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## Model Of Legalization Of Land Certification in Rural Areas and Projection of The Value of Ownership Benefits

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### ABSTRACT

*This study discusses the condition of the land certification legalization system in rural areas. The provisions on land in Indonesia can be regulated in Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles or usually better known as UUPA. The purpose of this research is to find out the factors in the constraints in obtaining land certification and the value of the benefits of certification, alternative legalization schemes and processes as well as formulating a strategy for success in land certification in Indonesia. The results of the analysis show that the most dominant factors that influence a person's desire to certify land are being able to increase the value of land objects, reducing the fear of losing land, reducing land disputes, increasing investment and facilitating access to capital. The scheme and ease of the legalization process in land certification requires understanding for the community to pay attention to the requirements for land certification documents, knowing the activities of measuring and mapping parcels of land rights and registering these fields in the land register and following up on the status of issuance of certificates by National Land Agency (BPN) officers. Success in land certification in Indonesia requires socialization efforts by the government from the Village, Regency/City levels and even from the Center so that information related to certification can be received and the community knows the benefits as well as socialization related to land certificate management standards, making manual books or procedures for obtaining land certification to be distributed to the public in both online and textbook form. Personal Data Protection Bill. The conclusion in this article is the need to establish an independent authority for personal data protection in the Indonesian constitutional system.*

## 1. Introduction

Land is a necessity for human life as a place to live and as a source of livelihood. A land title certificate is proof of a person's ownership of a land and

its buildings. This can be seen in Article 4 paragraph (1) jo. Article 3 letter a Government Regulation no. 24 of 1997 concerning Land Registration ("PP Land Registration"). Article 4 paragraph (1) PP Land Registration "To provide legal certainty and protection as referred to in Article 3 letter a to the right holder concerned is given a certificate of land rights". Article 3 letter a PP Land Registration, namely "land registration aims to provide legal certainty and legal protection to the holder of rights to a parcel of land, apartment units and other registered rights so that they can easily prove themselves as the holder of the right in question" .

With the granting of several types of land rights to individuals or legal entities, in addition to having the authority to manage the land in accordance with the rights they hold and as long as they do not conflict with the restrictions that apply to it, the holder of these rights is also charged with the obligation to register their land rights. in order to achieve legal certainty. By registering a part of the land, it will not only guarantee the security of ownership towards legal certainty, even an owner will get the perfection of his rights.<sup>1</sup>

The provisions on land in Indonesia can be regulated in Law no. 5 of 1960 concerning Basic Agrarian Basic Regulations or usually better known as the Basic Agrarian Law (hereinafter referred to as UUPA). The UUPA was promulgated on September 24, 1960 and is the implementation of the provisions of Article 33 paragraph 3 of the 1945 Constitution. The purpose of the promulgation of the UUPA is stated in its general explanation, namely: a. laying the foundations for the preparation of the National Agrarian Law, which is a tool to bring prosperity, happiness, and justice to the state and people, especially farmers in the framework of a just and prosperous society; b. laying the foundations for establishing a unity and simplicity in the Land Law; c. laying the foundations to provide legal certainty regarding land rights for the whole people.<sup>2</sup>

The meaning of the certificate is as a strong means of proof and that the purpose of the land registration being held is in the context of providing legal certainty in the land sector, as well as ensuring orderly administration in the land sector, so that it becomes visible and meaningful for both the community and the government. Based on the description of the article, we can see that the certificate of land rights is useful as proof of ownership of a land right for the holder concerned. This means that the certificate is issued for the benefit of the holder of the right to the land (Article 31 paragraph 1) PP Land Registration. Furthermore, it is stated in Article 32 of PP Land Registration that the certificate of land rights is a certificate of proof of rights that applies as a strong means of proof regarding the physical data and juridical data contained therein, as long as the physical data and juridical data are in accordance with the data contained in the letter of measurement and the book of land rights concerned.

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1 Fernandez AM, *Hambatan Hukum dalam Pelaksanaan Pendaftaran Tanah secara Sporadik demi Menjamin Kepastian Hukum Hak Atas Tanah Adat*, Brawijaya, Malang, 2014

2 Sahono SML, Penerbitan Sertifikat Hak Atas Tanah dan Implikasi Hukumnya, *Jurnal Perspektif*, Vol.XVIII No.2, 2012, page.90-97

Initially, land registration was held according to the provisions of Government Regulation (PP) Number 10 of 1961 concerning land registration. However, because this PP has not been maximized due to several obstacles, namely limited funds and manpower so that most of the control of land is not supported by adequate evidence. In addition, this PP is not sufficient to provide the possibility of implementing land registration in a short time and with satisfactory results. In registering land there is no time limit after the transfer of rights, besides that the Land Deed Maker does not have to register but it is also possible for new owners of land rights to often have the land not registered. To correct this weakness, a new land registration regulation was issued to improve the previous land registration regulation.<sup>3</sup>

Ecologically, changes in land use will also affect the socio-economic conditions of the community. Land management that does not pay attention to social and environmental aspects will also cause social disasters such as food crises, thereby increasing the potential for higher imports to conflict. Along with the increase in humans from year to year, while the amount of land that can be controlled by humans is limited, then land becomes a very crucial problem for humans. In addition, with the progress of the people's economy and the national economy, more land is involved in economic problems such as buying and selling land, renting land and land as collateral for credit at the bank. In everyday life land is often a dispute even to the court. As a result of disputes in the land sector, it can lead to prolonged conflicts between the disputing community members.

The large number of land mafias in Indonesia also greatly affects the legalization system of land certification, due to the recent economic impact. The emergence of brokers is caused by land sellers who have no buyers or poor advertising. The land mafia still overshadows land governance in Indonesia. Various loopholes are used for certain purposes, one of the most common being falsification of land ownership documents. The purpose of the research is to find out the factors in the constraints of obtaining land certification and the value of the benefits of certification, alternative legalization schemes and processes as well as formulating a success strategy in land certification in Indonesia. Finding the dominant driving factors in the success and projections of land certification in the future are the things that are focused on as novelties in this research, as well as integration using the dynamic system method to build variable linkages in the land certification model.

## **2. Research Methods**

This normative legal research utilizes primary and secondary data types or materials obtained through literature studies, so that the data collection method is carried out by searching for relevant literature. The collection of primary and secondary data used in this study focused on: (a) primary legal materials, in the form of laws and regulations related to the research theme, (b) primary data, namely discussions with in-depth experts (in-depth interviews) regarding factors that affect land certification and (c) secondary data, in the form of reference

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3 Rajab, A Rejeki, Sutrisno BE dan Doramia AL, Sertifikat Hak Atas Tanah dalam Kepastian Hukum Pendaftaran Tanah, *Jurnal Notaris*, Vol.13, 2020, page.642-654

books and journals related to the research theme, namely the factors and value of the benefits of land certification as well as data on the number and plans of the government in certifying land in Indonesia.

The analytical methods used in this study include: (a) descriptive analysis by presenting quantitative and qualitative data in descriptive form, (b) performance comparison index method to assess the model of the relationship between factors, (c) dynamic system analysis to determine the relationship between variables that influencing land certification and projecting land certification data in Indonesia, (d) Interpretative Structural Modeling (ISM) method to determine the structuring and mapping of constraint-based strategies in obtaining land certification.

### **3. Result and Discussion**

The certificate of ownership of land in rural areas consists of a copy of the land book and a letter of measurement for the land together with a drawing of the relevant land plan. One of the objectives of land certification is to provide farmers with financial access to agricultural resources. However, sometimes farmers or residents in rural areas do not really think about the importance of certifying their land, because usually there are several factors that they are not interested in certifying their land, for example, the community still does not know and understand the laws in implementing regulations on land. especially regarding the procedure for making land certificates. Corrupt officials or it can be said that corrupt individuals are one of the causes of the difficulty of legalizing land certification, if one person in the government office seeks profit by reducing the area of land, or measuring land that does not match the actual data, so that it can become a problem when the land will be used. certificate created.

The lack of knowledge of the residents and the trust of the residents to manage agrarian files (land ownership certificates/land certificates), is also one of the factors for the lack of land certification, the community's assumption that there is an expensive cost to carry out land registration and the process is very difficult and long (because there are still unscrupulous land certificate management services/brokers from the village or local sub-district), although the management fee charged is cheaper, the community does not want to do it because the process seems long. Based on the results of the study, people who do not understand the function and use of certificates, some think that registered lands are meaningful if the land already has a letter (whatever the name is and whoever issued it) as long as it is related to the making of a government agency, it means that the land has been registered. registered and constitutes strong evidence, especially for land obtained from inheritance, generally community members know the history of the land owner. In fact, all land owned by the community is currently subject to land and building tax (PBB) in order to fulfill and increase state revenue.

Land certification is important because it has more dominant value than uncertified. In general, the factors that drive the desire for land certification, either directly or indirectly, include:

- 2.1 Increase access to utilities, such as access to clean water, improvement of sanitation services and electricity services.
- 2.2 Improving welfare and reducing poverty.
- 2.3 Land certification can reduce land disputes as well as provide a sense of security for land owners.
- 2.4 Increase household investment.
- 2.5 Land certification can increase the use of credit, reduce dependence on credit borrowed from relatives, and increase credit borrowed from commercial banks and gain access to capital through the use of certificates as collateral/credit guarantees for banks/financial institutions.
- 2.6 Increase the value of the certified land object.
- 2.7 Reduce the fear of landowners losing their land.
- 2.8 Land certification can encourage households to use land more productively.
- 2.9 Beneficial for climate change, where by giving land title certificates to land owners in forest areas it is considered to be able to avoid deforestation in various parts of the world, even though land certification has an indirect effect on deforestation.<sup>4</sup>



**Figure 1. Performance index of the value of land certification benefits**

The model of the value of the benefits of land certification is seen based on the factors that influence a person in wanting to certify his land, this is an illustration of the value of the benefits felt by the land owner. Based on the figure, it can be seen that the performance comparison value is dominated by

<sup>4</sup> Buntaine MT, Hamilton SE dan Millones M, Titling community Land to Prevent Deforestation: An evaluation of a best-case Program in Morona-Santiago, Ecuador, *Journal Global Environmental Change Elsevier*, Vol.33, 2015, page.32-43

the benefits of adding the value of the land object with a value of 1.19 which is better than the average value of the overall benefits, reducing the fear of losing land with a value of 1.13 times and land disputes by 1.07 times. While the performance of the benefit value is low compared to the average, namely restraining the rate of climate change by 0.81 times and increasing the productive value of the soil by 0.86.

The model formed from the results of expert opinion is assessed by weighting the comparison value so that the following model is obtained:

$$Y = 0,9947X_1 + 0,8580X_2 + 1,0694X_3 + 1,0569X_4 + 1,0321X_5 + 1,1912X_6 + 1,1315X_7 + 0,8580X_8 + 0,8082X_9$$

Based on these results, if an assessment of the benefits is carried out directly, it can be assessed with an intangible economic value, thus adding the value of the land object or  $X_6$  as much as 1.47 times having the benefit value of its standard value, namely holding back the rate of climate change or  $X_9$ , followed by reducing the fear of loss. soil or  $X_7$  as much as 1.40 times the standard.

For the making of land certification, there are several principles in the implementation of land registration as stipulated in Article 2 of Government Regulation no. 24 of 1997, namely: first, simple principles, basic provisions and procedures for land registration can be easily understood by interested parties, especially land rights holders; second, the principle of security, land registration needs to be carried out more thoroughly and carefully, so that the results will be able to provide legal certainty guarantees according to the purpose of land registration itself; third, the principle of affordable, namely the services provided in the administration of land registration must be affordable by the parties who need it; fourth, the principle of being up-to-date, the available data must show the current state.<sup>5</sup>

In order to guarantee legal certainty of land rights, land registration must include the cadastral rights, namely, the activities of measuring and mapping parcels of land rights and the registration of these parcels in land registers. Land parcels with rights are parcels owned by a person or legal entity with a right. Registration of rights, namely, registration activities in the register of land books for the holder of the right. One of the types of land registration activities held by the Government as stated in Article 19 paragraph 2 of the BAL is the issuance of certificates of proof of rights that are valid as a strong evidence. The certificate of proof of rights is called a certificate. Certificate as a proof of right that applies as a strong proof of physical data and juridical data contained therein. As long as the physical data is in accordance with the letter of measurement or land book, this is confirmed in Article 32 paragraph 1 of Government Regulation no. 24 of 1997.

Those who own land but do not yet have a land certificate are encouraged to immediately apply for a land certificate to the local National Land Agency (BPN)

<sup>5</sup> Linda SM dan Sahono, Penerbitan Sertifikat Hak Atas Tanah dan Implikasi Hukumnya, *Jurnal Perspektif*, Vol.XVII No.2, 2012, page.90-97

office. Before taking care of it, you should pay attention to the required documents according to the origin of the land rights, such as: Original Certificate of Building Use Rights (SHGB), photocopy of Building Construction Permit (IMB), identity card in the form of Identity Card (KTP) and Family Card (KK) , SPPT PBB, affidavit of land ownership. In addition, for people who wish to make land certificates or girik. This certificate comes from inherited land which may not have been validated in the certificate. Then it is necessary to attach several documents such as a deed of sale and purchase of land, photocopies of KTP and KK, photocopies of the girik owned, documents from the kelurahan or village namely Certificate of No Dispute, Certificate of Land History, and Sporadic Land Certificates Management flow Visiting the BPN Office in the region the land is.<sup>6</sup>

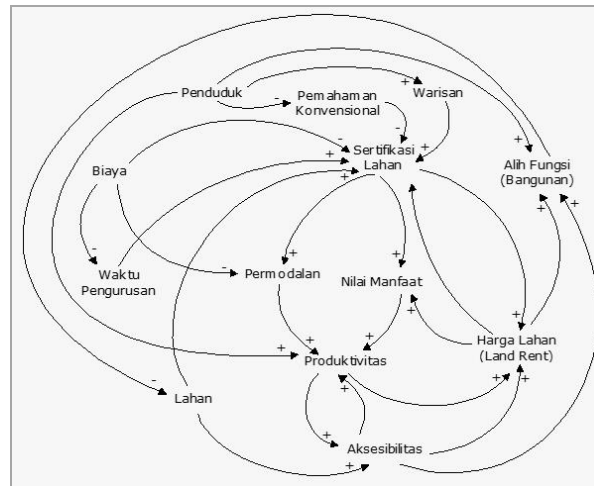
In general, if we don't have a connection with a notary, we will bump into a notary rental at a price that is quite expensive for land certification issues. This is one of the causes of the difficulty in obtaining legal land certification. Provisions regarding the authority of a notary to make this authentic notarial deed are regulated in Law no. 30 of 2004 concerning the position of a notary as amended by Law no. 2 of 2014 ("UUJN"). Issuance of land title rights after land measurement. Then you will get Land Measurement Letter data, which will be submitted to complete existing documents and will be charged with BEA for Land Acquisition (BPHTB) while waiting for the land certificate to be issued. The length of time for publication is approximately half to one year. Therefore, it is recommended to always follow-up the status of certificate issuance to BPN officers.

Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 4 of 2015 concerning the National Agrarian Program. One of the goals and importance of land certification is to have financial access to land resources. In addition to providing legal certainty for the owner, land certificates can be used as legal evidence in the event of a land dispute. In addition, land certificates can also be used for economic purposes and can even be transacted. The purpose and function of registration as stipulated in Article 3 of Government Regulation Number 24 of 1997 concerning Land Registration is to provide legal certainty and legal protection to holders of rights to a parcel of land, apartment units and other registered rights so that they can be easily registered. can prove himself as the holder of the right in question. To provide legal certainty and legal protection, the right holder concerned is given a certificate of land rights.

The need for a strategy in increasing the success of land certification in Indonesia in the future. System dynamic analysis is used to formulate, simulate and validate by looking at the behavior of the system in the future. This process makes it possible to properly design and implement policy plans for land titling. The process of conducting land titling is influenced by several factors that are interrelated.

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6 Balqis Fallahnda, *Portal Informasi Indonesia*, Tirto.Id. <https://tirto.id/cara-alur-dan-syarat-mengurus-sertifikat-tanah-di-bpn-fZcA>, 2020.



**Picture 3. Causal loop diagram**

Residents are the main key in the land certification program. It is through the residents that land titling activities start from managing inheritance related to land, increasing land productivity, potential conversion of functions into buildings as well as its relation to conventional understanding. The next factor is of course the land itself, the larger the land area, the more land certification in Indonesia will be.

With land certification, it will support activities related to capital. Land productivity will provide added value for the land itself. This can provide capital assistance to farmers for the sustainability of agricultural land.<sup>7</sup> The higher the accessibility around the land, the higher the land rent will be. Land rent itself is thought to be the key to soil conservation through changing cultivation.<sup>8</sup> From the conservation reasons, it is possible to have land rent for other purposes. However, on the other hand, the existence of land rent will also increase the potential for land conversion, such as from paddy fields to built-up land. This can happen because of the ease of adequate accessibility such as road access, economic access and so on, making it possible for land conversion to occur. In terms of land sustainability, land certification will minimize land conversion from agricultural land to non-agricultural land or built up.

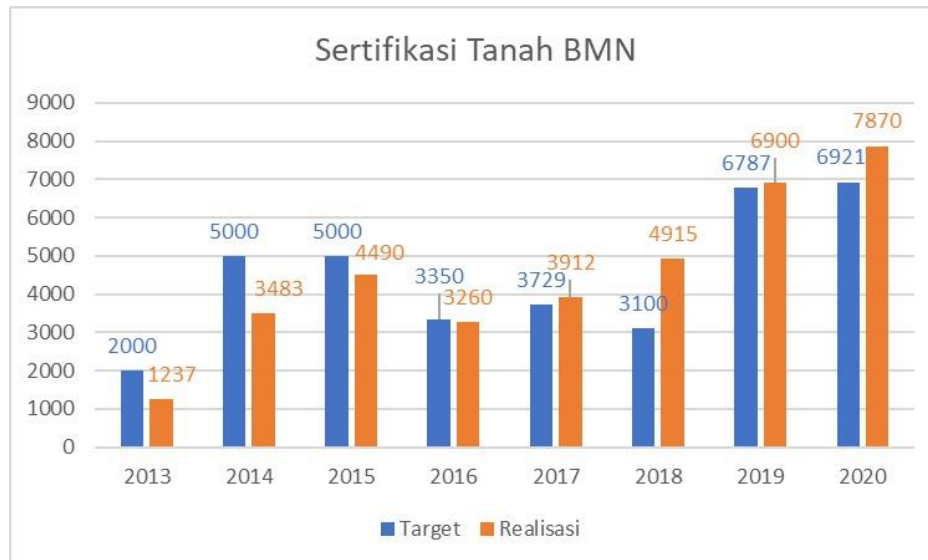
Costs affect the land titling process itself, apart from being expensive and the presence of "persons" who administer land titling unofficially (brokers) are also factors in the land titling process. According to data from the Ministry of Finance (2021) land certification for state property from 2013 to 2020 has experienced dynamic developments in achieving its targets. In 2013 to 2016 the development of land certification tends not to reach the target. This can be influenced by several factors including the willingness of the community to certify, the lack of human resources in conducting land certification, the lack of

7 Widiatmaka, Munibah K, Sitorus SRP, Ambarwulan W, Firmansyah I, Appraisal Keberlanjutan Multidimensi Penggunaan Lahan Untuk Sawah di Karawang – Jawa Barat. *Jurnal Kawistara*, Vol.5 No.2. 2015, page.113-131

8 Leonhardt H, Braitto M dan Penker M, Why do farmers cares about rented land? Investigating the context of farmland tenur, *Journal of Soil and Water Consvration*: Vol.76 No.1, 2020

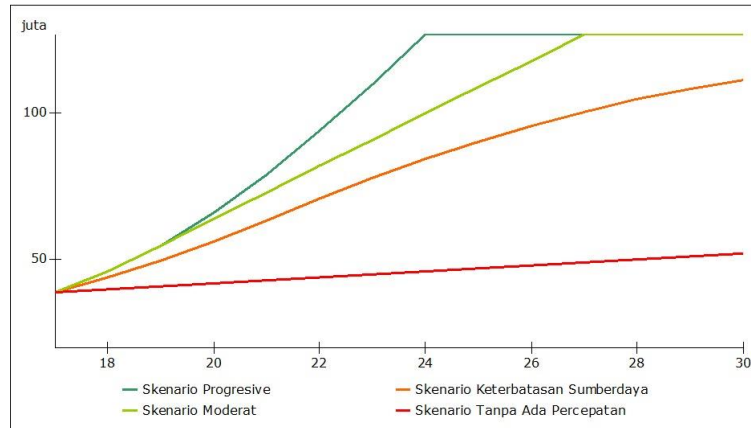


an effective system in the management of certification and so on. Meanwhile, in 2017 to 2020, the conditions will improve with the increase in land certification from the expected target. In the last year, 2020, the desired target to achieve land certification was 6,921 however, the results of the activity exceeded the target of 7,870. The development of BMN land certification from 2013 to 2020, the data on the development of BMN land certification is presented.



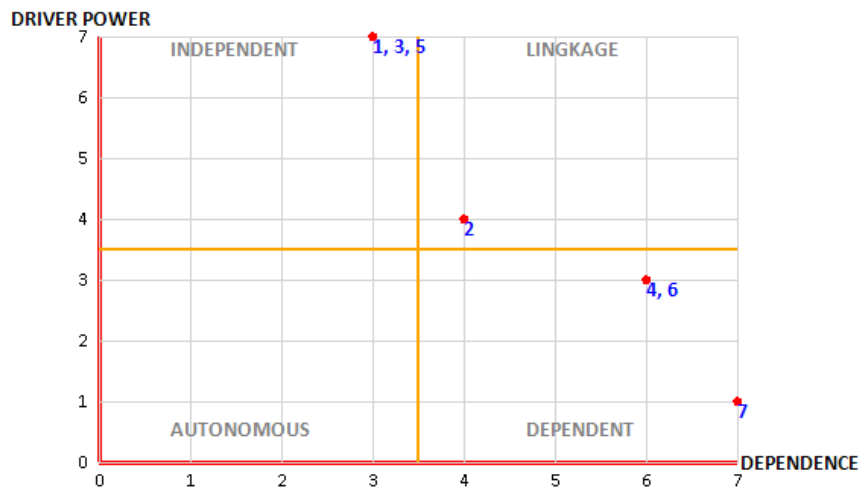
There is no guarantee of legal certainty over land, which will often lead to disputes and disputes over land in various regions in Indonesia. Disputes can occur among the community, between families, not infrequently land disputes also occur between stakeholders (entrepreneurs, BUMN and the government). This proves the importance of land certificates as a legal proof of the land owned.

The less than optimal land certificate registration system, including its socialization, accompanied by the slow process of making existing land certificates, is the current government's concern, so that the government builds a PTSL system or Complete Systematic Land Registration. PTSL is a land registration system for the first time, which is carried out simultaneously and includes all land registration objects that have not been registered in a village area. Through this program, the government is expected to be able to guarantee legal certainty or land rights owned by the community. Judging from Kominfo data (2018) within one year the target exceeds 5 million in 2017.



The Figure shows that there is a scenario projection without any acceleration, so that the increase in land certification is slow to approach the number of less than 50 million land parcels. After the moderate scenario is carried out, namely by targeting land certificates of 5 million, it results in a projected land certification that tends to increase, which is more than 100 million land certificates. While the progressive scenario by carrying out the scenario of achieving the target number of integrated land certificates will increase the success of the total number of land certification targets in Indonesia as many as 126 million land parcels. Meanwhile, scenarios with limited resources tend to be slow in increasing. Increase until 2030 maximum up to 100 million land parcel certificates. This can be caused by several factors such as the willingness of the community to carry out certification, lack of public understanding of the benefits of land certification, inadequate infrastructure, lack of staff resources that are not equivalent to requests for land certificates and difficulty of access in the context of surveys or site inspections.

Based on the results of in-depth interviews with experts in this study, the constraint factors in land certification were obtained, including: 1) Ignorance of how to administer land certification; 2) ignorance of the benefits of certification; 3) There is an assumption that land certificate costs are expensive; 4) Limited socialization of standard prices; 5) The length of management time is unpredictable; 6) Feeling quite safe with the deed of sale and purchase and; 7) conflict over the distribution of inherited land. These problems and constraints are then analyzed to obtain which factors have the most priority. Priority analysis of problems and constraints is carried out using the ISM or Interpretative Structural Modeling technique. The results of the analysis using ISM produce a priority hierarchy structure as shown in Figure 6 and the power driver matrix is presented in Figure 7.



The results of the analysis show that the most priority factors such as (E1) Ignorance of how to administer land certification, lack of public understanding of the procedures for obtaining land certification are among the most priority problems and obstacles. Lack of access to information and socialization to local communities in the land certification process is a major factor. From these problems, it is necessary to socialize efforts by the government from the Kelurahan, Regency/City levels and even from the Center so that information related to certification can be received and the community knows the benefits.<sup>9</sup> (E3) There is an assumption that the cost of land certificates is expensive, the assumption that the cost of land certificates is expensive makes people reluctant to do land certification. The economic background also makes this assumption even bigger. Meanwhile, the culture of "brokers" also cannot be removed from the public's shadow, so that the assumption of high costs is increasingly attached to the community. There needs to be socialization related to land certificate management standards; (E5) The length of processing time is unpredictable, the number of requests or applications for land certification makes the length of time for processing unpredictable. The number of accumulations from previous years also makes it difficult to predict the time in certificate processing. The unavailability of procedures in applying for land certificates also makes the time longer, because there is a need for adjustments to the format and other administrative purposes. There is a need for manual books to be distributed to the public, both in online and textbook forms; (E2) Ignorance of the benefits of certification, miscommunication between communities and related stakeholders about the benefits of land certification are problems and obstacles in land certification. Lack of access to information about the benefits of land certification makes the community less understanding about the benefits of the land in the future. The government can build an information system to provide information regarding the benefits of certification; (E4) Limited socialization of management standard prices, limited access to information and infrastructure factors for socialization of management

<sup>9</sup> Agustina S, Karsadi dan Yusuf M, Hambatan Masyarakat dalam Pengurusan Sertifikat Tanah di Desa Simbangu Kabupaten Konawe Selatan, *Journal Selami*, IPB Vol.13 No.2

standard prices are problems in land certification. The village or regional location factor is also an obstacle in delivering information, so a representative in each village is needed to disseminate all information related to land certification, both technical registration and costs; (E6) Feeling quite safe with the deed of sale and purchase, basically authentic evidence of land ownership administration is more accurate using certificates or deed of sale and purchase. However, many people who already have a deed of sale and purchase feel that it is safe so there is no need to certify the community's land itself. In fact, if you look closely, the sale and purchase deed is only a document of a sale and purchase agreement as proof of the transfer of land rights, then the SHM is a document that indicates the strongest type of home ownership and can be inherited. Understanding the importance of SHM rather than a deed of sale and purchase needs to be continuously disseminated to the public; (E7) Conflicts over the distribution of inherited land, the law on inheritance is a very sensitive matter, so it is possible that there will always be conflicts in the distribution. Conflicts will continue to occur as long as the understanding regarding the distribution of inheritance is not fully understood by the community. Optimization of legal aid institutions in the community to minimize inheritance conflicts provides alternative solutions for the community.

#### **4. Conclusion**

From the results of the analysis of the study that the legalization system of land certification in rural areas can be easily carried out by knowing the factors, schemes and joint efforts so that it can be concluded that the factors that influence a person's desire to certify land are the most dominant which can increase the value of land objects, reduce the fear of losing land. , can reduce land disputes, increase investment and facilitate access to capital; The scheme and ease of the legalization process in land certification requires understanding for the community to pay attention to the requirements for land certification documents, knowing the activities of measuring and mapping parcels of land rights and registering these fields in land registers and following up on the status of certificate issuance to BPN officers. ; Success in land certification in Indonesia requires socialization efforts by the government both from the Kelurahan, Regency/City levels and even from the Center so that information related to certification can be received and the community knows the benefits as well as socialization related to price standards for land certificates, making manual books or procedures for obtaining certification. land to be distributed to the public either in the form of online or in textbooks.

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