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Transformation of Land Ownership And Transfer of Rights For Legal Entities And Foreign Individuals After The Effectiveness of Regulation of The Minister of Atr/Head Oof Bpn RI Number 5 of 2025

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Abstract: The Ministerial Regulation of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (Permen ATR/Kepala BPN) Number 5 of 2025 introduces a new legal framework governing land ownership and transfer rights in Indonesia, specifically for legal entities and foreign nationals. The regulation marks a significant milestone in accommodating global economic developments and foreign investments while safeguarding national land sovereignty. This study aims to analyze the substantive changes introduced by the regulation, assess its legal implications for legal entities and foreign nationals, and evaluate how well it balances economic development interests with the protection of agrarian rights for Indonesian citizens. The research adopts a normative juridical approach with comparative analysis of previous regulations and document studies. The findings indicate that Permen ATR/Kepala BPN Number 5 of 2025 provides improvements to the mechanisms of land ownership limitations while offering more adaptive space for foreign investment interests. Nevertheless, its implementation may pose legal challenges, especially in the areas of monitoring and resolution of agrarian disputes. Therefore, this regulation requires strengthened oversight mechanisms and enhanced protection of land rights to prevent imbalances and legal conflicts.

Keywords: Land Ownership, Legal Entities, Foreign Nationals, Permen ATR/BPN No. 5 of 2025, Land Transfer Rights.

INTRODUCTION

Ownership and transfer of land rights in Indonesia is a central issue in the agrarian legal system that is closely related to national interests, investment and protection of citizens' rights. The dynamics of global economic development, the need for foreign investment, and the drive to strengthen the national legal basis demand adaptive and progressive regulatory reforms. Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 is the answer to this need by introducing a new framework that regulates the ownership and transfer of land rights by legal entities and foreigners. This regulation reaffirms the state's legal authority over agrarian affairs and signifies a pivotal transformation in national land policy. This is because

so far the regulation regarding the ownership and transfer of land rights by legal entities and foreigners has often caused polemics, both in terms of legal substance and its implementation in the field.

Based on this background, it is necessary to conduct an in-depth study of the legal transformation brought by the Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025, especially in the context of land ownership by legal entities and foreigners. This policy has various legal implications, both from the normative and practical aspects, which require special attention. In addition, an evaluation of the harmonization of this regulation with the Basic Agrarian Law (UUPA) and other laws and regulations is also important to ensure the conformity of the basic principles of land control by the state and its use for the greatest prosperity of the people. Furthermore, the urgency of this research lies not only in the legal-formal aspect, but also in the social and economic context. The ownership and control of land by non-citizen entities often raise concerns regarding agrarian sovereignty. Therefore, appropriate regulation and effective supervision of the implementation of this regulation are key to maintaining a balance between development interests and agrarian justice. In this study, the author will discuss the substantial changes contained in the Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025, analyze the legal consequences for the actors involved, and provide recommendations for the implementation of policies so as not to deviate from the principles of justice and sustainability of national land management.

Based on the description in the background, the formulation of the problem in this study is as follows: What are the legal implications of substantial changes in the regulation of ownership and transfer of land rights by legal entities and foreigners as regulated in the Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025? And to what extent can the policies regulated in the Regulation create a balance between investment interests and protection of the agrarian rights of the Indonesian people?

METHOD

This study uses a normative legal approach, namely a legal research method that focuses on the study of applicable positive legal norms. The main focus of this approach is to analyze laws and regulations, official documents, and relevant legal literature in order to understand the legal substance and implications of the changes introduced in the Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025. The data sources used in this study are secondary data, consisting of:

1. Primary legal materials, namely directly related laws and regulations, such as:
 - a. Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA);
 - b. Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025;
 - c. Other implementing regulations relating to ownership and transfer of land rights by legal entities and foreigners.
2. Secondary legal entities, in the form of legal literature, textbooks, scientific journals, and academic writings discussing land law, investment law and agrarian law in general.
3. Tertiary legal materials, such as legal dictionaries and legal encyclopedias, which are used to clarify certain definitions or terms used in research.

This research employs qualitative analysis by systematically examining the normative content of the regulations systematically and logically, then connecting them to the context of practice in the field through a theoretical and conceptual approach. The analysis is also carried out comparatively to previous regulations, in order to identify differences, developments, and potential legal implications for the legal subjects in question.

RESULTS AND DISCUSSION

Legal Implications of Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 on Legal Entities and Foreigners in the Practice of Control and Transfer of Land Rights

Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 brings fundamental changes to the regulation of control and transfer of land rights by legal entities and foreigners in Indonesia, especially in emphasizing restrictions on land ownership by foreign legal subjects. This provision reflects the enhancement of state oversight in the process of granting land rights to foreign entities, which states that ownership rights can only be owned by Indonesian Citizens.

For foreigners and foreign legal entities, the rights that can be owned over land are limited to the Right to Use and not the Right to Own as regulated in Article 41 of the UUPA. This article states that the Right to Use can be granted to foreigners domiciled in Indonesia, as well as foreign legal entities that have representatives in Indonesia, for a certain period of time and with conditions determined by laws and regulations. Permen ATR 5 of 2025 further stipulates that foreign entities are required to meet strict administrative requirements, including proof of business legality applicable in Indonesia, valid land ownership documents, and location permits in accordance with the regional spatial plan. This provision indicates the strengthening of state supervision in the process of granting land rights to foreign parties as a form of protection for national agrarian sovereignty.

In addition, the Regulation also stipulates that every land acquisition by foreigners or legal entities will be periodically evaluated by the National Land Agency to ensure that land use is in accordance with the permit granted and to prevent land abandonment. This evaluative provision is progressive compared to previous regulations which tended to be passive in terms of post-granting supervision. The legal implication of this policy is that legal entities and foreigners can no longer freely control land without fulfilling the purpose of utilization as determined by the state. Land rights are no longer viewed as absolute rights, but rather as social rights that must be used for the greatest prosperity of the people as mandated by Article 33 paragraph (3) of the 1945 Constitution.

However, this regulation still provides legal certainty to foreign investors through the mechanism of granting Usage Rights that can be extended according to investment needs, as long as they continue to meet the applicable provisions and regulations. Therefore, Permen ART 5 of 2025 is one of the important legal instruments in maintaining a balance between development interests and the protection of agrarian justice. The legal implications arising from this regulation strengthen the principles of legal certainty and proportionality, where the state regulates firmly but still provides adaptive space for investment needs. Land rights are not only individual rights, but also have a social function that must be controlled by the state for the sake of justice and sustainability. Therefore, this Regulation is in line with the view that agrarian law should not be left neutral towards foreign capital, but must side with the prosperity of the people. Furthermore, the provisions in Permen ATR/Head of BPN RI Number 5 of 2025 also indicate a strengthening of the state's position as the holder of land control rights, as referred to in Article 2 of the UUPA. In this context, the state does not only act as an administrative regulator, but also as a substantive controller in the planning process, supervision, and imposition of sanctions against deviations in land use. This means that the state has the legal legitimacy to revoke land rights controlled by foreign entities if they are proven not to be used according to their intended use or violate the public interest. This principle is in line with the idea of distributive justice which is the theoretical basis of Indonesian agrarian law. Distributive justice emphasizes the fair and equitable distribution of resources to all citizens, not just based on economic capacity alone. Therefore, granting land

rights to foreign legal entities must be ensured not to reduce local communities' access to land as a source of life.

In the framework of economic development, this regulation also has a strategic value in emphasizing the principle of the social function of land rights. Land should not be controlled speculatively or abandoned, but must be managed to support productivity, equity, and ecological balance. The evaluative provisions in this regulation allow the state to revoke land rights that do not provide the benefits as stipulated. This shows that land rights in the perspective Indonesian agrarian law is conditional and not absolute. In addition, this regulation may be interpreted as an embodiment of responsive law. In responsive law, the state not only guarantees order but also actively encourages social transformation through law. In addition, this regulation may be interpreted as an embodiment of responsive law. In responsive law, the state not only guarantees order but also actively encourages social transformation through law. In this case, Permen ATR 5/2025 shows the character of law that not only serves legal certainty for investors, but also carries a social mission to protect the people from economic domination of land by capital forces.

Furthermore, in the context of the sustainability of agrarian law, Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 needs to be understood as a form of reconstruction of the paradigm of land ownership which has so far been too formalistic and oriented towards legal deeds, not towards its social outcomes. With this new approach, the state plays an active role in not only facilitating legal transactions, but also ensuring that land rights provide real benefits to the wider community. This is where the function of sustainability becomes key, that land is not only viewed from its economic value, but also from the ecological and social dimensions inherent in it.

This policy also demands increased institutional capacity and accountability. The National Land Agency as an implementing institution is not sufficient to only carry out substantive supervisory functions supported by a land information system based on accurate and open spatial data. This is where the importance of synergy between regulations, systems, and human resources in realizing fair, transparent, and sustainable land governance lies. Furthermore, it should be noted that strengthening regulations on legal entities and foreigners is not merely a matter of limiting, but also a matter of regulating carefully and fairly. Therefore, the legal approach used needs to be based on the principles of proportionality, accountability, and caution (precautionary principle) in every policy-making.

The legal transformation of land ownership and transfer of rights for legal entities and foreigners following the enactment of ATR Regulation 5 of 2025 is an important milestone in strengthening the character of Indonesian agrarian law as a law that is impartial, not neutral, and socially just. This regulation must be interpreted as a dynamic instrument that is continuously refined, not as an end point.

Balance Between Investment Interests and Protection of Agrarian Rights of the Indonesian People in the Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025

One of the fundamental issues in land policy is how the state can create a balance between encouraging investment, especially foreign investment, and protecting agrarian rights and local communities. Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 attempts to answer this problem by introducing a selective land ownership system by legal entities and foreigners based on evaluation of economic and social benefits.

This policy, on the one hand, provides legal space for foreign entities to access land through the Right to Use mechanism which is gradually extended according to business needs and productivity. However, on the other hand, this regulation continues to emphasize the importance of the principle of land ownership by the state for the prosperity of the people, as

stated in Article 2 paragraph (3) of the UUPA which states that ownership by the state must be used to achieve the greatest possible prosperity of the people.

This regulation also adopts a precautionary principle approach by setting location requirements, designation, and periodic evaluation of land use as an instrument to prevent speculative practices by foreign investors. This provision is intended to protect local communities from potential agrarian conflicts that have often arisen due to inequality in land distribution and use. In terms of implementation, the government through the National Land

Agency is given full authority to review land rights that are not used according to their designation or are proven to be detrimental to the interests of the surrounding community. This reflects that this regulation is not merely pro-investor, but also prioritizes agrarian justice through strict and accountable state supervision.

Theoretically, this policy shows an effort to harmonize the principles of agrarian justice and economic liberalism, both of which are often at odds in the discourse of natural resource law in Indonesia. In this context, Permen ATR/BPN Number 5 of 2025 has the potential to be an example of the implementation of a legal approach that is not only legalistic but also transformative, because it integrates social goals with national economic needs.

However, despite the strengthening of legal instruments, the challenges at the implementation level remain significant. Several studies have shown that supervision of land ownership by foreign entities is often weakened due to minimal institutional capacity and limited coordination between institutions. Therefore, this policy will only be effective if accompanied by strong political commitment, transparency of land data, and active community participation in agrarian supervision. In this context, the success of creating a balance between investment and agrarian justice cannot be separated from the involvement of the community as an actor of social control. Protection of people's agrarian rights must be placed as the main objective of land policy, so that economic development does not take place in an exclusive and discriminatory manner. Thus, this ATR Regulation will only be effective if its implementation is based on the principles of participation and transparency. In addition, strengthening community involvement in agrarian supervision needs to be followed up with more participatory policies, such as involving local communities in the land use evaluation process, establishing agrarian forums at the regional level, and openness of land data through a digital system that is easily accessible to the public. Transparency is an absolute prerequisite to prevent concentration of land ownership that exceeds the limits of social justice, especially when foreign legal entities control land indirectly through corporate affiliations or hidden agreements. This regulation also does not explicitly accommodate protection for customary areas and customary land, whereas one of the biggest sources of conflict in land control so far has actually come from the overlap between corporate concessions and claims of customary law communities. Therefore, the implementation of this regulation must be synergized with efforts to accelerate the recognition and registration of customary land as regulated in related laws and regulations, so that there is no overlapping of land rights with customary areas. Furthermore, there needs to be integration between agrarian policies with investment and spatial planning policies so that there is no regulatory disharmony. Often, the inconsistency between location permits and spatial plans or conflicts of interest between national strategic projects and local interests cause the agrarian rights of communities to be neglected. ATR Regulation 5/2025 will be more effective if accompanied by institutional arrangements, reformulation sectoral regulations, as well as strengthening the principle of caution in every process of land conversion and control by investors.

Finally, in realizing the balance between investment and protection of agrarian rights, the state is not only required to be a facilitator of economic growth, but must also be an active protector of the people as the legitimate owners of the land. The principle of the state as the holder of the right to control (*recht van beheer*) in the UUPA must be interpreted not as an

absolute right, but as a constitutional responsibility to guarantee substantive agrarian justice. The state must not be neutral in the midst of the tug-of-war between land capitalism and the principle of social justice, but must side with land protection as an instrument of welfare.

The regulation on land rights for legal entities and foreign individuals under Regulation of the Minister of ATR/Head of BPN No. 5 of 2025 cannot be separated from the persistent social challenges in Indonesia's land governance. Land access inequality, increasing agrarian conflicts, and limited public participation in land policymaking indicate that the sociological dimension of agrarian law must be central to the regulation's implementation. According to data from the Consortium for Agrarian Reform (KPA), more than 240 agrarian conflicts occurred across Indonesia in 2023 alone, many involving foreign-invested companies and local communities. While the regulation normatively addresses these concerns through stricter oversight and periodic evaluation, its effectiveness depends heavily on institutional capacity and the state's commitment to corrective actions rooted in justice. Institutional weakness remains one of the main obstacles to equitable land governance. Overlapping authorities between central and local governments, weak coordination among agencies, and limited human resources within the National Land Agency hamper effective enforcement. These issues are compounded by the lack of a transparent and integrated land information system. To address this, Regulation No. 5 of 2025 must be supported by comprehensive institutional reform and digitalization of land administration systems, as mandated in Presidential Regulation No. 95 of 2018 on Electronic-Based Government Systems (SPBE).

From the theoretical perspective of responsive law as proposed by Philippe Nonet and Philip Selznick, responsive regulation not only ensures legal order but also promotes social justice. Regulation No. 5/2025 aligns with this vision by embedding transformative legal objectives. However, to ensure it remains responsive in practice, it must be accompanied by accessible grievance mechanisms, independent monitoring bodies, and impact assessments that measure both economic and social outcomes of foreign land control. An over-legalistic approach may also risk creating exclusivity and masking indirect land control by foreign entities. A significant implementation challenge lies in the practice of legal manipulation through beneficial ownership concealment. Many foreign corporations establish domestic affiliates as a front to bypass land ownership restrictions. This phenomenon undermines the regulation's core objectives and calls for stronger legal frameworks ensuring corporate transparency. Several jurisdictions, including Australia and the UK, have addressed this issue by requiring public beneficial ownership registries for land and property acquisitions. Therefore, defending agrarian sovereignty requires not only administrative restrictions but also institutional collaboration between ATR/BPN, the Corruption Eradication Commission (KPK), and the Directorate General of Taxes to detect foreign land control disguised through layered corporate structures. Transparency in ownership must become a legal imperative in foreign investment governance. Ecologically, land ownership by foreign legal entities often correlates with deforestation, land degradation, and ecological disasters caused by large-scale monoculture or mining operations. Hence, Regulation No. 5 of 2025 must be harmonized with environmental legislation, particularly the Environmental Protection and Management Law (Law No. 32 of 2009). Any transfer of land rights must be subject to rigorous environmental impact assessments (AMDAL), with strict enforcement of sanctions for violations.

Viewed holistically, this regulation must not only be a legal instrument for investment facilitation but a gateway to sustainable, inclusive, and equitable land governance. By integrating social, environmental, and institutional considerations, Regulation No. 5/2025 may serve as a turning point in Indonesian agrarian law that transcends formal legality and genuinely protects land for the people.

CONCLUSION

The conclusion must be linked to the title and answer the research formulation or objectives. Do not make statements that are not adequately supported by your findings. Write down improvements made to industrial engineering or science in general. Don't create further discussion, repeat abstracts, or simply list research findings. Don't use bullet points, use paragraph sentences instead.

Regulation of the Minister of ATR/Head of BPN RI Number 5 of 2025 brings important transformations in the legal regulation of land ownership and transfer of rights in Indonesia, especially for legal entities and foreigners. This regulation not only emphasizes restrictions on the forms of rights that can be owned, but also strengthens the evaluation mechanism, administrative requirements, and principles of the social function of land. Normatively, this policy reaffirms the principles contained in the Basic Agrarian Law (UUPA) and Article 33 paragraph (3) of the 1945 Constitution, namely that land is controlled by the state and utilized as much as possible for the prosperity of the people.

The legal implications suggest that legal entities and foreign nationals are no longer granted absolute autonomy in land control, because every form of control is subject to strict legal requirements and periodic evaluation. This regulation creates a legal instrument that is more adaptive and responsive to the needs of economic development, without ignoring the protection of national agrarian sovereignty and the rights of local communities.

In terms of the balance between investment and agrarian justice, this ATR Regulation shows an effort to harmonize the principles of economic liberalism and distributive justice. The state is faced with a dual obligation, namely facilitating economic growth through a conducive investment climate, while ensuring that land rights do not fall into the domination of capital that harms people's access to agrarian resources. This regulation is a manifestation of a transformative legal approach, not just legalistic, because it places land as an instrument of equitable development.

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