

The Principles of Welfare and Justice in Land Registration Regulations



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ABSTRACT

Indonesia's land registration system, which adopts a negative publication system with positive elements, has not fully ensured legal certainty, justice, and public welfare because land certificates may still be annulled through court decisions. This study aims to analyze the deficit of welfare and justice values in Indonesia's land registration regulations, examine the principles of the positive publication system implemented in Germany, Switzerland, and England, and formulate an appropriate regulatory reform model for Indonesia. This research employs a normative legal method using statutory, comparative, and conceptual approaches. The findings reveal that, *first*, Indonesia's current land registration system has not optimally guaranteed legal certainty, justice, and welfare because land certificates remain subject to cancellation. *Second*, the positive publication systems in Germany, Switzerland, and England provide stronger legal protection through rigorous verification procedures, state guarantees of registered data, and compensation mechanisms for administrative errors. *Third*, Indonesia should reform its land registration system by adopting a positive publication system through strengthening the legal framework, improving verification procedures, digitalizing land administration, and reinforcing state responsibility. These reforms are expected to enhance legal certainty, reduce land disputes, and promote justice and public welfare.



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Introduction

In 2021, land and real property were estimated to account for 46% of global wealth and approximately 77% of national wealth. These figures demonstrate that land is a strategic asset with significant economic, social, and environmental value.¹ Therefore, land must be managed in an effective, efficient, and sustainable manner to meet the needs of both present and future generations. To achieve this objective, governments establish land administration systems that formally recognize and protect land rights, as well as the restrictions and responsibilities associated with

¹ Manuel B. Aalbers and others, 'In Real Estate Investment We Trust: State De-Risking and the Ownership of Listed US and German Residential Real Estate Investment Trusts', *Economic Geography*, 99.3 (2023), 312–35 <https://doi.org/10.1080/00130095.2022.2155134>

land ownership and use. The protection and recording of land rights are carried out through a jurisdiction-specific framework of policies, laws, institutions, and administrative procedures. This process is commonly known as land registration.²

Land registration is fundamentally an administrative process aimed at collecting, recording, storing, managing, and providing information on the legal relationship between individuals and land. It also serves to formally recognize land rights and provide legal certainty for those rights. One of the main outcomes of this process is the issuance of a land title certificate as official evidence of ownership through the land registration system in accordance with applicable laws and regulations.³ A land title certificate is regarded as the strongest and most complete legal evidence of land rights because it contains both physical data, such as the location, boundaries, and size of the land, and juridical data, including information on the legal status of the land and its rights holder.⁴ The issuance of a land title certificate is intended to ensure legal certainty and provide legal protection for the holder of the registered right. In Indonesia, this objective is established under Article 19(1) of Law Number 5 of 1960 on Basic Agrarian Principles (Basic Agrarian Law) and further implemented through Government Regulation Number 24 of 1997 on Land Registration.⁵

Legal certainty over land rights is essential to ensuring secure land ownership. Such certainty exists when there is no doubt or uncertainty regarding the ownership and legal status of land. However, land disputes in Indonesia continue to increase, indicating that the legal certainty expected from the land registration system has not been fully achieved.⁶ In practice, land rights that have been registered and certified can still become the subject of legal disputes, including litigation before the courts. Land disputes consistently account for a large proportion of cases handled by the Supreme Court of Indonesia, representing approximately 60% to 70% of its caseload each year, excluding cases resolved at the district and appellate court levels. In addition, data from the Ministry of Agrarian

² Anthony Francis Burns, Abbas Rajabifard and Davood Shojaei, 'Undertaking Land Administration Reform: Is There a Better Way?', *Land Use Policy*, 132 (2023), 106824 <https://doi.org/10.1016/j.landusepol.2023.106824>

³ Felicitas Sommer and Walter Timo de Vries, 'Values and Representations in Land Registers and Their Legal, Technical, Social Effects on Land Rights as an Administrative Artefact', *Land Use Policy*, 135 (2023), 106946 <https://doi.org/10.1016/j.landusepol.2023.106946>

⁴ Rodiyah Rodiyah, Siti Hafsyah Idris and Robert Brian Smith, 'Mainstreaming Justice in the Establishment of Laws and Regulations Process: Comparing Case in Indonesia, Malaysia, and Australia', *Journal of Indonesian Legal Studies*, 8.1 (2023), 333–78 <https://doi.org/10.15294/JILS.V7I2.60096>

⁵ Bichaye Tesfaye and others, 'Rethinking the Impact of Land Certification on Tenure Security, Land Disputes, Land Management, and Agricultural Production: Insights from South Wello, Ethiopia', *Land*, 12.9 (2023), 1713 <https://doi.org/10.3390/land12091713>

⁶ Lego Karjoko, Abdul Kadir Jaelani and Ravi Danendra, 'Legal Inconsistency on the Right to Build: Investment, Agrarian Rights, and Constitution', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 3.2 (2025), 324–46 <https://doi.org/10.53955/jsderi.v3i2.106>

Affairs and Spatial Planning/National Land Agency show that 6,015 land-related cases were received in 2025. Of these, 3,019 cases (50.02%) had been resolved, while the remaining cases were still pending. The high number of land disputes indicates that Indonesia's land administration system requires further improvement to strengthen legal certainty, promote justice, and provide more effective protection of land rights.⁷

One of the main factors contributing to land disputes is the land registration publication system. The choice of a publication system is determined by each country based on its legal framework, institutional needs, and national circumstances.⁸ The publication system plays a significant role in determining the evidentiary value of land title certificates, particularly in assessing whether the certificate provides strong or weak evidence and whether its legal effect is absolute or limited.⁹ In general, land registration publication systems are classified into two models are the positive publication system and the negative publication system. Under a positive publication system, the registration of rights is supported by an official land register that records and maintains juridical information, while the land title certificate serves as conclusive evidence of ownership. In this system, the state guarantees the accuracy of the registered data.¹⁰ By contrast, under a negative publication system, the state does not guarantee the correctness of the information recorded in the land register. Although a person's name may be registered as the holder of a land right, the registration does not provide absolute protection because ownership may still be challenged by another party presenting stronger legal evidence. As a result, the registered certificate remains open to judicial review when sufficient evidence is available to prove a superior claim.¹¹

Indonesia currently applies a negative publication system with positive elements in its land registration regime. Although this system has long been adopted, it remains one of the factors contributing to land disputes and conflicts. The main weakness of this approach is that it does not provide absolute legal certainty because the state does not fully guarantee the accuracy of the data and

⁷ Listyowati Sumanto, 'The Future on Publication System of Land Registration in Indonesia', *International Journal of Scientific and Technology Research*, 9.3 (2020), 1399–1404.

⁸ Margret Köthke, Melvin Lippe and Peter Elsasser, 'Comparing the Former EUTR and Upcoming EUDR: Some Implications for Private Sector and Authorities', *Forest Policy and Economics*, 157 (2023), 103079 <https://doi.org/10.1016/j.forpol.2023.103079>

⁹ Amal Hayati Ishak and others, 'The Critical Success Factors of Waqf Land Development for Sustainable Agriculture', *Social Sciences & Humanities Open*, 11 (2025), 101244 <https://doi.org/https://doi.org/10.1016/j.ssaho.2024.101244>

¹⁰ Abdul Kadir Jaelani, Anila Rabbani and Muhammad Jihadul Hayat, 'Land Reform Policy in Determining Abandoned Land for Halal Tourism Destination Management Based on Fiqh Siyasa', *El-Mashlahah*, 14.1 (2024), 211–38 <https://doi.org/10.23971/el-mashlahah.v14i1.8051>

¹¹ Kartina Pakpahan, Azharuddin Azharuddin and Leviyanti Leviyanti, 'Problems Of Implementation Of Electronic Land Certificate Arrangements As Debt Guarantee', *Prophetic Law Review*, 4.1 (2022), 70–91 <https://doi.org/10.20885/PLR.vol4.iss1.art4>

information recorded in land title certificates.¹² At the same time, the system offers a degree of protection to the true owner of the land by allowing a claim to be brought even when the land has already been registered in another person's name. In addition, the validity of a transfer of land rights is determined primarily by the validity of the underlying legal transaction rather than by the registration of the transfer itself. Consequently, registration does not automatically establish an indefeasible title. This legal framework has been reflected in several court decisions concerning land title certificates. For example, in Rantau Prapat District Court Decision No. 17/Pdt.G/2013/PN-RAP and Supreme Court Decision No. 189 K/Pdt/2011, the courts held that land title certificates that had been issued for more than five years could still be cancelled through judicial proceedings when supported by sufficient legal grounds.

The two court decisions examined in this study demonstrate that the positive element of Indonesia's land registration system, particularly the conclusive evidentiary protection provided under Article 32(2) of Government Regulation No. 24 of 1997, has not been consistently applied by judges in resolving land ownership disputes. In practice, the provision has not served as a decisive legal basis in judicial decisions concerning competing ownership claims.¹³ These cases suggest that Article 32(2) has not fully achieved its intended objective of balancing legal certainty with substantive justice, especially for parties who can prove a stronger legal entitlement to the disputed land.¹⁴ As a result, the positive features incorporated into Indonesia's negative publication system have not functioned effectively in practice. Consequently, land title certificates do not provide absolute legal certainty or complete legal protection to registered right holders, as they may still be challenged and cancelled through court proceedings, even after they have been issued for more than five years.¹⁵

The persistence of land disputes in Indonesia indicates that the current land registration system has not fully achieved its objectives of promoting legal certainty, justice, and public welfare. One of the underlying reasons is the

¹² Suhadi Suhadi and others, 'Advances in Technology and the Future of Publication Systems in Land Registration in Indonesia', *Ijals Symposium On Technological Advancement For Social Welfare: Technological Advancement for Social Welfare: Contemporary Development and the Future Impact*, Volume 257.1 (2022), 030001 <https://doi.org/10.1063/5.0104112>

¹³ Lego Karjoko, Iswantoro and Makhabbat Ramazanov, "'Good Faith" in Land Transaction: A Comparative Analysis of the USA and Netherlands Law', *Journal of Sustainable Development and Regulatory Issues*, 2.3 (2024), 185–208 <https://doi.org/10.53955/jsderi.v2i3.49>

¹⁴ Abdullah Muslich Rizal Maulana and others, 'From Digital Religion to Digital Islam: Finding God in the Society 5.0 through Maqāsīd Shari'ah', *Al-Ahkam: Jurnal Ilmu Syari'ah Dan Hukum*, 11.1 (2026), 3–26 <https://doi.org/10.22515/alahkam.v11i1.11066>

¹⁵ Ahmad Wiranto, Patricia Audrey Ruslijanto and Herlindah Herlindah, 'The Implementation of Cancellation of Land Title Certificates Due to Administrative Defects After the Enactment of Government Regulation No 18 of 2021: A Case Study of the Land Office in Malang Regency', *Path of Science*, 10.7 (2024), 5001–8 <https://doi.org/10.22178/pos.106-10>

continued application of a predominantly negative publication system, which provides weaker legal protection than the positive publication systems adopted in several developed countries.¹⁶ Germany, for example, applies a positive publication system based on the registration of rights. Under this system, the transfer of ownership (*eigentum*) becomes legally effective only after the execution of a real rights agreement and its registration in the *Grundbuch* (land register), which records the legal status of every parcel of land. The transfer must be evidenced by an authentic deed prepared by a notary, after which the registration is reviewed by the competent land registry authority. Before registration is approved, the authority verifies compliance with all legal formalities, including the validity of the parties' intentions and supporting documents.¹⁷

Similarly, Switzerland adopts a positive publication system in which registered land rights enjoy strong legal protection. A land title certificate provides conclusive evidence of ownership and cannot easily be challenged once registration has been completed. To ensure the reliability of the register, the land registration authority conducts a thorough examination of the application and supporting documents before recording any transfer of rights. Registration is carried out upon a written application submitted by the registered owner together with an authentic deed evidencing the transfer to the new owner.¹⁸ England also follows a title registration system that emphasizes legal certainty through registration. Transfers of land rights must be registered with the Land Registry, either directly by the parties involved or through a qualified legal professional, such as a solicitor, acting on their behalf. The registration process ensures that changes in ownership are officially recorded, thereby providing legal certainty and protection for registered land rights.¹⁹

The experience of developed countries that apply a positive publication system, such as Germany, Switzerland, and England, demonstrates that legal certainty in land ownership can be achieved through rigorous verification procedures before registration and by providing a state guarantee for the accuracy of the information recorded in the land register. This approach offers stronger legal protection for registered right holders while also increasing public confidence in the land

¹⁶ Ridwan Arifin and others, 'A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 2023, 159–81 <https://doi.org/10.24090/volksgeist.v6i2.9596>

¹⁷ Olga Matuk and Beata Calka, 'Consolidating the Polish Land Use Cadastral Register with the Austrian and German Systems: An Extension of the Polish Cadastre Model Towards Sustainable Land Management', *Sustainability*, 17.13 (2025), 5783 <https://doi.org/10.3390/su17135783>

¹⁸ Paweł Blajer, 'The Principle of Formal Publicity of the Land Register in a Comparative Perspective', *European Property Law Journal*, 11.1–2 (2022), 5–28 <https://doi.org/10.1515/eplj-2022-0003>

¹⁹ Hariyanto Hariyanto, Mabarroh Azizah and Nurhidayatuloh Nurhidayatuloh, 'Does the Government's Regulations in Land Ownership Empower the Protection of Human Rights?', *Journal of Human Rights, Culture and Legal System*, 4.2 (2024), 391–421 <https://doi.org/10.53955/jhcls.v4i2.222>

administration system. Given that Indonesia's current land registration system has not yet fully delivered legal certainty, justice, and public welfare, a comprehensive evaluation of the existing regulatory framework is necessary. A comparative analysis of land registration systems in different jurisdictions is therefore needed to identify the legal principles and institutional mechanisms that are most effective in ensuring legal certainty while promoting justice and social welfare. The findings of this comparative study are expected to provide a solid foundation for developing recommendations to reform Indonesia's land registration system. Such reforms should create a more adaptive, equitable, and reliable framework that strengthens legal certainty and provides effective legal protection for all holders of land rights.²⁰

Several previous studies have recommended reforming the negative publication system with positive elements under specific conditions. Sommer et al. (2023) found that land administration reforms have primarily focused on initiating or completing land titling programs, while paying insufficient attention to identifying and monitoring inequalities and fragmentation in land ownership within land registration systems.²¹ Abdul Wahid et al. (2026) argued that the negative publication system provides inadequate legal certainty because its positive elements function only as conditional protection and fail to ensure legal finality in practice.²² Alie Zainal Abidin et al. (2024) explained that the positive publication system treats registered land data as conclusive evidence, thereby providing stronger legal protection even where inaccuracies may exist, whereas the negative publication system applied in Indonesia does not provide absolute state-guaranteed legal protection to landowners.²³ Similarly, Suhadi et al. (2022) maintained that the negative publication system with positive elements cannot ensure legal certainty because the state does not guarantee the accuracy of the data and information contained in land certificates.²⁴ Tobing and Barthos (2026) concluded that Indonesia's negative publication system with positive elements has not yet provided adequate legal protection or legal certainty for land rights holders.²⁵

²⁰ Christiana Sri Murni, Bernadus Basa Kelen and Sumirahayu Sulaiman, 'The Legal Certainty Of Land Ownership Right In Registration's Context', *International Journal of Law Reconstruction*, 6.1 (2022), 13 <https://doi.org/10.26532/ijlr.v6i1.16422>

²¹ Sommer and de Vries.

²² Abdul Wahid, I. Gusti Ayu Ketut Rachmi Handayani and Lego Karjoko, 'Philosophical and Constitutional Critique of the Negative Publication System in Indonesian Land Registration', *Diponegoro Law Review*, 11.1 (2026), 1–23 <https://doi.org/10.14710/dilrev.11.1.2026.1-23>

²³ Alie Zainal Abidin and others, 'Policy Evaluation of the Land Registration System in Malang City', *Journal of Law and Sustainable Development*, 12.1 (2024), e2694 <https://doi.org/10.55908/sdgs.v12i1.2694>

²⁴ Suhadi and others.

²⁵ Anggiat Tobing and Megawati Barthos, 'Reconstruction of the Negative Publication System for Land Registration to Achieve Legal Certainty and Legal Protection for Rights Holders', *Journal Customary Law*, 3.3.1 (2026), 1–14 <https://doi.org/10.47134/jcl.v3i3.1.5790>

Previous studies have examined land registration publication systems from the perspectives of legal certainty, legal protection, and comparative land registration systems. However, a significant research gap remains regarding how the principles of welfare and justice are integrated into land registration regulations and how the experiences of countries adopting positive publication systems can inform regulatory reform in Indonesia. Accordingly, this study aims to analyze the deficit of welfare and justice values in Indonesia's land registration regulations, examine the principles of positive publication systems implemented in other countries, and formulate a land registration regulatory model that is grounded in the principles of welfare and justice.

Research Method

This study uses normative legal research using three complementary approaches are the statutory approach, the comparative approach, and the conceptual approach. The statutory approach is used to examine the legal framework governing land registration in Indonesia and the selected comparator countries. The comparative approach is applied to identify the similarities, differences, strengths, and weaknesses of the land registration systems in these jurisdictions, with the aim of drawing relevant lessons for the reform of Indonesia's land registration system. Meanwhile, the conceptual approach is used to analyze the legal concepts of legal certainty, justice, social welfare, and the fundamental principles of land administration as developed in legal doctrines and scholarly theories. The study relies on three categories of legal materials. Primary legal materials consist of Indonesian legislation and land registration regulations from the comparator countries. Secondary legal materials include books, journal articles, research reports, and scholarly opinions relevant to land registration and land administration. Tertiary legal materials comprise legal dictionaries, encyclopedias, and other reference sources that support the analysis. All legal materials are analyzed qualitatively through legal interpretation, comparative analysis, and legal reasoning. These methods are employed to develop systematic, comprehensive, and prescriptive legal arguments regarding the principles of justice and social welfare in land registration regulations and their implications for the reform of Indonesia's land administration system.²⁶

Results and Discussion

The Deficit of Welfare and Justice Values in Land Registration Regulations

Land registration is conducted to ensure legal certainty over land rights. As the demand for land continues to increase with population growth while the amount of available land remains relatively fixed, land-related conflicts and disputes have

²⁶ Anila Robbani, Raffy Arnanda Faturrohman and Ahmad Hananul Amin, 'Optimization of Income Tax Revenue in Land and Building Rights Transfer Transactions', *Journal of Justice Dialectical*, 2.1 (2024), 28–42 <https://doi.org/10.70720/jjd.v2i2.38>

become increasingly common.²⁷ This situation is further complicated by limited public access to land ownership and control, making land registration an essential instrument for providing legal protection and maintaining an orderly land administration system.²⁸ Through the land registration process, right holders receive a land title certificate as official evidence of their rights. Under Indonesian law, a land title certificate serves as strong evidence of both the physical and juridical characteristics of a parcel of land. It contains information on the type of land right, the identity of the right holder, the physical characteristics of the land, and legal events affecting the property. Accordingly, the certificate plays a central role in providing legal certainty for registered land rights. Nevertheless, the evidentiary value of a land title certificate is not absolute. The accuracy of the information recorded in the certificate may still be challenged if there is evidence of legal defects or irregularities in the registration process. This limitation is closely related to the land registration publication system adopted in Indonesia, which determines the legal effect and evidentiary strength of registered land rights.²⁹

In general, two land registration publication systems are recognized in international practice: the positive publication system and the negative publication system. Under a positive publication system, the state guarantees the accuracy of the information recorded in the land register. As a result, registered right holders receive strong legal protection, and their rights cannot be challenged except in limited circumstances expressly provided by law. This system is applied in several countries, including Germany, Switzerland, and England.³⁰ By contrast, a negative publication system does not provide an absolute guarantee of the accuracy of the registered information. Registration serves as strong evidence of land rights, but it does not prevent other parties from asserting competing claims if they can establish a superior legal entitlement to the same parcel of land. Consequently, the state does not fully guarantee the correctness of the information recorded in the land register, and a land title certificate may still be annulled through the available legal

²⁷ Peter Lacoere and Hans Leinfelder, 'Land Oversupply. How Rigid Land-Use Planning and Legal Certainty Hinder New Policy for Flanders', *European Planning Studies*, 31.9 (2023), 1926–48 <https://doi.org/10.1080/09654313.2022.2148456>

²⁸ Lei Xu, Shixiang Chen and Shuliu Tian, 'The Mechanism of Land Registration Program on Land Transfer in Rural China: Considering the Effects of Livelihood Security and Agricultural Management Incentives', *Land*, 11.8 (2022), 1347 <https://doi.org/10.3390/land11081347>

²⁹ Nurussabila Aulia and Dedy Hernawan, 'Legal Certainty for Land Rights Holders Due to the Issuance Certificates Overlap of Certificates (Overlapping) on Property Rights Certificate No. 60 Certificate Issued in 1956 and Certificate of Ownership No. 01729 Published in 2019 Is Linked to Governmen', *Journal of Law, Politic and Humanities*, 5.2 (2024), 963–73 <https://doi.org/10.38035/jlph.v5i2.983>

³⁰ Arif Firmansyah and Lina Jamilah, 'The Concept of Good Faith in Complete Systemic Land Registration in Realizing Legal Guarantee', *Administrative and Environmental Law Review*, 3.1 (2022), 65–74 <https://doi.org/10.25041/aclr.v3i1.2588>

procedures.³¹ Each system has its own strengths and limitations. A positive publication system offers a high degree of legal certainty, provides stronger legal protection for registered right holders, and promotes an orderly land administration system. However, it requires rigorous verification procedures before registration, involves higher administrative costs, and requires an effective compensation mechanism to address losses resulting from registration errors. In contrast, a negative publication system protects individuals who can prove that they are the true owners of the land, but it also creates legal uncertainty because registered land title certificates remain subject to legal challenges and possible cancellation at any time when a stronger legal claim is established.³²

In practice, Indonesia does not apply a purely negative publication system. Instead, it adopts a negative publication system with positive elements. This hybrid approach is reflected in the recognition of a land title certificate as strong evidence of ownership, supported by procedures for registration, verification of land records, and public notification before a land right is officially registered.³³ Despite these positive features, the state does not provide an absolute guarantee of the accuracy of the information recorded in the certificate. This limitation reflects a deficit of justice and social welfare values within Indonesia's land registration framework. From a social welfare perspective, uncertainty regarding the legal status of land rights reduces the ability of land to function as a secure economic asset and undermines public confidence in land ownership. From a justice perspective, even individuals who have lawfully obtained and registered their land rights may still face legal challenges or the cancellation of their certificates because of the limitations of the current publication system. As a consequence, the fundamental objectives of land registration, namely, ensuring legal certainty, protecting land rights, and promoting public welfare, have not yet been fully achieved in Indonesia.³⁴

The deficit of justice and social welfare values in Indonesia's land registration publication system is reflected in the continued possibility of cancelling land title certificates, even when the requirements of Article 32(2) of Government Regulation No. 24 of 1997 have been satisfied. This provision is intended to protect certificate

³¹ M. J. Gibert, C. Sánchez-Contador and G. Artigues, 'Validity and Acceptance of Self vs Conventional Sampling for the Analysis of Human Papillomavirus and Pap Smear', *Scientific Reports*, 13.1 (2023), 2809 <https://doi.org/10.1038/s41598-023-29255-y>

³² Rizal Iskandar Soewito and Gunawan Djajaputra, 'Legal Certainty For Holders of Land Rights Over The Issuance of Multiple Certificates', *Journal of Law, Politic and Humanities*, 4.4 (2024), 854–60 <https://doi.org/10.38035/jlph.v4i4.513>

³³ Fatemeh Jahani Chehrehbargh and others, 'Current Challenges and Strategic Directions for Land Administration System Modernisation in Indonesia', *Journal of Spatial Science*, 69.4 (2024), 1097–1129 <https://doi.org/10.1080/14498596.2024.2360531>

³⁴ Fahimeh Abedi, Abbas Rajabifard and Davood Shojaei, 'Enhancing Access to Justice for Land and Property Disputes through Online Dispute Resolution and Artificial Intelligence', *Computer Law & Security Review*, 59 (2025), 106194 <https://doi.org/10.1016/j.clsr.2025.106194>

holders who acquired their land rights in good faith and have exercised continuous physical possession of the land for more than five years without any objections or legal claims from other parties.³⁵ However, judicial practice has not applied this provision consistently. This is evident, among others, in Rantau Prapat District Court Decision No. 17/Pdt.G/2013/PN-RAP and Supreme Court Decision No. 189 K/Pdt/2011. In both cases, the courts annulled land title certificates that had been issued for more than five years on the grounds that another party was found to have a stronger legal claim to the disputed land. Rather than prioritizing legal certainty for the registered certificate holders, the courts placed greater emphasis on protecting the rights of the original owners. These decisions demonstrate that land title certificates in Indonesia do not possess conclusive evidentiary value. Even when the requirements of Article 32(2) of Government Regulation No. 24 of 1997 have been fulfilled, a certificate may still be invalidated through judicial proceedings. Consequently, the principle of *rechtverwerking*, which is intended to limit the right to bring a legal claim after a specified period, has not provided effective legal protection for registered certificate holders. This situation weakens legal certainty and undermines public confidence in Indonesia's land registration system.³⁶

From the perspective of legal certainty, this situation indicates that Indonesia's negative publication system with positive elements has not been able to provide optimal legal protection for registered land rights. The uncertainty surrounding the legal status of land title certificates not only increases the likelihood of future disputes but also discourages landowners from using their certificates as a secure basis for investment, credit collateral, and other economic activities. As a result, the role of land registration as an instrument for promoting social welfare and supporting economic development has not been fully realized.³⁷ From the perspective of justice, judicial decisions that prioritize the rights of parties considered to be the lawful owners reflect an effort to achieve substantive justice. However, this approach simultaneously weakens the legal protection afforded to certificate holders who acquired their rights lawfully and in good faith. Consequently, an imbalance arises between the pursuit of substantive justice and the need to uphold legal certainty through the land registration system. This imbalance demonstrates that the existing regulatory framework has not yet

³⁵ Seng Hansen, 'Legal Case Study on Indent House Purchasing in Indonesia', *Journal of Property, Planning and Environmental Law*, 18.1 (2026), 20–40 <https://doi.org/10.1108/JPPPEL-03-2025-0026>

³⁶ M. Filusi Ardiansyah and Darwati, 'Legal Protection for Land Rights Holders Beyond Administrative Registration: Re-Examining The Declarative Function of Land Registration in Indonesia', *Greenation International Journal of Law and Social Sciences*, 3.4 (2026), 1544–52 <https://doi.org/10.38035/gijlss.v3i4.704>

³⁷ Rosmidah Rosmidah and others, 'Can Electronic Land Rights Registration Help Prevent Land from Mafia Practices?', *Jambe Law Journal*, 7.2 (2024), 539–58 <https://doi.org/10.22437/home.v7i2.375>

succeeded in providing fair and effective protection for all parties involved in land ownership dispute.³⁸

From the perspective of Pancasila justice, as articulated by Yudi Latif, social justice requires the state not only to protect parties who have a substantively stronger legal entitlement but also to establish a legal system that guarantees legal certainty, equal treatment, and effective protection for every citizen.³⁹ Accordingly, when a land title certificate issued by the state can still be annulled despite having fulfilled all administrative requirements and the statutory period of legal protection, the fundamental objectives of land registration, namely legal certainty, justice, and social welfare, cannot be considered fully achieved. An important lesson drawn from this practice is that Indonesia's negative publication system requires right holders not only to acquire land in good faith and register their rights, but also to maintain continuous and actual possession of the land. In other words, registration alone is insufficient to ensure complete legal protection, as certificate holders must also demonstrate effective control and use of the land to strengthen the legal security of their registered rights.⁴⁰

These challenges demonstrate that Indonesia's land registration system continues to face structural, substantive, and institutional weaknesses that prevent it from fully achieving the objectives of legal certainty, social welfare, and justice. *First*, from a structural perspective, the implementation of land registration is constrained by a number of institutional limitations. Human resources remain insufficient in both quantity and professional capacity, particularly in the areas of cadastral surveying, mapping, land administration, and legal verification. These limitations have reduced the effectiveness of land administration services. The situation is further aggravated by heavy workloads, ineffective personnel management, inadequate technical infrastructure, and the underdevelopment of land information systems needed to support administrative decision-making. In several regions, cadastral surveying and mapping activities also fall short of technical standards because of the limited availability of qualified professionals.⁴¹ *Second*, from the perspective of legal substance, the negative publication system continues to generate legal uncertainty for registered landowners. A land title

³⁸ Saartje Sarah Alfons, Miracle Soplanit and Syed Muhammad Huzaif Mail, 'Creating Substantive Justice in State Administrative Courts: A Theoretical, Philosophical, and Human Rights Review', *Jurnal Suara Hukum*, 6.2 (2025), 298–306 <https://doi.org/10.26740/jsh.v6n2.p298-306>

³⁹ Laksmana Alluvian, Gibran Abdul Jabar Maulani and Gavin Adiva Ramudia, 'Legal Protection for Holders of Ownership Right Certificates Against Non-Procedural Land Execution', *Notaire*, 8.3 (2025), 391–412 <https://doi.org/10.20473/ntr.v8i3.74245>

⁴⁰ I Made Suwitra and I Made Gianyar, 'Meaning Good Faith in Sporadic Land Registration in Bali', in *Proceedings of the 3rd International Conference on Business Law and Local Wisdom in Tourism (ICBLT 2022)* (Paris: Atlantis Press SARL, 2023), pp. 610–17 https://doi.org/10.2991/978-2-494069-93-0_72

⁴¹ Farman Ullah Khan and others, 'Constraints to Agricultural Finance in Underdeveloped and Developing Countries: A Systematic Literature Review', *International Journal of Agricultural Sustainability*, 22.1 (2024) <https://doi.org/10.1080/14735903.2024.2329388>

certificate does not provide final or indefeasible protection because it may still be annulled by the courts if the registration is found to violate the principle of *nemo plus juris*, that no person can transfer a greater right than he or she lawfully possesses. Consequently, even registered ownership rights may be extinguished if they originate from a transfer made by a person who lacked the legal authority to dispose of the land. This situation demonstrates that Indonesia's land registration regulations have not yet provided an appropriate balance between protecting registered certificate holders and safeguarding the rights of the true owners, while at the same time ensuring a high level of legal certainty.⁴²

Third, from the perspective of legal culture, the effectiveness of land registration is closely influenced by the level of public awareness and the community's capacity to participate in the registration process.⁴³ Public participation is shaped by several factors, including educational attainment, legal literacy, economic conditions, and the perceived importance of securing legal recognition of land rights.⁴⁴ For low-income communities, the cost of land registration is often regarded as a financial burden, resulting in relatively low rates of land certification. Consequently, a substantial number of land parcels remain unregistered, increasing the risk of future land conflicts and ownership disputes. These shortcomings demonstrate that reforming Indonesia's land registration system requires more than legislative amendments alone. Effective reform must also include strengthening institutional capacity, improving the quality and accessibility of land administration services, and fostering a stronger legal culture that encourages public participation and compliance with land registration procedures. Only through an integrated approach can the objectives of land registration, namely legal certainty, justice, and social welfare, be achieved more effectively and sustainably.⁴⁵

The Positive Publication System in Land Registration: Lessons from Germany, Switzerland, and England

The implementation of land registration is intended not only to achieve legal certainty but also to serve as a state instrument for realizing social justice and public welfare. From the perspective of the welfare state, law functions not merely as a regulatory mechanism but also as an instrument for protecting citizens' rights and promoting the general welfare.⁴⁶ Accordingly, an ideal land registration system

⁴² Karjoko, Iswanto and Ramazanov.

⁴³ Benjamin John Wiesner and Paul Dargusch, 'The Social License to Restore—Perspectives on Community Involvement in Indonesian Peatland Restoration', *Land*, 11.7 (2022), 1038 <https://doi.org/10.3390/land11071038>

⁴⁴ Bernadett Kiss and others, 'Citizen Participation in the Governance of Nature-based Solutions', *Environmental Policy and Governance*, 32.3 (2022), 247–72 <https://doi.org/10.1002/eet.1987>

⁴⁵ Tsegaye Moreda, 'Beyond Land Rights Registration: Understanding the Mundane Elements of Land Conflict in Ethiopia', *The Journal of Peasant Studies*, 50.5 (2023), 1791–1819 <https://doi.org/10.1080/03066150.2022.2120813>

⁴⁶ Roswandi Roswandi, Anis Mashdurohatun and Sri Endah Wahyuningsih, 'Legal Reconstruction of Absentee Land Registration Arrangements through Complete Systematic Land Registration

should provide legal certainty while ensuring adequate protection of community rights, enabling land to be utilized optimally as an economic, social, and developmental asset.⁴⁷ This concept is consistent with welfare state principles, which regard law as a means of maximizing public benefit. Within this framework, land registration should be founded upon the principle of utility, namely generating benefits for all stakeholders; the principle of felicific calculus, which requires policies to maximize collective happiness and social welfare; and the principle of priority of welfare, which places public interest and societal well-being at the forefront of governmental administration. Together, these principles emphasize that a land registration system should not merely provide administrative certainty but should also reduce land disputes, enhance security of tenure, facilitate economic activities, and ensure effective legal protection for all right holders.⁴⁸

These objectives are consistent with the positive land registration system, under which the state guarantees the accuracy of all registered information. Under this system, individuals whose names are entered in the land register as right holders cannot subsequently have their registered rights challenged. As the registration authority, the state guarantees that the registration has been lawfully conducted and that the registered data are accurate.⁴⁹ Consequently, where a registered owner suffers a loss of rights due to an administrative error attributable to the registration authority, the remedy generally takes the form of monetary compensation rather than the invalidation of the registered title. This system has been adopted in Germany, Switzerland, and England. Under the positive registration system, the land certificate constitutes conclusive and exclusive evidence of land ownership. The registered owner enjoys legal protection even where the registered title does not reflect the true legal owner, as the system places complete reliance on the land register. Accordingly, land registration officials play an active role in examining the legality of transactions before registration.⁵⁰

In Germany, the positive publication system is implemented through the Grundbuch (land register), the official register containing comprehensive

Based on Justice Value', *Scholars International Journal of Law, Crime and Justice*, 6.02 (2023), 108–14 <https://doi.org/10.36348/sijlcj.2023.v06i02.008>

⁴⁷ Anis Mashdurohatun and Abdul Hanis Embong, 'Legal Protection of Coastal Community Land Tenure Rights', *Contrarius*, 1.2 (2025), 89–108 <https://doi.org/10.53955/contrarius.v1i2.209>

⁴⁸ Ida Hanifah and others, 'Legal Protection of Indonesia's Fisheries from Foreign Investment: A Social-State Approach', *Jurnal IUS Kajian Hukum Dan Keadilan*, 14.1 (2026), 247–67 <https://doi.org/10.29303/ius.v14i1.1964>

⁴⁹ Mohammed Shuaib, Noor Hafizah Hassan, Sahnius Usman, Shadab Alam, Surbhi Bhatia, Arwa Mashat, and others, 'Self-Sovereign Identity Solution for Blockchain-Based Land Registry System: A Comparison', ed. by Sebastian Podda, *Mobile Information Systems*, 2022 (2022), 1–17 <https://doi.org/10.1155/2022/8930472>

⁵⁰ Somesh Banerjee and others, 'Blockchain and <scp>IPFS</Scp> -based Reliable Land Registry System', *SECURITY AND PRIVACY*, 5.5 (2022) <https://doi.org/10.1002/spy2.236>

information regarding the legal status of every parcel of land. Ownership rights (*Eigentum*) acquire legal effect only after the parties conclude a real agreement embodied in a notarial deed and register the transfer in the Grundbuch.⁵¹ Before registration is completed, the Grundbuchrichter (land register judge) examines all formal and substantive requirements, including the validity of the supporting documents, the legality of the transfer, and the parties' genuine intention to transfer ownership. This verification process forms the basis upon which the state guarantees the accuracy of the information recorded in the land register, thereby ensuring that registered rights receive strong and conclusive legal protection.⁵²

Germany's land registration system is supported by an integrated cadastral administration. The entire territory is systematically surveyed through cadastral maps identifying the location, boundaries, and unique identification of every land parcel.⁵³ These cadastral data are subsequently recorded in the Grundbuch, which is maintained by the Land Registry Office within the competent local court according to the location of the property. The land register consists of an inventory describing the physical characteristics of the land and three principal divisions: Division I records ownership rights, Division II contains encumbrances and restrictions affecting the land, and Division III records security interests such as mortgages and land charges. The priority of competing rights is generally determined by the chronological order of registration unless otherwise agreed by the parties and recorded in the register.⁵⁴

The German Land Registry Office operates as part of the local court system and is responsible for administering land registration within its territorial jurisdiction. It is supported by Grundbuchrichter, administrative officers, and technical personnel who ensure that every application satisfies all legal requirements before registration. Unlike several other jurisdictions, Germany does not issue physical certificates of title. Instead, ownership is evidenced by registration in the Grundbuch, while certified extracts of the register may be obtained by parties demonstrating a legitimate legal interest.⁵⁵ The system also protects the good faith purchaser, namely a person who acquires rights in reliance upon the information contained in the land register without knowledge of any discrepancy between the

⁵¹ Abdul Kadir Jaelani, Reza Octavia Kusumaningtyas and Asron Orsantinutsakul, 'The Model of Mining Environment Restoration Regulation Based on Sustainable Development Goals', *Legality: Jurnal Ilmiah Hukum*, 30.1 (2022), 131–46 <https://doi.org/10.22219/ljih.v30i1.20764>

⁵² Rodiyah, Idris and Smith.

⁵³ Abdul Kadir Jaelani, 'Land Procurement for Infrastructure Projects under the Job Creation Law', *Contrarius*, 1.1 (2025) <https://doi.org/10.53955/contrarius.v1i1.80>

⁵⁴ Dionysia Georgia Perperidou, 'From the Person-Based Land Registries to the Parcel-Based Hellenic Cadastre: A Review on Securing Property Documentation, Land Administration, and Spatial Data Management in Greece', *Land*, 14.6 (2025), 1138 <https://doi.org/10.3390/land14061138>

⁵⁵ Cahya Intan Ayuningsekar, Abdul Kadir Jaelani and Sapto Hermawan, 'Legitimacy Principle of Equality in Collection of Rural and Urban Land Tax', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 1.3 (2023), 151–74 <https://doi.org/10.53955/jsderi.v1i3.15>

register and the actual legal circumstances. Consequently, the Grundbuch serves as the central and authoritative source of land information and constitutes the principal foundation of legal certainty within the German land administration system.⁵⁶

Switzerland applies a positive publication system through a title registration regime. Under this system, the land registry actively examines all documents forming the basis of registration before recording rights in the land register. Applications for registration must be submitted in writing by the registered right holder together with an authentic deed evidencing the transfer of ownership to the new owner.⁵⁷ Once all legal requirements have been fulfilled and verified, the registered title possesses conclusive legal force, thereby providing exceptionally strong protection to the registered owner. Where administrative errors occur during the registration process, Swiss law prioritizes state liability through compensation mechanisms rather than invalidating rights that have already been registered. In this manner, legal certainty is preserved while ensuring fair remedies for parties suffering losses as a result of administrative mistakes.⁵⁸

England has similarly developed a positive publication system through the title registration system administered by the Land Registry.⁵⁹ Major reforms to English land law were introduced through the Law of Property Act 1925, the Land Registration Act 1925, and the Land Charges Act 1925. Under these reforms, every transfer of land ownership must be registered in order to produce full legal effect.⁶⁰ Registration may be undertaken directly by the parties or through a solicitor, after which the Land Registry verifies the application before recording the transfer as a valid legal title. Once registration has been completed, the registered proprietor enjoys strong legal protection because third parties are entitled to rely entirely upon the information contained in the land register without undertaking an extensive investigation into the historical chain of title. This system significantly

⁵⁶ Muhammad Sheraz Ahsan and others, 'Assessing the Status and Challenges of Urban Land Administration Systems Using Framework for Effective Land Administration (FELA): A Case Study in Pakistan', *Land*, 12.8 (2023), 1560 <https://doi.org/10.3390/land12081560>

⁵⁷ Katharina Klatte and others, 'Towards Full Clinical Trial Registration and Results Publication: Longitudinal Meta-Research Study in Northwestern and Central Switzerland', *BMC Medical Research Methodology*, 23.1 (2023), 27 <https://doi.org/10.1186/s12874-023-01840-9>

⁵⁸ Jessica Verheij, Andreas Hengstermann and Jean-David Gerber, 'Land Policy in Switzerland: A Renewed Interest in Public Landownership to Support Land-Use Planning', in *Land Policies in Europe* (Cham: Springer Nature Switzerland, 2025), pp. 187–201 https://doi.org/10.1007/978-3-031-83725-8_12

⁵⁹ Anniina Saari, Seppo Junnila and Jussi Vimpari, 'Blockchain's Grand Promise for the Real Estate Sector: A Systematic Review', *Applied Sciences*, 12.23 (2022), 11940 <https://doi.org/10.3390/app122311940>

⁶⁰ Toby Graham and David Russell, 'A Century of the Law of Property Acts: Lord Birkenhead's Legacy', *Trusts & Trustees*, 30.4 (2024), 161–64 <https://doi.org/10.1093/tandt/ttae019>

enhances the efficiency of land transactions while minimizing the potential for ownership disputes.⁶¹

The experiences of Germany, Switzerland, and England demonstrate that the effectiveness of a positive publication system depends not solely upon granting conclusive evidentiary status to registered land titles, but also upon the existence of comprehensive pre-registration verification procedures, state responsibility for ensuring the accuracy of land registration data, and effective compensation mechanisms in cases of administrative error. These three elements operate in an integrated manner to strengthen public confidence in the land administration system while substantially reducing the likelihood of post-registration disputes. For Indonesia, these comparative experiences suggest that reforming the land registration system requires more than merely granting absolute evidentiary value to land certificates. Such reform must also be accompanied by institutional strengthening, improvements in the verification of both physical and juridical land data, comprehensive digitalization of land administration, and the establishment of a robust state liability framework for administrative errors. By fulfilling these prerequisites, a positive publication system could provide stronger legal certainty, more effective protection for land rights holders, reduce land disputes, and ultimately advance the values of justice and public welfare that constitute the fundamental objectives of Indonesia's land registration system.⁶²

Land Registration Model Based on the Principles of Social Welfare and Justice: Towards a Positive Publication System in Indonesia

The experience of countries that have adopted a positive publication system in land registration, including Germany, Switzerland, and England, demonstrates that strong legal certainty can only be achieved when the state guarantees the accuracy of the information recorded in the land register.⁶³ These systems are not solely designed to protect property rights; they also incorporate the principles of social welfare and justice through rigorous verification procedures, state responsibility for administrative errors, and compensation mechanisms for parties who suffer losses as a result of incorrect registration.⁶⁴ These comparative experiences provide valuable lessons for Indonesia in developing an ideal model of

⁶¹ Qifeng Han, Chunhui Li and Yulu Jin, 'The Impact of Intellectual Property Protection on the Development of Artificial Intelligence in Enterprises', *International Review of Financial Analysis*, 105 (2025), 104179 <https://doi.org/10.1016/j.irfa.2025.104179>

⁶² I Made Dwipayana and others, 'Contextual Spatial Planning for Livable Spaces in Bali: Integrating Local Wisdom and Digital Licensing Systems', *E3S Web of Conferences*, 685 (2026), 02002 <https://doi.org/10.1051/e3sconf/202668502002>

⁶³ Septina Marryanti Prihatin and others, 'Digital Land Registration and Legal Certainty: Evidence from Indonesia's e-Government Reforms', *Malaysian Journal of Society and Space*, 22.1 (2026) <https://doi.org/10.17576/geo-2026-2201-09>

⁶⁴ Roni Holler, Noam Tarshish and Efrat Kaplan, "'That's Where the Hunt for the Correction Begins": Experiences of Administrative Errors as Sites of Administrative Burden', *International Journal of Social Welfare*, 33.4 (2024), 806–18 <https://doi.org/10.1111/ijsw.12637>

land registration regulation. Such a model should not only strengthen legal certainty and ensure effective protection of land rights but also promote social welfare and substantive justice through a reliable, accountable, and transparent land administration system.⁶⁵

A positive publication system provides strong legal protection for registered landowners because a land title certificate issued under this system has conclusive evidentiary value.⁶⁶ As a result, the rights recorded in the certificate cannot be challenged by another party claiming ownership of the same parcel of land, except in narrowly defined circumstances established by law. This level of legal certainty is possible because the state guarantees the accuracy of both the physical and juridical information that forms the basis for the issuance of the certificate.⁶⁷ When objections or legal claims arise concerning a registered title, the state does not automatically revoke the certificate.⁶⁸ Instead, the competent authority first examines the validity of the claim and the legality of the registration process. If an administrative error or irregularity is established, the state assumes responsibility by providing compensation to the party who has suffered a loss rather than undermining the legal security of the registered title. This mechanism reflects the state's commitment to maintaining the integrity and reliability of the land registration system while ensuring fair legal protection for all interested parties.⁶⁹ Under a positive publication system, the individual whose name is recorded as the registered right holder enjoys full legal certainty to possess, use, transfer, and otherwise exercise legal rights over the land without the continuing risk of competing ownership claims. This model embodies the essential principle of legal certainty by ensuring that rights formally recognized by the state receive consistent legal protection and can be exercised with confidence in accordance with the applicable legal framework.⁷⁰

The adoption of a positive publication system in Indonesia requires comprehensive legal reform, particularly through the enactment of new legislation or the revision of existing laws governing land registration. Such reform should

⁶⁵ Riza Zulfikar and others, 'Digital Land Registration Transformation: Does Indonesia's Ptsl Program Guarantee Legal Certainty, Equity, And Justice?', *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah*, 11.1 (2026) <https://doi.org/10.22373/petita.v11i1.951>

⁶⁶ Alluvian, Gibran Abdul Jabar Maulani and Gavin Adiva Ramudia.

⁶⁷ Ghassan Adhab Atiyah, Ahmed Ismael Ibrahim and Ahmed Abdulkhudhur Jasim, 'Enforcement of Smart Contracts in Cross-Jurisdictional Transactions', *International Journal of Law and Management*, 68.2 (2026), 319–44 <https://doi.org/10.1108/IJLMA-06-2024-0220>

⁶⁸ Maria Gavrilescu, 'Water, Soil, and Plants Interactions in a Threatened Environment', *Water (Switzerland)*, 13.19 (2021) <https://doi.org/10.3390/w13192746>

⁶⁹ Alwi Rany Mohamad and Benny Djaja, 'Effectiveness Of Legal Protection For Land Rights Certificate Holders Against Unlawful Third-Party Claims', *Awang Long Law Review*, 7.2 (2025), 402–9 <https://doi.org/10.56301/awl.v7i2.1564>

⁷⁰ Triana Sofiani and others, 'Legal Uncertainty and Structural Injustice of Platform Workers: Reasserting the State's Responsibility in Legal Protection', *Jurnal IUS Kajian Hukum Dan Keadilan*, 14.1 (2026), 159–82 <https://doi.org/10.29303/ius.v14i1.1872>

establish a legal framework that not only guarantees legal certainty but also strengthens the protection of land rights while promoting justice and social welfare for all landowners and right holders. To achieve these objectives, the reformed land registration framework should incorporate several key substantive elements. These elements should ensure the reliability of the registration system, reinforce state accountability, and provide effective legal protection for all parties involved in land ownership and land transactions.⁷¹

First, the regulatory framework should adopt the core principle of indefeasibility of title, ensuring that registered land rights receive strong legal protection and cannot be challenged except in limited circumstances expressly provided by law. The adoption of this principle places the state in the position of guaranteeing the validity and accuracy of the information recorded in the land register, thereby strengthening legal certainty for registered right holders.⁷² *Second*, the legislation should clearly establish a framework for state liability by introducing a compensation scheme for losses resulting from errors in the land registration process. The regulatory framework should specify the model of protection to be adopted, whether immediate indefeasibility, under which registered right holders receive immediate and conclusive legal protection while injured parties are compensated by the state, or deferred indefeasibility, which allows the original owner, under certain legally defined circumstances, to recover the land before the registered title becomes final. A clear determination of the applicable model is essential to ensure consistency in the implementation of the positive publication system and to balance legal certainty with substantive justice.⁷³ *Third*, the regulatory framework should clearly define the categories of land eligible for registration or legalization in order to strengthen legal certainty. These categories should include land held under historical tenure, such as land acquired before Indonesian independence, land derived from colonial-era rights that remain legally recognized under transitional provisions, inherited land, waqf land, and other forms of land tenure supported by a valid legal basis. Clearly defining the scope of registrable land is essential to prevent overlapping claims, improve the accuracy and reliability of land records, and enhance the effectiveness of a positive publication system.⁷⁴

⁷¹ Nabbilah Amir and others, 'Regulating the Space Above Land in Indonesia: Toward a Business Law-Based Framework for Legal Certainty and Vertical Development', *Jurnal Hukum Bisnis Bonum Commune*, 2026, 63–82 <https://doi.org/10.30996/jhbbc.v9i1.132400>

⁷² Charu Jain and others, 'Women's Land Ownership in India: Evidence from Digital Land Records', *Land Use Policy*, 133 (2023), 106835 <https://doi.org/10.1016/j.landusepol.2023.106835>

⁷³ Okan Yildiz and others, 'State Liability, Compensation, and Recourse Issues Arising from Changes in the Registered Areas of Cadastral Parcels: A Legal Investigation', *Geomatics, Natural Hazards and Risk*, 16.1 (2025) <https://doi.org/10.1080/19475705.2025.2603672>

⁷⁴ 'The Practice of Movable Collateral Registry Management Information System: The Case of Rural Land Use Right as Collateral', *Canadian Journal of Business and Information Studies*, 2024, 174–88 <https://doi.org/10.34104/cjbis.024.01740188>

One of the most fundamental steps toward establishing a positive publication system in Indonesia is to amend Article 19(2)(c) of the Basic Agrarian Law, which currently provides that a land title certificate serves as strong evidence of land rights.⁷⁵ As the principal legal foundation of Indonesia's national land law, the Basic Agrarian Law determines the fundamental characteristics of the country's land registration system. Accordingly, revising this provision is a necessary prerequisite for the transition to a positive publication system. The proposed amendment would replace the phrase "strong evidence" with "conclusive evidence." This terminological change reflects the defining characteristic of a positive publication system, under which a land title certificate possesses conclusive evidentiary value and is fully supported by a state guarantee regarding the accuracy of the physical and juridical information recorded in the land register.⁷⁶ Consequently, individuals who acquire and register land rights lawfully and in good faith would receive comprehensive legal protection against subsequent competing claims. The proposed reform would also reinforce the state's responsibility for ensuring the accuracy and reliability of land registration records. If administrative errors are later identified in the registration process, the appropriate legal response should not be to revoke or weaken the protection afforded to registered right holders.⁷⁷ Instead, such errors should be addressed through a state liability mechanism, including the payment of compensation to parties who have suffered losses as a result of those errors. Therefore, amending Article 19(2)(c) of the Basic Agrarian Law would do more than strengthen the evidentiary status of land title certificates. It would provide the normative foundation for a land registration system that offers greater legal certainty, stronger protection of property rights, enhanced justice, and improved social welfare, while aligning Indonesia's land administration framework with the core principles of a positive publication system.⁷⁸

A land registration system based on a positive publication model also provides a more effective framework for resolving land disputes. Such disputes may involve administrative, civil, or criminal matters related to land ownership, property transactions, mortgage registration, land use and control, or customary (*ulayat*)

⁷⁵ A. Nurul Annisa Dela Putri Syah, Syahrudin Nawi and Sri Lestari Poernomo, 'The Evidentiary Strength of Land Title Certificates in Civil Cases: A Study of Decisions of the Makassar District Court', *SIGn Jurnal Hukum*, 7.2 (2026), 1131–45 <https://doi.org/10.37276/sjh.v7i2.558>

⁷⁶ Stefano Gariazzo and others, 'Neutrino Mass and Mass Ordering: No Conclusive Evidence for Normal Ordering', *Journal of Cosmology and Astroparticle Physics*, 2022.10 (2022), 010 <https://doi.org/10.1088/1475-7516/2022/10/010>

⁷⁷ Johannes Bhanye and others, 'Land Politics and Settlers' Responses to Land Tenure under Threat in Emerging Peri-Urban Spaces in Zimbabwe', *Land Use Policy*, 135 (2023), 106945 <https://doi.org/10.1016/j.landusepol.2023.106945>

⁷⁸ Veronika T and Fitri Rafianti, 'Ambiguity Of The Verdict On The Position Of Multiple Certificates On The Object Of Land Disputes', *LITERACY: International Scientific Journals of Social, Education, Humanities*, 2.3 (2023), 137–51 <https://doi.org/10.56910/literacy.v2i3.1020>

land rights.⁷⁹ Rather than undermining the legal certainty of registered titles, a positive publication system resolves disputes through state liability and compensation mechanisms designed to protect innocent parties while preserving confidence in the land registration system. Two principal compensation models are commonly recognized.⁸⁰

First, the immediate indefeasibility model, under which the registered title receives immediate and conclusive legal protection upon registration. This approach safeguards innocent purchasers, lessees, mortgagees, and other bona fide parties who rely on the accuracy of the land register.⁸¹ If the registration is later found to have resulted from fraud or administrative error, the registered owner retains title, while the original owner is compensated by the state. In this way, legal certainty for registered transactions is preserved without denying redress to the party who has suffered a loss.⁸² *Second*, deferred indefeasibility, which seeks to balance the interests of the original owner and subsequent purchasers. Under this approach, if a fraudulent transferee acquires land from the original owner, the law allows the original owner to recover the property from that immediate transferee, while the fraudulent transferee or other affected parties may seek compensation from the state.⁸³ However, when the land has subsequently been transferred to a third party who acquired it in good faith and without knowledge of the fraud, the law protects the third party's registered title. In such circumstances, ownership remains with the innocent third-party purchaser, whereas the original owner is compensated through the state's indemnification mechanism. This model aims to reconcile substantive justice with legal certainty by protecting good-faith purchasers while ensuring that parties who suffer losses receive appropriate compensation.⁸⁴

⁷⁹ Inayat Ullah and Saqib Hussain, 'Impact of Early Access to Land Record Information through Digitization: Evidence from Alternate Dispute Resolution Data in Punjab, Pakistan', *Land Use Policy*, 134 (2023), 106917 <https://doi.org/10.1016/j.landusepol.2023.106917>

⁸⁰ Lingling Li and others, 'How to Use Evidence Rules Reasonably to Resolve Land Disputes: Analysis of Typical Land Dispute Cases from China', *Land*, 13.8 (2024), 1187 <https://doi.org/10.3390/land13081187>

⁸¹ Abdul-Salam Ibrahim and others, 'Resolving Land Conflicts through Alternative Dispute Resolution: Exploring the Motivations and Challenges in Ghana', *Land Use Policy*, 120 (2022), 106272 <https://doi.org/10.1016/j.landusepol.2022.106272>

⁸² Bahori Ahoen, 'Legal Certainty of Land Sale with Buyback Right as an Alternative Financing Option for Real Estate Companies in Legal Reform Efforts', *Interdisciplinary Journal and Hummanity (INJURITY)*, 4.4 (2025) <https://doi.org/10.58631/injurity.v4i4.1429>

⁸³ Samantha Hepburn and Pieter Badenhorst, 'Bridging the Divide between Rights In Personam and Rights In Rem in Land Transactions: A Comparative Perspective of Australian and South African Law', *African Journal of International and Comparative Law*, 32.1 (2024), 90–111 <https://doi.org/10.3366/ajicl.2024.0475>

⁸⁴ Martin Dixon, 'Mistakes, Mispleading and Overreaching: Understanding Title Registration and Correcting the Register', *Journal of Property, Planning and Environmental Law*, 14.1 (2022), 1–10 <https://doi.org/10.1108/JPEL-11-2021-0053>

These two compensation mechanisms offer practical and effective alternatives for resolving land disputes within a positive publication system.⁸⁵ Unlike the negative publication system currently applied in Indonesia, where disputes are primarily resolved through lengthy court proceedings that often require multiple levels of litigation before a final and binding judgment is reached, compensation-based mechanisms provide a more efficient means of protecting the rights of the parties involved while preserving the stability of the land registration system.⁸⁶ By shifting the focus from cancelling registered titles to providing compensation for parties who have suffered losses, these mechanisms reduce legal uncertainty and minimize prolonged disputes over land ownership.⁸⁷ More importantly, they demonstrate the state's active responsibility in maintaining the integrity of the land registration system and addressing the consequences of administrative errors or fraudulent transactions. Through this approach, the state is able to achieve a more balanced form of justice. Registered right holders who acquired their land in good faith retain legal certainty over their ownership, while parties who have been deprived of their legitimate rights receive fair and adequate compensation.⁸⁸ As a result, the positive publication system promotes not only legal certainty but also substantive justice and social welfare by ensuring that all affected parties receive appropriate legal protection without undermining public confidence in the land registration system.⁸⁹

Although a positive publication system offers stronger legal certainty, its implementation also presents several challenges that should be carefully considered before it is adopted in Indonesia.⁹⁰ Assessing these challenges is essential to determine whether a positive publication system is a feasible model for

⁸⁵ Marcello De Maria, Elizabeth J.Z. Robinson and Giacomo Zanello, 'Fair Compensation in Large-Scale Land Acquisitions: Fair or Fail?', *World Development*, 170 (2023), 106338 <https://doi.org/10.1016/j.worlddev.2023.106338>

⁸⁶ Xialin Liao and others, 'Towards Equitable Compensation: Unraveling China's Regional Comprehensive Land Price System from Legal Connotation to Practical Implementation', *Sustainability*, 16.16 (2024), 6791 <https://doi.org/10.3390/su16166791>

⁸⁷ Mariana Traldi, 'Socio-Spatial Impacts of Wind Energy in Brazil's Northeast: Land Grabbing, Green Grabbing, and the Role of Leasing Contracts and Legal Gaps', *Applied Geography*, 190 (2026), 103949 <https://doi.org/10.1016/j.apgeog.2026.103949>

⁸⁸ M. Yazid Fathoni, Adi Sulistiyono and Lego Karjoko, 'Reformulation of Sale And Purchase Agreement Regulations in Creating Legal Certainty and Justice in The Transfer of Land Rights in Indonesia', *Jurnal IUS Kajian Hukum Dan Keadilan*, 12.1 (2024), 55–67 <https://doi.org/10.29303/ius.v12i1.1351>

⁸⁹ Yuniar Sabdaningtyas and Putri Maha Dewi, 'Legal Certainty and Procedural Justice in Land Management in Indonesia: Ensuring Rights Protection and Effective Dispute Resolution', *Mimbar Keadilan*, 17.2 (2024), 210–22 <https://doi.org/10.30996/mk.v17i2.11475>

⁹⁰ Benny Hutahayan and others, 'Investment Decision, Legal Certainty and Its Determinant Factors: Evidence from the Indonesia Stock Exchange', *Cogent Business & Management*, 11.1 (2024) <https://doi.org/10.1080/23311975.2024.2332950>

reforming the national land registration framework.⁹¹ *First*, a positive publication system requires a more rigorous registration process, which may result in a longer registration period. However, this should not be regarded as a fundamental weakness but rather as a necessary consequence of thorough verification procedures designed to ensure the accuracy of both the physical and juridical data before a land right is registered. In fact, Indonesia's current land registration procedure under Government Regulation No. 24 of 1997 already incorporates several features commonly associated with a positive publication system, including document verification, examination of supporting evidence, and public notification prior to registration.⁹²

Second, there is a risk that the true owner may lose ownership because of errors made during the registration process. This risk can be substantially reduced by strengthening the professionalism of land administration officials, implementing more rigorous verification procedures, and increasing public awareness of the new registration system.⁹³ Where registration errors nevertheless occur, affected parties should be protected through a state compensation mechanism based on either the immediate indefeasibility or deferred indefeasibility model, thereby ensuring that those who suffer losses receive effective legal remedies without undermining the certainty of registered titles.⁹⁴ *Third*, a positive publication system shifts the resolution of land disputes from prolonged judicial litigation toward an administrative model based on state responsibility. This approach is likely to be more efficient because it provides faster, simpler, and more equitable outcomes than conventional court proceedings, which are often time-consuming and may encounter difficulties in the enforcement of judicial decisions.⁹⁵

Beyond these challenges, several supporting factors enhance the prospects for implementing a positive publication system in Indonesia. *First*, public awareness of the importance of land registration continues to increase alongside advances in information technology and the digitalization of land administration services, as

⁹¹ Fatemeh Jahani Chehrehbargh and others, 'Identifying Global Parameters for Advancing Land Administration Systems', *Land Use Policy*, 136 (2024), 106973 <https://doi.org/10.1016/j.landusepol.2023.106973>

⁹² Mohammed Shuaib, Noor Hafizah Hassan, Sahnius Usman, Shadab Alam, Surbhi Bhatia, Parul Agarwal, and others, 'Land Registry Framework Based on Self-Sovereign Identity (SSI) for Environmental Sustainability', *Sustainability*, 14.9 (2022), 5400 <https://doi.org/10.3390/su14095400>

⁹³ Reyhan M. Zein and Hossana Twinomurizi, 'Information Sharing in Land Registration Using Hyperledger Fabric Blockchain', *Blockchains*, 2.2 (2024), 107–33 <https://doi.org/10.3390/blockchains2020006>

⁹⁴ Dimas Ghifari Ajie, Yenni Yunithawati R and Efa Laela F, 'Liability Of Temporary Land Deed Officials For Negligence In Reading Deeds During Sale And Purchase Transactions', *Indonesia Private Law Review*, 5.1 (2024), 55–70 <https://doi.org/10.25041/iplr.v5i1.3409>

⁹⁵ Bogdan Derevyanko and others, 'Legal Foundations for Resolving Land Disputes Through Mediation as An Alternative Dispute Resolution Method', *European Energy and Environmental Law Review*, 32.Issue 5 (2023), 248–56 <https://doi.org/10.54648/EELR2023014>

promoted under Government Regulation No. 18 of 2021.⁹⁶ *Second*, digital land registration has the potential to improve transparency, accountability, and data integrity while reducing opportunities for corruption, collusion, and nepotism within land administration.⁹⁷ *Third*, the state's fiscal capacity must be taken into account because a positive publication system requires an effective compensation fund to indemnify parties who suffer losses resulting from administrative errors.⁹⁸

Accordingly, resolving existing land disputes and improving the accuracy and reliability of land registration data should be regarded as essential prerequisites for the full implementation of a positive publication system.⁹⁹ Taking into account its advantages, implementation challenges, and supporting conditions, a positive publication system remains the most promising model for the future development of Indonesia's land registration regime. By combining state guarantees, rigorous verification procedures, and effective compensation mechanisms, such a system would provide stronger legal certainty, enhance the protection of registered land rights, and better reflect the principles of justice and social welfare that underpin Indonesia's legal order.¹⁰⁰

Conclusion

Based on the discussion, this study draws three main conclusions. *First*, Indonesia's land registration system, which continues to adopt a negative publication system with positive elements, has not been able to provide optimal legal certainty, justice, and social welfare because land title certificates may still be cancelled even after they have been issued in accordance with the applicable legal procedures. *Second*, the experiences of Germany, Switzerland, and England demonstrate that a positive publication system provides stronger legal protection through rigorous pre-registration verification, state guarantees of the accuracy of land registration data, and compensation mechanisms for losses resulting from administrative errors. *Third*, the reform of Indonesia's land registration system should be directed toward the adoption of a positive publication system by

⁹⁶ Navasha Hadiya Putri and Yulia Hanoselina, 'Implementation of the Land Management Application as an Effort to Prevent Land Disputes through Digitalization Services', *Journal of Educational Management Research*, 4.6 (2025), 2558–71 <https://doi.org/10.61987/jemr.v4i6.1412>

⁹⁷ Mohammad Rifat Ahmmad Rashid and others, 'Enhancing Land Management Policy in Bangladesh: A Blockchain-Based Framework for Transparent and Efficient Land Management', *Land Use Policy*, 150 (2025), 107436 <https://doi.org/10.1016/j.landusepol.2024.107436>

⁹⁸ Renjie Xu and Xiong Zou, 'Improving the Rules on Farmland Protection Compensation in China: Toward the Sustainability of Human Survival and Planetary Ecology', *Sustainability*, 18.3 (2026), 1364 <https://doi.org/10.3390/su18031364>

⁹⁹ Mohammed Shuaib, Noor Hafizah Hassan, Sahnius Usman, Shadab Alam, Surbhi Bhatia, Deepika Koundal, and others, 'Identity Model for Blockchain-Based Land Registry System: A Comparison', ed. by Deepak Kumar Jain, *Wireless Communications and Mobile Computing*, 2022.1 (2022) <https://doi.org/10.1155/2022/5670714>

¹⁰⁰ Zefrizal Nurdin, 'Legal Protection of Customary Rights under Legal Pluralism and Its Impact on the Minangkabau Society: An Empirical Study in the District of Lima Puluh Kota, West Sumatra', *Cogent Social Sciences*, 8.1 (2022) <https://doi.org/10.1080/23311886.2022.2045722>

strengthening the regulatory framework, recognizing land title certificates as conclusive evidence of ownership, improving the quality of physical and juridical verification, accelerating the digitalization of land administration, and establishing a comprehensive state liability mechanism. Such reforms are expected to reduce land disputes, enhance legal certainty, strengthen the protection of land rights, and enable land registration to fulfil its broader function as an instrument for promoting social justice and public welfare.

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