens of Chinese descent). 6. A certificate of inheritance from the Balai Harta Peninggalan (specifically for Indonesian citizens of other Eastern foreign descent).
Administrative documents	1. A completed and signed inheritance transfer form. 2. A power of attorney (if the registration is conducted through a representative). 3. The original certificate of inherited land. 4. A valid certificate of inheritance. 5. A certified copy of the deceased's death certificate. 6. A photocopy of the National Identity Card (KTP) and Family Card (KK) of all heirs. 7. A photocopy of the Tax Notification Letter (SPPT PBB). 8. A proof of the payment of Fees for Acquisition of Rights on Land and Buildings (BPHTB).

Source: developed by the authors based on Article 111, Paragraph (1), Section C of PMNA No. 16 (2021)

These documents must be checked and verified by officials at the Land Office before the registration can be processed. If any documents are incomplete or do not meet the requirements, the application will be rejected, and the applicant must first provide the missing documents. Once the documents have been verified and confirmed as complete, the applicant is required to pay a land transfer registration fee, which varies depending on the size of the land being registered. The larger the inherited land, the higher the registration fee. After payment has been made, the Land Office will record the transfer of land rights and issue new certificates in the names of all heirs. This certificate will then be handed over to the applicant as proof of joint ownership. If the heirs wish to divide the land into separate ownership, they must apply to the PPAT for an APHB.

According to an interview with the Head of the Arrangement and Empowerment Section of the ATR/BPN Jember Regency Land Office, the system implemented by the Land Office is intended to avoid disputes in the future, as the transfer of names to all heirs ensures legal certainty that the inherited land is indeed owned by the rightful heirs. The policy implemented by the Land Office has both advantages and disadvantages that require further analysis. Among the advantages, this policy reduces the potential for inheritance disputes by ensuring that land rights are registered in the names of all heirs before distribution. Furthermore, this policy enhances legal security for all heirs by ensuring that land ownership status is officially recorded. However, this policy also has certain drawbacks. The registration process takes longer, as the heirs must go through two administrative stages, while the associated costs are higher due to taxes and administrative fees payable twice – once during ownership transfer and again when dividing the rights. Additionally, this policy lacks flexibility for heirs who wish to immediately use the Deed of Distribution of

Inheritance Assets (APHW) to register rights under the name of a single heir without first having to go through the name transfer process.

In contrast, at the Malang City Land Office, applicants are permitted to use APHW without the need to first conduct a collective name change. This demonstrates an inconsistency in how regulations are applied across different regions, potentially creating legal uncertainty for individuals handling inherited land registration. From this analysis, it can be concluded that the Jember Regency Land Office enforces a stricter policy for the registration of inherited land by requiring that ownership be transferred to all heirs before the land can be divided under APHB. While this policy aims to prevent inheritance disputes, it reduces efficiency in land registration services, as applicants must go through two lengthier and costlier stages. As a recommendation, the Jember Regency Land Office should accommodate the use of APHW as an alternative for heirs who prefer to register the inherited land directly under the name of a single beneficiary. This would reduce administrative costs, speed up the registration process, and provide greater flexibility for the community in managing inherited land rights.

Role of the PPAT in the registration of the transfer of land rights by inheritance. In the registration of the transfer of land rights due to inheritance, the PPAT plays a key role in drafting the APHB, which serves as the legal instrument for dividing the inherited land among heirs in accordance with their agreement. Article 51, Paragraph (1) of Regulation of the Government of the Republic of Indonesia No. 24 (1997) stipulates that the APHB constitutes authentic evidence proving the agreement of joint right holders to divide inherited land into individual ownership. In practice, heirs wishing to divide joint ownership must visit the PPAT with the necessary documents, such as the applicant's identity documents, the testator's death certificate, the land certificate,

a statement letter from the heirs, and proof of payment of related taxes (Kaawoan *et al.*, 2024).

Once the documents have been verified as complete, the PPAT drafts an APHB, which heirs can then use as a legal basis for registering the transfer of land rights at the Land Office. However, for this registration, the applicant must submit not only the APHB but also other required administrative documents, including a completed inheritance name transfer form, a power of attorney (if applicable), and proof of payment of BPHTB fees and income tax (PPH). Although existing regulations permit the use of an APHW to directly transfer rights to a single heir, the Jember Regency Land Office does not provide this option in practice. Instead, the applicant must complete a two-stage process, first transferring ownership to all heirs and then executing the division of rights through the APHB.

An interview with the Head of the Arrangement and Empowerment Section of the ATR/BPN Jember Regency Land Office revealed that this policy is based on the principle of prudence to avoid potential disputes in the future. Additionally, there is an agreement between the Jember Regency Land Office and the local PPAT/PPATs requiring the transfer of ownership to all heirs before proceeding with the division. This approach was adopted due to the frequent issues arising from the division of inherited land, such as conflicts between heirs, disputed land partitioning, and the misuse of inherited land by certain heirs. Thus, transferring ownership to all heirs first is considered a preventive measure that provides legal certainty before the land is further divided.

Conceptually, this approach aligns with the precautionary principle in land administration, which seeks to prevent potential disputes and ensure that each decision is legally sound. It also reinforces the notion that applying this principle in land registration helps reduce the risk of ownership disputes and provides legal protection for

all parties involved (Putri Saleh, 2023). However, while this method aims to provide stronger legal protection, its implementation requires two administrative stages in the registration of inherited land, making the process more time-consuming and costly for communities. Therefore, it is necessary to evaluate this policy to enhance its flexibility by considering the option of registering land using an APHW for heirs who have agreed to transfer rights to a single beneficiary without first undergoing a collective title transfer.

In registering the transfer of land rights due to inheritance, the Jember Regency Land Office adheres to the principle of prudence by requiring the transfer to be completed in two stages. This step aims to reduce inheritance disputes that often arise due to differences in the heirs' understanding of the division of inherited land. In practice, the Jember Regency Land Office has coordinated with PPATs and Temporary PPATs in its jurisdiction so that this policy is implemented uniformly in all inherited land registrations. As an official authorised to draft land deeds, the PPAT plays a key role in preparing the APHB, which serves as the legal basis for registering the transfer of land rights at the Land Office. The PPAT is responsible for carrying out part of the land registration process by drafting deeds that serve as evidence of certain legal actions regarding land rights. In the case of inheritance, an APHB is required when the inherited land is jointly owned and the heirs wish to divide it into individual ownership. With an APHB prepared by a PPAT, land that was originally recorded as jointly owned can be legally divided into individual ownership (Lutfiah *et al.*, 2024).

In addition to PPATs, Temporary PPATs also play an important role in land registration, especially in remote areas where there is no permanent PPAT. Temporary PPATs can be appointed by sub-district officials or village heads per Article 5, Paragraph (3) of Regulation of the Government of the Republic of Indonesia No. 37 (1998),

to facilitate public access to legal land deeds (Mahfufah, 2015). The sub-district head or village head who acts as a Temporary PPAT has the same authority as a PPAT in drafting land deeds. Through cooperation between the Land Office, PPATs, and Temporary PPATs, land registration services can be extended to all levels of society, including remote areas.

In practice, PPATs and Temporary PPATs also have a duty to provide legal guidance to the community regarding the procedures for and legal implications of the division of inherited land (Suryaningsih *et al.*, 2015). The agreement between the Land Office and PPATs in Jember ensures that all applicants follow the two-stage title transfer process to prevent future disputes. Through this coordination, PPATs not only act as deed drafters but also serve as intermediaries between the community and the Land Office, ensuring that policies are more easily understood and followed by the public.

Implications of public interest on the implementation of registration of land rights transfer registration to inheritance without using the Deed of Distribution of Heirlooms.

In the process of registering the transfer of land rights due to inheritance, the public is given two options based on the applicable regulations: the APHB or the APHW. These documents have different functions and purposes. The APHB is used if the inherited land has already been registered under all heirs, while the APHW allows a direct transfer to one heir without first requiring a name change (Article 42, Paragraphs (4) and (5)) (Regulation of the Government of the Republic of Indonesia No. 24, 1997); Article 111, Paragraph (4) and (5) PMNA, No. 16 (2021). In practice, the Jember District Land Office only applies one mechanism: through the transfer of the inheritance name must occur before the division of inherited land using an APHB. This approach has been adopted as a precautionary measure to prevent future disputes.

The decision of the Jember Regency Land Office to exclusively facilitate registration with an APHB differs from the policy applied by the Malang City Land Office. According to this study, the Malang City Land Office accepts applications for the transfer of rights using both the APHW and the APHB. Under existing regulations, the two mechanisms have different legal consequences. Individuals who wish to transfer inherited land directly to one heir must still go through the name transfer process first, even though there exists a simpler option via the APHW. In fact, according to current provisions, the APHW, as an authentic deed made by a notary, can be used as a valid legal basis to directly register the transfer of rights to the agreed heirs (Eshafia *et al.*, 2024).

Therefore, the Land Office need to provide options that align with established regulations. Standardising the inheritance land registration mechanism without considering the legal consequences and public needs is not an effective approach, as both the APHB and the APHW have different roles and legal implications (Rahmi & Sudjito, 2020). Harmonising policy implementation across all Land Offices is necessary so that individuals can choose the procedure that best suits their circumstances and the agreement among the heirs. Thus, administrative decisions not only reflect the principle of prudence but also uphold the public's right to access more effective and efficient land services.

In the registration of the transfer of land rights due to inheritance, the use of an APHB incurs the BPHTB tax twice. This is due to the two-step process that must be followed: first, transferring the name of the inheritance to all heirs, and second, dividing joint rights using an APHB. The initial BPHTB tax, set at a minimum rate, is imposed on 300,000,000 IDR, which represents the non-taxable acquisition value limit (NPOP KP) for inheritance. The subsequent BPHTB tax is calculated at a minimum of 60,000,000 IDR when the division of

joint rights takes place. This makes the administrative process more complex, time-consuming, and financially burdensome for those applying for inheritance land registration (McCarthy *et al.*, 2022).

BPHTB is a tax levied on the acquisition of rights to land and/or buildings, applying not only to sale-and-purchase transactions but also to the transfer of rights due to inheritance. The acquisition of land rights through inheritance is still subject to BPHTB, with the NPOPTKP set at a minimum of 300,000,000 IDR, while the tax amount is determined based on the market value of the land and local regulations. This tax must be paid before the transfer of land rights can be registered at the Land Office. Once the process of transferring the name of the inheritance is completed, if the heirs wish to allocate the land to one beneficiary using an APHB, BPHTB will be applied again. The requirement to pay BPHTB twice presents a major obstacle for those who seek to register the transfer of inherited land using an APHB.

As a more efficient alternative, the public can choose to use the APHW to avoid both the lengthy administrative process and the double tax burden. With an APHW, the transfer can be made directly to a single heir without first requiring the inheritance name change for all heirs, resulting in only one BPHTB payment, which is set at a minimum of 300,000,000 IDR. In addition, the BPHTB tax payment in transfers conducted through an APHW is solely the responsibility of the beneficiary's heirs rather than all heirs, thereby reducing the financial burden compared to the APHB process (Danghamsyah & Tanaya, 2025). Registration via an APHW is simpler and faster because it requires only one stage – directly transferring ownership from the testator to the designated heir, as agreed upon by all other heirs.

Although the APHW process is administratively and financially more beneficial for the public, not all families are able to use this mechanism. Each family faces unique circumstances regarding

inheritance, including the number of heirs, property distribution, and mutual agreements among the heirs. Therefore, despite offering a more efficient solution, there are certain situations in which an APHB remains necessary, particularly when the inherited land has already been transferred to all heirs prior to division. A more flexible approach to the registration of inherited land transfers would offer greater benefits to the public while ensuring legal compliance and streamlining administrative procedures at the Land Office.

The division of inheritance varies among families, with each adopting a different approach. In some families, inheritance is regarded as joint property and is not immediately divided; instead, heirs may choose to transfer the names of all heirs without making an immediate allocation. Conversely, some families postpone the division for years after completing the inheritance name change, resulting in the use of an APHB for the transfer of land rights. Meanwhile, families that take a more transparent approach to inheritance management may opt for an APHW from the outset. Therefore, the registration of land rights transfers due to inheritance cannot be standardised, as inheritance mechanisms differ according to each family's circumstances and interpretations.

This variation in the methods available for transferring inherited land should be facilitated by the Land Office by providing registration options in accordance with the relevant laws and regulations. If only one registration method is facilitated, as seen in the Jember Regency Land Office, which exclusively directs applicants to register using an APHB, then the public loses the ability to choose the method best suited to their circumstances (Rahmi & Sudjito, 2020). This restriction has the potential to hinder individuals in completing their land administration processes, particularly since the APHB registration procedure is lengthier, more complex and incurs higher costs due to the imposition of double taxation.

From a good governance perspective, public services must be based on the principles of effectiveness, efficiency, and ease of access for citizens. If individuals are compelled to undergo a more time-consuming and costly process using an APHB, then the services provided do not reflect the principles of easy, cheap and fast administration. On the other hand, the use of an APHW as an alternative allows individuals to complete the land rights transfer registration in a single step, avoid double taxation, and expedite the issuance of certificates.

As such, the Land Office should recognise and accommodate the registration of inherited land transfers using both APHW and APHB. If only one method is enforced, such as mandating APHB, the public is denied a flexible choice aligned with their needs. The regulation offering two options is intended to simplify the land registration process for applicants. Therefore, the Land Office must fulfil its role inclusively and adaptively to ensure that land registration serves not as a burden but as a mechanism for enhancing legal certainty and accessibility.

From the perspective of the utilitarian theory proposed by Jeremy Bentham, a policy should aim to maximise the greatest happiness for the largest number of people (Choy, 2018). If the policy enforced by the Jember Regency Land Office limits applications for the transfer of inherited land rights to only APHB, this may be argued to reflect the principle of expediency. However, an ideal policy would grant individuals the freedom to choose between APHB and APHW without coercion, enabling them to select the procedure most suitable to their family's circumstances. The Land Office's policy of requiring applicants to use APHB is intended to prevent potential inheritance disputes in the future. However, this policy merits reassessment to determine whether it truly offers greater benefits to the public than a policy facilitating both APHB and APHW

simultaneously. The APHB process involves two administrative stages – first, the transfer of the inheritance name to all heirs, followed by the division of rights via APHB – which increases both time and financial costs. By contrast, inheritance distribution through APHW requires one administrative stage and only a single tax payment, making it the more efficient option.

Regarding procedures and costs, the use of an APHB requires heirs to pay BPHTB twice – first at the inheritance name transfer stage and again at the division of joint rights stage. This undoubtedly places a financial burden on applicants. Conversely, registration via APHW incurs only one tax payment, rendering it both administratively simpler and more cost-effective. Thus, if the Land Office only exclusively permits transfers via APHB, its services fail to align with the principles of good governance, particularly in terms of effectiveness, efficiency, and public accessibility (Anggara *et al.*, 2022).

Based on research findings, each method for registering inherited land transfers serves distinct functions and purposes. An APHB is applied if the heirs intend to divide land that has already become the joint property of all heirs, while an APHW facilitates the direct transfer of inheritance rights to a single heir without first requiring a name change for all heirs. Therefore, these two procedures are not interchangeable. The Land Office should offer and offer both options to ensure individuals have the autonomy to select the procedure most suitable to the circumstances. This flexibility would facilitate a less burdensome and more efficient process for transferring inherited land.

Conclusions

This study identified legal and administrative inconsistencies in the process of registering inheritance-based land transfers at the Land Office. The results showed that the implementation of Government Regulation No. 24 of 1997 on Land Registration is inconsistently applied across

various Land Offices, particularly in Jember Regency, where priority is given to the Deed of Division of Joint Rights over the Deed of Division of Inherited Property. The findings suggested that the policy mandating heirs to complete a two-stage registration process – first transferring the names of all heirs, followed by the division of rights using an APHB – imposes unnecessary administrative and financial burdens on individuals. Such an approach contradicts the principles of good governance, which emphasise efficiency, affordability, and accessibility in public administration. In addition, the requirement for heirs to pay BPHTB twice when transferring inherited land via APHB significantly increases costs, making the process more complex and financially demanding.

From a legal standpoint, this practice introduces uncertainty in inheritance law, as the lack of uniform procedures across Land Offices results in policy variations between regions. By contrast, APHW presents a more efficient alternative by permitting the transfer of rights directly to a mutually agreed heir without requiring two administrative stages. Although legally permitted under Article 42 of Government Regulation No. 24 of 1997, APHW remains largely unsupported by some Land Offices, including in Jember Regency. Drawing on Jeremy Bentham's theory of benefit, which proposes that policies should maximise societal benefit to society, the Land Office's policy

of exclusively accepting APHB does not fully align with this principle. Conversely, if the Land Office provided applicants with the choice between APHB and APHW, individuals would be able to tailor the land rights transfer process to their specific family circumstances, thereby ensuring greater benefits for the wider community. Therefore, a standardised policy framework is required to ensure that both mechanisms remain accessible and adaptable to applicants' needs within the prevailing legal framework.

As a direction for further research, this study could expand its scope to examine the impact of more flexible policies on administrative efficiency and the reduction of financial burdens on applicants. Additionally, future research could compare the implementation of inheritance land registration policies across various Land Offices in Indonesia to assess the potential for more inclusive and adaptive regulatory approaches. Another possible avenue of exploration involves investigating how digital technology might streamline the land registration process while reducing legal uncertainties and financial burdens for heirs.

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None.

Conflict of Interest

None.

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Вплив публічного інтересу на здійснення земельним управлінням реєстрації переходу прав на землю в порядку спадкування

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Анотація

Реєстрація переходу прав на землю в порядку спадкування відіграє важливу роль у системі земельного права Індонезії. Постанова Уряду Республіки Індонезія № 24 «Про реєстрацію земельних ділянок» встановлює два механізми для цього процесу: акт про поділ спільних прав та акт про поділ спадкового майна. Це дослідження мало на меті проаналізувати фактори, які сприяли небажанню органів земельних ресурсів визнавати акт поділу спадкового майна як дійсний варіант реєстрації успадкованих земельних ділянок. Було застосовано соціально-правовий метод дослідження, який включав інтерв'ю з посадовими особами земельних відділів та аналіз відповідних юридичних документів. Виявлено, що на практиці положення не застосовувалися послідовно в усіх земельних управліннях, деякі з них визнавали дійсним реєстраційним документом лише акт про поділ спільних прав. Така непослідовність призводила до адміністративної неефективності та фінансового тягаря для населення, включаючи тривалі процедури та подвійне оподаткування через обов'язкову зміну прізвища перед поділом спадкових прав. Крім того, було досліджено вплив такої практики на адміністративну ефективність та правову визначеність для громади. Результати дослідження показали, що розбіжності в імплементації нормативно-правових актів у різних земельних управліннях призвели до процедурної неузгодженості в реєстрації успадкованої землі. Наприклад, районний земельний відділ міста Джембер з міркувань юридичної обачності надавав перевагу акту про розподіл спільних прав перед актом про розподіл спадкового майна, незважаючи на те, що

чинне законодавство допускає обидва механізми. Дослідження підтвердило, що реєстрація на підставі договору про розподіл спадкового майна є більш ефективною, оскільки вимагає лише одного адміністративного етапу та запобігає подвійному оподаткуванню. З точки зору теорії вигоди Джеремі Бентама, обмеження земельним управлінням варіантів реєстрації не повністю максимізувало суспільну вигоду. Для підвищення ефективності та правової визначеності в системі управління земельними ресурсами Індонезії необхідна гармонізація політики. Необхідно прийняти більш гнучкий підхід, щоб забезпечити громадянам свободу вибору механізму реєстрації спадкової землі, який найкраще відповідає їхнім потребам і обставинам

Ключові слова: реєстрація успадкованої землі; поділ спільних прав; поділ спадкового майна; обов'язок придбання землі та будівель; правова визначеність