

## LEGAL CERTAINTY ON THE RIVER BORDERLINE AS A PROTECTED AREA IS REVIEWED FROM LAND USE SYSTEM

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**Abstract:** Growth high population However No accompanied by with ability economy require part from Indonesian society for look for land alternative, one of land available alternatives is around border river. Need realized that, the border river functioning as a flood water catchment area that allows flow flood to side right and left river. Determination of River Boundary Lines based on PUPR Ministerial Regulation Number 28/PRT/M/2015, regulation This give give base in set the boundary line river that aims as efforts to ensure activities protection, use and control on source the power that exists in rivers and lakes can implemented in accordance with the purpose. If seen from aspect law land, already should land in the border area river given certainty law, considering in a way empirical of course found on the border river found has mastered and established semi- permanent, permanent, and permanent buildings office. Article 11 (1) of PP Number 16 of 2004, provides gap to land in area protection that has not been There is right on the land can given right on land. Land law border river can protected through System Land Use which includes mastery use and utilization land.

**Keywords:** Certainty law, river border , system Stewardship .

### Introduction

River basin management required existence understanding about limit area the border which is area throughout left right river including river artificial which has benefit important For maintain sustainability function river (Aryastana, 2015). Government try arrange for the river awake from damage caused by human actions human. Growth high population However No accompanied by with ability economy require part from Indonesian society for look for land alternative, one of land available alternatives is around border river (Ngatimin, 2020). Growth high population However No accompanied by with ability economy require part from Indonesian society for look for land alternative, one of land available alternatives is around border river (Deliana & Pigawati, 2015). Need realized that , the border river functioning as a flood water catchment area that allows flow flood to side right and left river. Disturbances in the area border river, like existence the building above it, can cause total loss of essential functions from area border river (Mahathir, 2018).

In general authority border area management river, Ministry Work Public and Public Housing have authority and responsibility answer in set the boundary line river including set the boundary line lake. Regulation of the Minister of Manpower General and Public Housing Number 28/PRT/M/2015 concerning Determination of River Boundaries and Boundary Lines Lake (PUPR Regulation Number 28/PRT/M/2015), regulations This give give basis and guidance in set the boundary line river that aims as efforts to ensure activities protection, use and control on source the power that exists in rivers and lakes can implemented in accordance with the purpose. More carry on regarding the procedures for determining the boundaries

river become authority Good local government Governor or regent/mayor based on Law Number 23 of 2014 concerning Regional Government, in accordance with principle autonomy are.

Border river consisting of from two main areas namely the river area (water part) and the land area (land part) edge above around river), then issue stewardship land in the region land around river, as system from spatial planning become important for seen in context as part from object arrangement and management of border areas river. Land is subsystem from space, then stewardship land held in frame utilization space, substance the settings referring to the purpose arrangement space regulated in Law Number 24 of 1992 concerning Spatial Planning, as has updated in Law Number 26 of 2007 concerning Spatial Planning. Law Spatial planning becomes door enter for arrangement more carry on about stewardship land. Arrangement stewardship land is the part that is not separated from order Article 16 paragraph (2) of Law Number 24 of 1992, which states: that " The provisions about pattern management of land use land, water use, land use air, and use source Power natural other as meant in Article (1) point a, is regulated with Regulation Government." In general Details Stewardship land set up through PP Number Number 16 of 2004 concerning Land Use. Objectives arrangement room is for arrange connection between various activity with function space, use achievement utilization quality space and can ensure all over interests, good interest government and interests public in a way fair arrangement utilization area protect (Haryanto, 2009).

At the level empirical, thing This it turns out No easy for realized. Often happen clash interest in matter utilization land between public with government (Listyawati, 2010), matter This especially with aspect mastery land border the river that will related with connection law between individuals, groups of people, or legal entities with the land he controls. On explanation background behind this, then this writing will related with aspect Usage land For realize certainty law right on land on the border river as area protect.

## Literature Review

### A. River Borders as Protected Areas

Regional area border, Word Border inside Dictionary Big Indonesian Dictionary (KBBI) is boundaries, lines or sign boundary. Boundary river or *flood plain* there is between ecosystem rivers and ecosystems land (Gay et al., 2018). Based on the Presidential Decree Republic of Indonesia No. 32 of 1990 concerning Management of Protected Areas, River Boundaries are defined as area throughout left and right rivers, including river artificial or channel or channel primary irrigation, which has benefit important for maintain function river. protected area interpreted as designated area with function main protect sustainability environment life that includes source Power nature, source Power artificial and value history.

PUPR Regulation Number 28 of 2015 provides restrictions protection border rivers entering the area protect can determined with delimitation of boundaries river. According to Article 3 paragraph (1) of PUPR Ministerial Regulation Number 28/PRT/M/2015, determination of boundary lines river as efforts to ensure activities protection, use and control on source the power that exists in the river can implemented in accordance the purpose. In the division area border river shared in a number of categories, namely:

1. river No embanked in area urban;
2. river No embankment outside area urban;
3. river embanked in area urban;
4. river embankment outside area urban;
5. rivers affected by sea tides; And

6. water springs

Based on these categories, the size of the river boundary distance is then regulated to be utilized including the regulation of activities that are permitted or not permitted to be carried out on the land in the river boundary area. The size of the river boundary for each category as regulated in PUPR Regulation Number 28/2015 is contained in the following table:

No.	Category	Boundary Line Provisions
1.	Embanked Rivers in Urban Areas	at least 3 (three) meters from the outer edge of the embankment along the river channel
2.	Embanked Rivers Outside Urban Areas	at least 5 (five) meters from the outer edge of the embankment along the river channel
3.	Unbanked Rivers in Urban Areas	at least 10 (ten) meters from the left and right edges of the riverbed along the river channel, if the river depth is less than or equal to 3 (three) meters
		at least 15 (fifteen) meters from the left and right edges of the riverbed along the river channel, in cases where the river depth is more than 3 (three) meters up to 20 (twenty) meters
		at least 30 (thirty) meters from the left and right edges of the riverbed along the river channel, if the river depth is more than 20 (twenty) meters.
4.	Unbanked Rivers Outside Urban Areas	at least 100 (one hundred) meters from the left and right edges of the riverbed along the river channel, if it is included in the category of large rivers with a watershed area of more than 500 km <sup>2</sup> (five hundred square kilometers)
		at least 50 (fifty) meters from the left and right edges of the riverbed along the river channel, if it is categorized as a small river with a watershed area of less than or equal to 500 km <sup>2</sup> (five hundred square kilometers)
5.	rivers that are affected by sea tides	Same as River rule in no. 1,2,3 and 4
6.	water springs.	surrounding the spring at least 200 (two hundred) meters from the center of the spring.

**Land Use in Land Law**

Term stewardship land or usage land are words that were first formulated at a *land use seminar* 1967 as replacement term *land use* which includes understanding supply, allocation, use land as meant Article 14 and Article 15 of UUPA (Suriadiata, 2024). Use land must customized with condition and nature his rights so that beneficial for well-being and happiness owner at a time for society and the state. Provisions the No means interest individual will pressed The same once by interest general public (Harsono, 2012). Objective from arrangement room mentioned in Chapter 3 Law Number 24 of 1992, namely:

- a. Land use management pattern land must insightful environment with based on the Archipelago Insight and National Resilience;
- b. Arrangement utilization land must notice provision about area protected areas and areas cultivation;
- c. Must be able to the implementation utilization quality land

- d. realize protection function space and prevent as well as to overcome impact negative to environment
- e. realize balance interest welfare and security.

### Method

Study This use method study law normative (*Normative Law Research*). In accordance with types and properties his research, the data sources used is secondary data consisting from material primary law and materials law secondary consisting of from books, journals scientific, papers and article scientific that can give explanation about material primary law Data collection techniques are carried out with study literature (*library research*) with data analysis was performed in a way qualitative.

Based on problems and desired goals achieved in research This Approach Legal is reviewed research from corner regulation legislation, decisions, documents in the form of applicable laws and regulations (Ramlan & Erwinsyahbana, 2023). This is for obtain secondary data. In study This Approach with identify and conceptualize law land besides as form rule is also conceptualized as institution real and functional social in life in society, especially in the process of direction and formation patterns behavior that leads to utilization and use land on the border river.

### Result and Discussion

#### A. Certainty Over Land Through System Registration Right in The Relation with Land on the River Border

Principle certainty law Alone started from teachings ambition law (*idea of law*) which states there are 3 ideals law whose existence and application must applied in a way balanced namely certainty law, justice, and utility. Teachings ambition law to climb in enforcement law must fulfilled third principle the (Wijayanta, 2014). According to Gustaf Radbruch, the certainty law to wish function law as rules that must be followed obeyed the terms and conditions No only limited to about How rule the implemented, but related How norm and also material load in rule law the load principles base law (Prayogo, 13 C.E.).

In frame going to creation certainty law to rights on land so required foundation strong law. Foundation law related with problem agrarianism in Indonesia in general general set up in Law Number 5 of 1960 concerning Basic Rules of Procedure More agrarian known with designation Constitution Main Point Agrarian Law (Ramadhani, 2017). Constitution Number 5 of 1960, namely For put base certainty law, then in article 19 of the UUPA law it is regulated about registration land. Registration land This held For arrange connection law between subject and object field land (Widyanugraha, 2019). Therefore law land For get certainty law on land, taken ledge registration land. This is the process that will happen give certainty law and protection law to holder right on a field land, so that in the future day owner right on land can avoidable from problem law to mastery and utilization the land (Medaline & Moertiono, 2023).

About registration land in frame ensure certainty law this, more carry on set up such that appearance in PP Number 24 of 1997 as change from PP Number 10 of 1961 concerning Land Registration (Apriana & Burb, 2021). Objective registration land that is For give certainty law (Ramadhani, 2017) and protection law to holder rights, to provide information to those concerned and for the implementation orderly administration land.

Object registration land in Article 9 paragraph (1) PP No. 24 of 1997, namely; fields owned land with right property, right use building, rights use business and rights use, land right management, land endowment, right owned by on unit House arrange, rights dependents, State land. Besides there is object registration land, there is also objects that are not can registered right belonging to, one of them is border river (Djibran, 2020).

When seen from aspect law land, already should land in the border area river given certainty law, considering in a way empirical of course found on the border river found has mastered and established semi-permanent, permanent, and permanent buildings office. Land in the area border river is part from state land. As for the opinions of experts about state land is as following:

- a. Boedi Harsono (Harsono, 2005): Land that has not been claimed with rights individuals are referred to by UUPA the lands under control directly by the State (Articles 28, 37, 41, 43, 49) or called State Land.
- b. Maria SW. Sumardjono (Maria, 2006): Lands that are not attached with a right namely right property, right use business, rights use building, rights use on state land, rights management as well as right customary and land endowment called state land.

Based on understanding said, land border river including unceded lands with rights individuals by UUPA which is called the lands under control directly by the State (Articles 28, 37, 41, 43, 49) or called State Land.

However when under review from PUPR Regulation Number 28/PRT/M/2015 does not found information more carry on For give certainty law on existing lands controlled by border communities river. Article 15 paragraph (1) of PUPR Ministerial Regulation Number 28/PRT/M/2015, states that: "In matter results study as meant in Article 14 paragraph (1), shows there is building in border river so building the stated in *status quo* and gradually must put in order For return function border river." More carry on in explanation PUPR Regulation Number 28/PRT/M/2015 provides information that based on function, river is one of type area protection. Use and utilization land river in the area protect must in accordance with function area and spatial planning in a region area. Use and utilization land in the area protect No may bother function nature and not change span nature and ecosystem experience.

## **B. Aspect Land Stewardship Provides Certainty Control of River Border Land**

Land management is structured and systematic activities in frame effort organize and plan supply, allocation, use and utilization source Power nature. With existence Stewardship land, then supply, allocation, use and utilization source Power nature (land, sea/water, and air, as well as riches nature contained therein) can planned and arranged with good and right.

In Article 1 of PP Number 16 of 2004, which is intended stewardship land is The same with pattern management of land use land covering mastery, use and utilization tangible land consolidation utilization land through arrangement related institutions with utilization land as One unity system For interest public in a way fair.

Article 6 of PP Number 16 of 2004 states that policy stewardship land held to:

- a. fields land that has been There is his rights good that already or Not yet registered;
- b. land;
- c. land customary law public law custom in accordance with provision regulation applicable laws and regulations.

Right mastery is the most important thing there is in system agrarian in one country or in one society. Mastery to land is problem important in agrarianism. From the point this is it will determined How structure agrarian which will awakened, which will related close with structure society (Wiradi & (eds)., 1984). In Indonesia the Law Number 5 of 1960 places aspect mastery Far more important from aspect usage. One of the method For anticipate various problem on right on land is with method registration land as effort create certainty law and strengthen right on land (Iswantoro, 2014).

Based on Article 15 of PP No. 16 of 2004 concerning Land Use that utilization land in the area border river must notice:

- a. Interest general

- b. Limitations Power support, development sustainable, ecosystem, diversity Variety biological as well as sustainability environment

Article 11 (1) Regulations Government Number 16 of 2004, provides gap to land in area protection that has not been There is right on the land can given right on land, except in areas forest.

For to emphasize form certainty law especially in the regional area protected, the Ministry of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency also issued a Circular Number: 4/SE-100.PG.01.01/II/2022 concerning Policy Stewardship land in Protected Areas. Purpose and objectives from the circular This is as instruction organization policy stewardship land covering mastery, use and utilization land in the area Protect. Registration land in the area protect given with limitations and obligations in the form of RRR (*Right, Restriction, and Responsibility*) which is recorded in the book land and certificates.

### Conclusion

Certainty law on the border river as area protection is highly dependent on the system stewardship organized land with good. This is covers arrangement right on land, restrictions use destructive land function ecological river, and involvement government in supervision and management area said. Good management will create balance between need development and conservation environment, at the same time give protection law for area - dependent communities border river.

Policy stewardship land covering mastery, use and utilization land in the area protected and area cultivation as guidelines general stewardship land in the area. Activities in the field of land is One unity in cycle agrarian, which is not can separated, covering arrangement control and ownership land, stewardship land, arrangement rights on land, and registration land.

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