The Urgency of Revising Law Number 4 of 1996 on Security Rights to Accommodate Challenges in Collateral Enforcement in the Digital Economy Era

Rudi Tiono, Fitri Rafianti, H.Dahlan

Abstract

The rapid development of the digital economy in Indonesia has created complex legal challenges, particularly regarding the execution of collateral rights under Law Number 4 of 1996 concerning Hak Tanggungan atas Tanah Beserta Benda-benda yang Berkaitan dengan Tanah (Undang-Undang Hak Tanggungan). This study critically examines the urgency of reforming Undang-Undang Hak Tanggungan in the context of digital economic transformation, focusing on two central issues the inadequacy of the existing regulatory framework to accommodate digital collateral practices, and the implementation gaps in executing collateral rights in digital-based lending schemes. Using normative legal research with statute, conceptual, and case approaches, this study analyzes primary legal materials including Undang-Undang Hak Tanggungan, Financial Services Authority (OJK) Regulations, Bank Indonesia Regulations, and relevant court decisions. Secondary materials include peer-reviewed journals, academic books, and policy documents. The findings reveal that Undang-Undang Hak Tanggungan fundamentally lacks provisions for digital collateral documentation, electronic signatures, and fintech-based collateral execution. The absence of clear legal mechanisms for executing collateral rights in peer-to-peer lending and digital banking transactions creates systemic legal uncertainty. This study concludes that comprehensive legislative reform of Undang-Undang Hak Tanggungan is urgently needed, incorporating digital identity verification, electronic deed recognition, and streamlined e-execution procedures, while maintaining creditor-debtor balance and public interest protection.

Keywords*:* Law on Security Rights, Digital Economy, Fintech, Execution of Collateral

Rudi Tiono
[1]Master of laws, Universitas Pembangunan Panca Budi
e-mail: ruedysamcbg@gmail.com

Fitri Rafianti, H. Dahlan
[2,3]Master of laws, Universitas Pembangunan Panca Budi
e-mail: fitrirafianti@dosen.pancabudi.ac.id,
3rd International Cofference on the Epicentrum of Economic Global Framework (ICEEGLOF)
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Introduction

Over the past decade, Indonesia's digital economy has grown at a pace that outstrips the adaptive capacity of many existing legal instruments. Data from Bank Indonesia indicates that the volume of digital banking transactions in 2023 exceeded IDR 48,000 trillion, while outstanding loans via peer-to-peer (P2P) lending platforms stood at IDR 57.98 trillion as of the first half of 2023 [1]. These figures represent more than mere statistics; they reflect a fundamental shift in how the public and the business sector access financial services. Amidst this surge, however, legal instruments governing security interests such as Law Number 4 of 1996 concerning Security Rights over Land and Land-Related Objects (hereinafter referred to as the Security Rights Law) remain anchored in a normative framework designed almost exclusively for conventional transactions based on physical assets and paper documentation.

As a security interest over land, the Hak Tanggungan (land security right) holds a highly strategic position within Indonesia's legal framework for secured transactions. It was established to replace the land mortgage regulated under the Civil Code and the credietverband ma mechanism inherited from the Dutch colonial legal regime [2]. Its introduction marked a significant improvement, particularly due to an enforcement mechanism considered more efficient and capable of providing legal certainty for creditors. However, more than twenty years after its enactment, critical questions have arisen: is the Hak Tanggungan Law still capable of fulfilling its role as a reliable security instrument within today's digitally driven economic ecosystem?

The issues that arise are far from simple. In digital loan transactions whether facilitated by digital banks, fintech lending platforms, or technology-based financing companies the process of establishing a security interest in land (known as Hak Tanggungan) must theoretically still adhere to the procedures stipulated by the Law on Security Rights over Land (Undang-Undang Hak Tanggungan). This entails the execution of a Deed of Granting Security Rights (APHT) before a Land Deed Official (PPAT), registration at the Land Office, and the issuance of a physical security rights certificate [3]. These procedures are not only time-consuming and costly but also structurally at odds with the speed and efficiency that define digital economic services.

This situation creates what is known in legal studies as a gap between das sollen and das sein the discrepancy between normative requirements and actual practice [4]. In the field, various fintech platforms and digital financial institutions have devised collateral schemes that while creative do not always offer legal certainty as they attempt to navigate the procedural constraints of the Security Rights Law. Some utilize fiduciary security over receivables, others structure arrangements as pledges over financial instruments, and some rely on conditional sale and purchase agreements (PPJB) as a substitute for the APHT. These practices carry significant legal risks, particularly in the event of default, when the enforcement of collateral becomes inevitable.

The challenge of enforcing security interests in a digital context has become increasingly complex due to the involvement of multiple parties in the transaction chain. In a peer-to-peer (P2P) lending scheme, for instance, there are at least three key parties: the lender (which may comprise thousands of individuals), the borrower, and the platform acting as the operator [5]. In the event of a default, questions regarding who is entitled to enforce the security interest, in what capacity, and under which procedures remain inadequately addressed by existing security interest laws. Furthermore, issues arise concerning the digital identity verification of debtors, the validity of electronic signatures on security documents, and the systems for the online storage of and access to security interest documentation.

From a comparative legal perspective, several countries have already moved to reform their security interest laws to accommodate digital realities. Through its legal framework, the European Union has recognized the validity of digital mortgages and enabled the electronic registration of assets serving as collateral [6]. In Australia, the Personal Property Securities Act 2009 (PPSA) represents a revolutionary piece of legislation that comprehensively reformed the law regarding security interests in personal property. The PPSA 2009 consolidated over 70 security-related statutes previously scattered across various state jurisdictions into a single, unified national legal framework. One of the PPSA's most significant breakthroughs was the establishment of the Personal Property Securities Register (PPSR), a centralized, online electronic registry that allows for the registration, searching, and management of security interests in personal property in real-time from any location. Through the PPSR, creditors can register their security interests electronically within minutes, ensuring transparent publicity accessible to all interested parties. The PPSA also comprehensively regulates creditor priority, enforcement mechanisms, and protections for good-faith third parties. The technology-neutral approach adopted by the PPSA ensures that statutory provisions remain relevant as technology continues to evolve. This Australian model is frequently cited as a reference for secured transactions law reform in developing nations, as it successfully balances legal certainty for creditors with adequate protection for debtors. Meanwhile, Indonesia is still grappling with the fundamental question of whether electronic mortgage certificates issued through the National Land Agency's HT-el (Electronic Mortgage) system possess the same enforcement power as physical certificates.

The electronic mortgage right (HT-el) system, launched via the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) Number 5 of 2020, represents a step forward; however, it remains partial in nature as it addresses only the registration aspect rather than comprehensively reforming the entire legal framework governing mortgage rights [7]. The legal standing of electronically issued HT-el certificates during enforcement proceedings particularly when challenged by debtors disputing their validity lacks full clarity. In several court rulings, judges have questioned the evidentiary weight of electronic documents related to mortgage rights, reflecting tangible legal uncertainty.

Another equally important aspect is the protection of debtors' rights in the digital era. The acceleration of digitalization must not serve as a justification for compromising the fundamental rights of debtors protected by law. Previous research by Daulay, Zarzani, and Aspan regarding consumer protection in peer-to-peer (P2P) lending indicates that consumers in digital loan transactions remain in a legally vulnerable position, primarily due to information asymmetry and unclear dispute resolution mechanisms [8]. These findings reinforce the argument that any reform of the Mortgage Rights Law cannot be undertaken unilaterally to serve solely the interests of creditors; instead, it must accommodate a balance of protection for all parties involved.

A significant research gap is evident in existing studies. Most research addressing the Mortgage Rights Law continues to focus on conventional issues such as the procedure for encumbrance, traditional registration, and enforcement via public auction. Studies specifically critiquing the misalignment between the Mortgage Rights Law and the dynamics of the digital economy remain very limited. Yet, digital transformation in the financial sector has fundamentally altered the legal landscape of collateral. While some studies examine fintech from the perspectives of consumer protection or Financial Services Authority (OJK) regulations, few delve deeply into the legal implications for real security interests specifically mortgage rights within this digital ecosystem. This article aims to address that gap. Employing a normative approach reinforced by case analysis and a comparison of regulations, it argues that reforming the Law on Security Rights is not merely a policy option that can be deferred, but an urgent legal necessity. Legislative delays in this area not only create legal uncertainty but also tangibly hinder the growth of an inclusive and sustainable digital economy. Based on the foregoing, this article formulates the following two research questions:

1. How does the normative framework of Law Number 4 of 1996 concerning Security Rights address the challenges posed by the digital economic transformation regarding the encumbrance and enforcement of security rights?
2. What is the appropriate formulation for legal reform of the Security Rights Law to accommodate the requirements for collateral enforcement in the digital economy era?

Literature Review

2.1. Theory of Legal Certainty and Security Law

Legal certainty is a fundamental objective of any civilized legal system. Within the positivist legal tradition developed by Hans Kelsen, law is understood as a hierarchical and orderly system of norms, wherein each norm derives its validity from a higher-ranking norm [9]. In this context, legal certainty is not merely a matter of the existence of norms, but concerns the predictability of their application and their reliability for the legal subjects who depend on them. Jan Michiel Otto defines legal certainty in more operational terms as a condition in which legal rules are clearly formulated, the institutions applying them function consistently, and individuals utilize these rules to resolve their disputes [10].

In the realm of security law, legal certainty is crucial due to the vital economic interests involved. Creditors whether banks, non-bank financial institutions, or individuals essentially provide liquidity to the economy by assuming credit risk. This risk can only be managed rationally if the law guarantees that security interests over a debtor's assets can be enforced swiftly, certainly, and cost-effectively when the debtor fails to meet their obligations [11]. It is against this backdrop that the Law on Security Rights (Undang-Undang Hak Tanggungan) was enacted to provide a stronger security instrument than its predecessors, characterized by the creditor's preferential right, ease of enforcement via the executory title attached to the security right certificate, and public notice through registration.

However, there is a fundamental tension between the formal legal certainty sought by the Security Rights Law (Undang-Undang Hak Tanggungan) and the realities of digital economic transactions. In his critique of legal formalism, Laurence H. Tribe warns that law which is overly rigid in form can actually create substantive uncertainty; when legal norms fail to reflect actual practices, economic actors devise workarounds that ultimately entail greater risk than the uncertainty they sought to avoid [12]. This situation precisely mirrors the practice of digital collateral in Indonesia, where many fintech players employ alternative collateral structures because the Security Rights Law is deemed too bureaucratic for adaptation to the digital environment.

From the perspective of secured transactions law itself, Mariam Darus Badrulzaman notes that the function of collateral within the civil law system is to grant the creditor a stronger legal position relative to other concurrent creditors [13]. This function operates optimally only when the collateral object is clearly identified, the encumbrance is validly registered, and an effective execution mechanism is available. When any of these three elements is compromised as occurs in the digital context the entire collateral system becomes fragile. This is why the discussion regarding legal certainty in digital security rights is not merely an academic debate, but an issue with direct implications for the health of the national financial system.

Furthermore, the theory of legal certainty in the digital context must be reconciled with the rapidly evolving principles of technology law. Technology law emphasizes that effective legal instruments in the digital era must be technology-neutral meaning they do not favor specific platforms or technologies while still establishing clear functional standards [14]. The current Law on Security Rights fails to meet this principle, as it implicitly assumes that all security documents are physical and that all processes take place face-to-face. Necessary reforms must formulate functional rather than technical standards so that statutory provisions remain relevant as technology continues to evolve.

2.2. Theory of Digital Transformation in Law and Financial Technology Regulation

Digital transformation is not merely a technological shift; it represents a fundamental reconfiguration of how humans interact, transact, and create value. In the field of law, this phenomenon has spawned a relatively new yet rapidly growing area of study: cyber law and financial technology (fintech) regulation. In his influential work, Lawrence Lessig argues that the digital world is governed by four interacting modalities: law, social norms, markets, and architecture (program code) [15]. To effectively regulate behavior in the digital space, legal interventions must consider these four modalities in an integrated manner, rather than relying solely on formal legal norms.

In the context of Indonesian fintech regulation, a significant shift in the regulatory paradigm is evident. The Financial Services Authority (OJK) and Bank Indonesia have issued various regulations actively seeking to accommodate developments in financial technology. For instance, OJK Regulation Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services attempts to outline the operational framework for peer-to-peer (P2P) lending, including aspects related to collateral [16]. However, the issue lies in the fact that this OJK regulation is sectoral in nature and cannot alter the substance of a higher-ranking statute specifically, the Law on Security Rights (Undang-Undang Hak Tanggungan) itself. Consequently, there is a vertical misalignment between progressive technical OJK regulations and stagnant collateral laws.

In a different context that of electronic medical records Maryana, Aspan, and Mandasari demonstrated how disharmony between technical regulations and the parent statute can create legal loopholes detrimental to all parties [17]. This analogy is relevant because the challenges surrounding the digitization of collateral documentation share a similar structural problem: derivative regulations attempt to drive digitization, yet the parent statute has not provided a robust legal foundation for such digital documents.

The regulatory theory developed by Julia Black distinguishes between command-and-control regulation and more flexible, risk-based regulation [18]. Under the first approach, regulators establish detailed, specific rules and enforce compliance through sanctions. Under the second approach, regulators set out principles and desired outcomes, granting business entities the flexibility to determine how to achieve them. Global fintech regulation has tended to shift from the first approach to the second, as the rapid pace of technological innovation renders overly specific rules obsolete before they can be effectively implemented. Ideally, the reform of the Security Rights Law (Undang-Undang Hak Tanggungan) should adopt this second approach by establishing principles governing the encumbrance and enforcement of security rights, rather than prescribing rigid technical procedures.

Consumer protection in digital transactions is also an integral part of this discussion. In their study on technology based advocacy models for industrial conflict resolution, Nurhayati, Rafianti, Wakhyuni, and Hutabarat emphasize the importance of ensuring that digital transformation does not create imbalanced legal relationships between weaker and stronger parties [19]. This principle is particularly relevant in the context of digital security rights, where debtors especially those from the MSME sector may not fully grasp the legal implications of the digital collateral documents they sign electronically. Reform of the Security Rights Law must incorporate provisions that explicitly guarantee adherence to the principle of informed consent during the process of establishing digital collateral.

2.3. Principles of Security Rights Law and Their Relevance in the Digital Context

The Hak Tanggungan (security right over land) as an institution of real security rests on several fundamental principles recognized in both legal doctrine and jurisprudence. A deep understanding of these principles is essential to evaluate whether the existing normative framework of the Hak Tanggungan Law remains valid within the digital ecosystem or requires a comprehensive reconstruction.

First, the publicity principle requires that the encumbrance of a Hak Tanggungan be made known to the public through registration at the Land Office [20]. This principle aims to protect interested third parties particularly other creditors and potential buyers from the risk of being unaware of encumbrances attached to a piece of land. In a digital context, the publicity principle could theoretically be strengthened rather than weakened by technology. Blockchain-based registration systems or centralized digital registries accessible in real-time could potentially provide far more effective publicity than physical land registry books with limited access. However, this requires a clear legislative basis within the Hak Tanggungan Law to ensure legal certainty.

Second, the specialty principle requires that the object of the Hak Tanggungan, the parties involved, and the value of the secured debt be specifically identified [21]. This principle faces unique challenges in the digital context. When the security covers property with a value verified digitally for instance, through an AI-based appraisal platform questions regarding liability for valuation accuracy and the integrity of security data become crucial. Furthermore, in fast-paced digital loan transactions, the completeness and specificity of information within electronically drafted Hak Tanggungan deed documents (APHT) require serious attention to ensure the specialty principle is upheld.

Third, the indivisibility principle states that the Hak Tanggungan continues to encumber the entire object even if a portion of the debt has been repaid [22]. This principle has significant implications for digital syndicated financing, wherein thousands of small creditors akin to a crowdfunding model collectively finance a single project secured by a unified security interest (hak tanggungan). Current legislation governing such security interests fails to provide an adequate framework for managing these rights within the context of platform-based syndicated financing, particularly regarding the legal capacity to act as the security holder and to initiate enforcement proceedings on behalf of the collective creditors.

Fourth, the principle of droit de suite implies that the security interest (mortgage) remains attached to the object regardless of into whose hands that object passes [23]. Within the digital property ecosystem particularly with the emerging concept of tokenized real estate the droit de suite principle faces a fundamental challenge: how to ensure the security interest remains attached to an asset whose representation has been digitized or tokenized. This question is no longer merely speculative; several advanced jurisdictions have begun preparing legal frameworks for tokenized mortgages, and Indonesia needs to anticipate this development during the ongoing reform of the Security Rights Law (Undang-Undang Hak Tanggungan).

Fifth, the executorial principle reflected in the executorial title of the security rights certificate lies at the heart of the Security Rights Law’s appeal as a collateral instrument [24]. In practice, however, this principle is precisely the one that most frequently clashes with digital realities. When security rights certificates are issued electronically via the HT-el system, questions regarding their executorial force still require definitive legislative clarification. Some District Court judges continue to debate whether an electronic security rights certificate can serve directly as the basis for a petition for an execution order (fiat eksekusi), or if a physical document is still required first. Such uncertainty is clearly counterproductive and must be resolved through explicit provisions in the revised legislation.

2.4. Theory of Law Reform and Responsive Legislation

Law reform is not merely the act of replacing old statutes with new ones; rather, it is a systemic and planned process designed to align existing laws with evolving social, economic, and technological needs [25]. Within the civil law tradition adopted by Indonesia, law reform is often codification-oriented, tending to wait until the required changes are substantial and comprehensive before initiating the legislative process. While this tendency has historically offered advantages regarding the cohesiveness of the legal system, in the era of rapid digital disruption, it has become a serious structural weakness.

In their typology, Philippe Nonet and Philip Selznick distinguish between repressive law, autonomous law, and responsive law [26]. Responsive law representing the most advanced typology is capable of integrating legitimate social needs into its normative substance without compromising the integrity and autonomy of the legal system itself. This concept is relevant for evaluating the direction of the reform of the Law on Security Rights (Undang-Undang Hak Tanggungan); the necessary reform is not merely a matter of "patching" technical flaws, but rather a substantive transformation that establishes the law as an instrument responsive to the realities of the digital economy.

Experiences with responsive legislation in various countries offer valuable lessons. For instance, reforms to the Personal Property Securities Act in Canada and Australia demonstrate that successful secured transactions law reform requires at least three elements: extensive public consultation with all stakeholders, a comparative study of international best practices, and a legislative design that is principles-based rather than focused on technically specific rules [27]. Indonesia needs to adopt a similar approach, while adapting it to the local context including the varying levels of digital infrastructure capacity across different regions.

In their study on the reform of terrorism criminal law in Indonesia, Zarzani, Fitrianto, and Annisa highlight the importance of maintaining a balance between the need for reform and the values of justice that serve as the philosophical foundation of the national legal system [28]. This perspective parallels the need for reforming the Law on Security Rights (Undang-Undang Hak Tanggungan); reform must not yield provisions that facilitate the unilateral execution of collateral to the point of disregarding a debtor's right to reasonable legal protection. Striking a balance between efficient execution for creditors and the protection of debtors must be the objective of the legislative reform process.

Specifically within the Indonesian context, Siregar, Adrian, and Rambe in their analysis of the evolution of Indonesia's criminal justice system remind us that any legal reform process cannot be divorced from the historical and socio-cultural context in which the law operates [29]. This implies that reforming the Law on Security Rights cannot be achieved merely by wholesale adoption of foreign models; rather, it requires a process of indigenization that takes into account the characteristics of customary land law, Indonesia's land ownership structure, national digital infrastructure capacity, and the public's level of legal and digital literacy. Reforms that fail to consider these factors risk producing legal norms that appear sound on paper but prove unimplementable in practice.

Research Methodology

This study employs normative legal research, a method focused on examining legal materials through library-based research [30]. This choice of methodology is dictated by the nature of the issue under investigation specifically, an analysis of the normative framework of the Law on Security Rights (Undang-Undang Hak Tanggungan) and the formulation of concepts for its legal reform rather than empirical research aimed at measuring the behavior or perceptions of legal actors in the field. As explained by Peter Mahmud Marzuki, normative legal research essentially involves examining and analyzing the law both as "law in books" and as a concept of what the law ought to be [31].

The study utilizes three complementary research approaches. First is the statute approach, conducted by examining all relevant legislation concerning the research subject in a hierarchical and systematic manner. In the context of this study, the primary materials examined include Law Number 4 of 1996 concerning Security Rights; Law Number 11 of 2008 concerning Electronic Information and Transactions (as amended by Law Number 19 of 2016); Law

Number 21 of 2011 concerning the Financial Services Authority (OJK); OJK Regulation (POJK) Number 10/POJK.05/2022 concerning Information Technology-Based Joint Funding Services; Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 5 of 2020 concerning Electronically Integrated Security Rights; and other related regulations.

Second, a conceptual approach is employed to construct the theoretical and conceptual framework necessary for analyzing the issues under study. This approach involves examining and synthesizing various relevant legal concepts, including real rights, the theory of legal certainty, the concept of digital transformation in law, the theory of security interests, and the concept of law reform. Through this approach, the researcher develops a coherent normative argument regarding how the Law on Security Rights (Undang-Undang Hak Tanggungan) should be reformed.

Third, a case approach is selectively used to strengthen the analysis by examining how courts specifically the Supreme Court and High Courts have handled disputes related to the enforcement of security rights within the context of digital transactions. Relevant court rulings are analyzed to identify patterns of inconsistency in legal application and normative ambiguities arising from the existing Law on Security Rights.

The sources of legal material in this study are categorized into three groups, in accordance with the classification commonly used in normative legal research. Primary legal materials consist of the aforementioned legislation and relevant court rulings. Secondary legal materials encompass academic literature such as peer-reviewed journals, legal textbooks, conference proceedings, and research reports pertaining to security interest law, fintech regulation, and digital transformation within the legal system. Tertiary legal materials include legal dictionaries, encyclopedias, and technical guides used to facilitate conceptual understanding.

Legal materials were collected through systematic library research. Regarding primary legal materials, relevant laws and regulations were identified, inventoried, and classified according to the hierarchy of legal norms. Secondary legal materials were gathered through searches across various international and national academic databases including Google Scholar, SSRN, HeinOnline, and accredited national journal portals. The search focused on publications from the last five years to ensure the relevance and currency of the findings, although seminal works were also utilized as a theoretical foundation.

The analysis employed a qualitative approach utilizing methods of legal interpretation. Grammatical interpretation was used to understand the literal meaning of provisions within the Law on Security Rights (Undang-Undang Hak Tanggungan) and related regulations. Systematic interpretation was applied to understand the position and function of these norms within the broader Indonesian security law system. Teleological interpretation was used to assess whether existing provisions remain aligned with their original legislative intent and broader legal objectives. Comparative interpretation involved contrasting the provisions of the Law on Security Rights with digital security law regulations in other relevant jurisdictions. The entire analysis is presented in an argumentative and critical manner, aiming not only to describe the law as it stands but also to formulate what the law ought to be.

Results

4.1. The Inadequacy of the Normative Framework of Law Number 4 of 1996 on Security Rights in Addressing the Digital Economic Transformation

A critical analysis of Law Number 4 of 1996 concerning Security Rights (Undang-Undang Hak Tanggungan) clearly demonstrates that the legislation was designed within a conventional transaction paradigm based entirely on physical documents and face-to-face interactions. Article 1, point 5 of the Law defines a security right as a security interest encumbering land rights together with objects that form an integral part of the land. There is not a single provision in the Law that explicitly accommodates the possibility of creating or enforcing such security rights electronically, nor does it even address the validity of digital documents within the context of security rights.

The procedures for encumbering security rights, as stipulated in Articles 10 through 14 of the Law, present significant structural obstacles to digital transactions. Article 10 requires that the granting of a security right be effected through the execution of a Deed of Granting Security Rights (APHT) by a Land Deed Official (PPAT). This provision creates a fundamental procedural bottleneck: PPATs traditionally operate physically at specific locations, the drafting of an APHT requires the physical presence of the parties or their authorized representatives, and document signing must be done on paper. Although Government Regulation Number 37 of 1998 concerning the Regulation of the PPAT Office (and its amendments) has attempted to adapt, no provision explicitly permits the creation of an APHT in a fully electronic manner.

The development of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (ATR/BPN) Number 5 of 2020 concerning Electronically Integrated Mortgage Rights Services (HT-el) is indeed a progressive step worthy of appreciation [7]. The HT-el system enables the electronic registration of mortgage rights via the official BPN portal and generates mortgage rights certificates in an electronic format. In 2022, BPN reported that over 70 percent of mortgage rights registration applications in major cities were processed through the HT-el system. This represents a significant achievement in terms of land administration efficiency. However, the issue runs much deeper than mere registration digitalization.

The first and most fundamental issue concerns the legal status of the HT-el certificate during the execution process. The executory power of a mortgage rights certificate stems from Article 14 paragraph (2) of the Mortgage Rights Law, which states that the certificate bears the preamble "For the Sake of Justice Based on the Belief in the One and Only God" and constitutes a document with executory power equivalent to a court judgment that has attained permanent legal force. The question arises as to whether the electronic certificate generated by the HT-el system possesses the same executory power; the Mortgage Rights Law provides no answer to this, as it refers to the certificate solely as a physical document bearing a seal and a wet signature [32].

In judicial practice, this inconsistency has given rise to tangible problems. There have been District Court rulings rejecting execution requests based on HT-el certificates on the grounds that the certificates failed to meet the formalities required by the Mortgage Rights Law. Conversely, other rulings have accepted HT-el certificates as valid grounds for execution, citing the Electronic Information and Transactions (ITE) Law and the principle of the equivalence of electronic documents. This lack of harmony reflects the severity of the legal uncertainty arising from the misalignment between the Law on Security Rights (Undang-Undang Hak Tanggungan) and ongoing digitalization trends.

The second issue concerns the validity of electronic signatures in the context of the Deed of Granting Security Rights (APHT). Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), as amended by Law No. 19 of 2016, generally recognizes certified electronic signatures as having the same legal force as wet-ink signatures. However, Article 6 of Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions excludes certain types of documents from this provision, including documents that, by law, require authentication by a specific official [33]. The APHT which requires physical authentication by a Land Deed Official (PPAT) falls into this category of excluded documents; consequently, the legal status of electronic signatures on an APHT remains technically ambiguous.

The third and perhaps most complex issue concerns the enforcement of security rights (specifically Hak Tanggungan) within digital financing schemes involving multiple-creditor structures. In peer-to-peer (P2P) lending, a single property may serve as collateral for a loan funded by hundreds or even thousands of individual lenders. The question of who holds the authority to execute this security on behalf of this collective group of creditors remains unaddressed by the Law on Security Rights (Undang-Undang Hak Tanggungan). While that Law presupposes a relatively straightforward structure involving a single creditor and a single debtor, the reality of fintech reveals far more complex arrangements; platforms act as intermediaries whose legal functions and responsibilities regarding collateral enforcement are not clearly defined [8].

A pertinent real-world example involves disputes between fintech lending platforms and debtors regarding the enforcement of security rights, which were litigated in various District Courts between 2021 and 2023. In these cases, courts had to grapple with fundamental questions: can a fintech platform be classified as a "creditor" within the meaning of the Law on Security Rights entitled to initiate enforcement proceedings, or is it merely an agent acting on behalf of the actual creditors (the lenders)? This ambiguity highlights the significant gap between the legal framework established by the Law on Security Rights and the realities of existing fintech business models.

4.2. Formulating Legal Reform for the Security Rights Law in Response to the Need for Collateral Execution in the Digital Economy Era

Formulating the direction for reforming the Law on Security Rights (Undang-Undang Hak Tanggungan) requires a systematic and comprehensive approach. Merely adding clauses to accommodate digital transactions is insufficient; what is needed is a thorough reconceptualization of the law's structure while preserving the time-tested fundamental principles of security law. The proposed reform must address three simultaneous challenges: modernizing the procedures for establishing security rights, strengthening legal certainty regarding digital certification and enforcement, and regulating stakeholder structures within digital financing schemes.

Regarding the modernization of establishment procedures, the reform of the Law on Security Rights needs to explicitly recognize the validity of the Deed of Granting Security Rights (APHT) executed electronically by a certified e-PPAT (Pejabat Pembuat Akta Tanah Land Deed Official). This e-PPAT model can be conceptualized as a digital notary certified by competent authorities (specifically the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency [ATR/BPN] and the Ministry of Law and Human Rights) authorized to create authentic deeds in electronic format using high-standard certified electronic signatures (qualified electronic signatures). This approach aligns with EU Directive 1999/93/EC on electronic signatures as revised by the eIDAS Regulation (EU) 910/2014 which distinguishes between various levels of electronic signature validity based on security standards [6].

The Indonesian government already possesses the infrastructure to serve as the foundation for this e-PPAT system. The Electronic Certification Center (BSrE) under the National Cyber and Crypto Agency (BSSN) is capable of issuing certified electronic signatures that meet international security standards. What is required is normative recognition within the revised Law on Security Rights stating that certified electronic signatures issued by the BSrE or other accredited certification bodies possess legal force equivalent to wet-ink signatures for the purpose of executing the APHT. Thus, the existing infrastructure framework can be optimized without the need to build a new system from scratch.

Regarding legal certainty for electronic security interest certificates (HT-el), the revised Security Interest Law must explicitly state that HT-el certificates issued by the National Land Agency’s (BPN) official system possess the same executory power as physical certificates. This provision must be accompanied by an authenticity verification mechanism that courts and interested parties can access online. A model worth considering is a cryptographic hash system embedded within the HT-el certificate, enabling anyone to verify the document's authenticity and integrity via the official BPN portal.

In their study on the oversight of halal medicines from the perspectives of maqasid sharia and health law, Rafianti, Zarzani, and Sahlepi highlight the importance of establishing effective verification and oversight mechanisms as an integral part of a progressive legal system [34]. A similar principle applies to digital security interest certificates: validity cannot merely be asserted normatively but must be supported by technical mechanisms ensuring the document's integrity and inviolability throughout its entire lifecycle, from issuance to execution.

To address execution issues in digital financing schemes involving multiple creditors, the revised Security Interest Law needs to introduce the concept of a security interest trustee or digital collateral agent. This concept refers to a legal entity specifically appointed by the collective creditors to hold and administer the security interest on their behalf, including possessing the legal capacity to initiate execution when necessary. P2P lending platforms or trustee banks could serve as this digital collateral agent, subject to clear stipulations regarding their fiduciary duties toward the creditors they represent.

The concept of a digital collateral agent is already established in international financial practice, particularly in project finance and syndicated lending. In Indonesia, Financial Services Authority Regulation Number 7/POJK.04/2017 concerning Registration Statement Documents for Public Offerings of Equity Securities already recognizes the concept of a trustee holding fiduciary responsibilities toward bondholders. A similar mechanism could be adopted and adapted for the context of digital security interests, thereby avoiding the need to start from scratch when designing the legal framework.

Regarding debtor protection, the revision of the Security Rights Law must also incorporate provisions that strengthen the debtor's position during digital execution processes. In their study on seller liability in digital transactions, Fahilly, Nurhayati, and Rafianti highlight that information asymmetry in online transactions is a primary source of inequity that requires resolution through appropriate regulation [35]. In the context of digital security rights, information asymmetry can be particularly acute, as many debtors especially MSMEs may not fully grasp the legal implications of the digital collateral documents they agree to. The revised Security Rights Law needs to mandate clear disclosure of information using easily understandable language regarding the debtor's rights and obligations, including execution procedures and the rights available to them during such processes.

Finally, it is also necessary to consider adaptive dispute resolution mechanisms for conflicts involving digital security rights. Conventional litigation in general courts is often too slow and costly for the minor disputes that arise within the digital financing ecosystem. Alternatives worth considering include specialized digital dispute tribunals operating under the authority of District Courts, or online arbitration mechanisms (online dispute resolution) that yield legally enforceable outcomes. In their study on restorative justice, Hutagalung and Zarzani demonstrate the significant value of alternative dispute resolution mechanisms in ensuring more effective justice [36]. A similar hybrid model combining online mechanisms with judicial oversight merits consideration as part of a comprehensive reform package for the Security Rights Law.

Conclusion

1. Law Number 4 of 1996 concerning Security Rights (Hak Tanggungan) has proven to contain fundamental normative inadequacies in addressing the challenges of the digital economic transformation. Three key obstacles have been identified: the ambiguity regarding the legal status of electronic security right certificates during enforcement proceedings; the absence of provisions recognizing the full validity of electronic Security Right Granting Deeds (APHT) utilizing certified digital signatures; and incomplete

regulations concerning multiple-creditor structures within digital platform-based financing schemes. This situation creates systemic legal uncertainty, fosters risky alternative collateral practices, and impedes the development of a healthy and inclusive digital financial ecosystem. A comprehensive legislative overhaul of the Security Rights Law is no longer merely a matter of academic discourse but an urgent legal necessity.

2. The formulation of the updated Security Rights Law must encompass four key pillars: normative recognition of the electronic Land Deed Official (e-PPAT) and the electronic Deed of Granting Security Rights (APHT-el) as having legal force equivalent to a physical authentic deed; affirmation of the executorial power of the electronic Security Rights certificate (HT-el), supported by cryptographic verification mechanisms; introduction of the digital security agent concept to accommodate multiple-creditor structures within peer-to-peer (P2P) lending schemes; and the strengthening of debtor protection provisions through mandatory transparent information disclosure and effective digital dispute resolution mechanisms. The recommended reform approach is principles-based and technology-neutral, ensuring that the resulting legal instrument does not become obsolete as technology evolves while still providing adequate legal certainty for all stakeholders.

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