

## LEGAL STATUS OF WASTELAND AND GOVERNMENT CONTROL AND USE OF WASTELAND

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| <b>PAPER INFO</b>                                                                                             | <b>ABSTRACT</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
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| <b>Received:</b><br>September 2023<br><b>Revised:</b><br>September 2023<br><b>Approved:</b><br>September 2023 | <b>Background:</b> Abandonment of land is an act that is unwise, uneconomical, unfair, and also a violation of the obligations that must be carried out by the right holders. The problem of abandoned land is one of the problems that needs to be quickly addressed in the land sector because it has many negative impacts.<br><b>Aim:</b> This study aims to analyze the Legal Position of Abandoned Land Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 20 of 2021 and the Control and Utilization of Abandoned Land by the Government.<br><b>Method:</b> The normative juridical research approach was adopted for this study. The researcher examined legal sources, including books, journals, and laws, that dealt with the legal issue of wasteland. The descriptive qualitative technique was then used by the researcher to analyze them.<br><b>Findings:</b> After the evaluation results come out and declare the land identified as abandoned, the Head of the Regional Office will give a warning to the rights holder. If after the third warning is given but the right holder still does not comply with the warning, the Head of the Regional Office may propose to the Head of the Agency to designate the land as wasteland. |
| <b>KEYWORDS</b>                                                                                               | <i>abandoned land, order and utilization, agrarian reform</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
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### INTRODUCTION

Indonesia is a country with an agrarian background so land has an important value and role in the lives of people here (Fatihah, 2023; Munir et al., 2023). Soil has strategic functions where in addition to being able to function as natural resources, soil also serves as space for development (Maja & Ayano, 2021; Manakane et al., 2023). Even though land has an important value in people's lives, until now there are still people who do not use their land optimally and even abandon it. Land abandonment is a violation committed by the right holder of the obligations he must carry out (Irawan et al., 2023; Leckie & Huggins, 2011).

With the abandonment of land, problems will arise such as disruption of development considering the high need for land for development but because of abandoned land, the supply of land will be limited (Irawan et al., 2023). In addition, the existence of abandoned land can also result in the emergence of slums that can interfere with the beauty and efficiency of land use (Sumardjono, 2001). Seeing the many negative impacts due to the existence of abandoned land, it is hoped that the government can solve or fix the problem of abandoned land.

The abandonment of land can lead to several problems, including the disruption of development due to the high need for land for development, but the supply of land will be limited because of abandoned land (Chaudhary et al., 2020; Subedi et al., 2022). Additionally, the existence of abandoned land can result in the emergence of slums that can interfere with

the beauty and efficiency of land use (Blomley, 2017). The negative impacts of abandoned land can be seen in various environmental problems, such as extensive wind erosion, and can contribute to land degradation. Land degradation affects people and ecosystems throughout the planet and is both affected by climate change and contributes to it (Abdulmalik & Zewide, 2021). The number of people whose livelihood depends on degraded lands has been estimated to be about 1.5 billion worldwide (Gupta, 2019; Warner et al., 2010), and people in degraded areas who directly depend on natural resources for subsistence, food security, and income, including women and youth with limited adaptation options, are especially vulnerable to land degradation and climate change (Hermans & McLeman, 2021). Properly addressing the issue of abandoned land is part of a larger issue of reclaiming environmentally damaged land. Therefore, it is hoped that the government can solve or fix the problem of abandoned land to prevent further environmental degradation and to ensure sustainable land use.

Vacant and abandoned land can have significant economic and health impacts on communities. Abandoned buildings can have a negative spillover effect on adjacent properties, lowering the value of tangent properties (Gu et al., 2019; Zhang et al., 2022). Evidence shows that vacant and abandoned properties drag down local economies, impede population growth, depress property values, increase crime, and impose a range of public health risks (Hollander, 2009). Vacant properties can include abandoned, boarded-up buildings, unused lots that attract trash and debris, and vacant or under-performing commercial properties known (King, 2012; Schilling, 2008). In addition, vacant land can affect the health and safety of residents, and community-based solutions to vacant land should be accepted by target populations. Therefore, it is essential to address the issue of abandoned land to prevent further economic and health impacts on communities

To minimize the increasing number of abandoned land, the Government makes policies to regulate and utilize and even makes laws and regulations. One of the laws and regulations made by the government to support the control and utilization program of abandoned land is the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 20 of 2021 concerning Procedures for the Control and Utilization of Areas and Wastelands. In addition, the government also carries out agrarian reform policies, namely the rearrangement of abandoned land so that it can be used as well as possible for the benefit of the community and the state.

This study aims to analyze the Legal Position of Abandoned Land Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 20 of 2021 and the Control and Utilization of Abandoned Land by the Government.

## **METHOD**

This study used the normative juridical research method. The researcher studied legal materials related to wasteland's legal issue, from books, journals, to regulations. The researcher then analyzed them with the descriptive qualitative technique.

## **RESULTS AND DISCUSSION**

### **Legal Position of Abandoned Land Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 20 of 2021**

Abandoned Land is a condition of land where the land is no longer in a productive and no-man's physical condition (Limbong, 2017). In addition, abandoned land is also defined as land that has been granted rights by the state in the form of Property Rights, Business Use Rights, Development Rights, Use Rights, and Management Rights, or the basis of control over land that is not cultivated, not used, or not utilized in accordance with its circumstances or the nature and purpose of granting rights or the basis of control (Utami et al., 2018). Hence, abandoned land is land deliberately abandoned by the owner even though the land already has land rights and management rights.

In the stages before the land is determined to be abandoned, two stages will be carried out, namely the evaluation of abandoned land and the warning of abandoned land. Evaluation activities on the land to identify indications of abandoned land. The steps taken by the committee in the evaluation activity include:

- 1) Examination of physical data and juridical data
- 2) Checking land books and/or warrants and other documents to determine the existence of encumbrances, including data, plans, and stages of exploitation, use, and/or utilization of land at the time of applying for rights
- 3) Request for information from Rights Holders/Management Rights Holders/DPAT Holders and other related parties
- 4) Physical examination of exploitation, use, utilization, and/or maintenance of land using existing technology
- 5) Preparation of an analysis of the causes of wasteland
- 6) Preparation of evaluation results

After the evaluation results come out and declare the land identified as abandoned, the Head of the Regional Office will give a warning to the rights holder. The warnings given to rights holders as stated in Article 58 of the Regulation of the Minister of ATR Ka. BPN Number 20 of 2021 can be carried out the first warning, second warning and third warning carried out in writing. If after the third warning is given but the right holder still does not comply with the warning, the Head of the Regional Office may propose to the Head of the Agency to designate the land as wasteland. The criteria for not complying with Article 58 paragraph (2) of the Regulation of the Minister of ATR/Ka. BPN Number 20 of 2021 include:

- 1) Not cultivating, not using, not utilizing, and/or not maintaining the land and/or not in accordance with the plan of exploitation, use, or utilization of the land;
- 2) There is no follow-up completion of exploitation, use, or utilization of land; or
- 3) Have not applied for the right to basic land tenure

### **Control and Utilization of Abandoned Land by the Government**

The government grants land rights or management rights to communities or rights holders cultivated, used and maintained properly and is prohibited from neglecting their land. Although the state has regulated the prohibition of land abandonment, cases of land abandonment are still widely encountered. Based on data uploaded by the Ministry of Agrarian and Spatial Planning/National Land Agency, in 2017 there were 0.14 hectares of land included in the list

of land indicated as abandoned (Utami et al., 2018). So to minimize the high number of abandoned land, the Government feels the need to make efforts to reuse the abandoned land by regulating utilization.

Utilization of abandoned land is the exploitation and rearrangement of land in order to bring results and benefits for the benefit of the community and the state. While regulation is a process or way to bring order. There are 3 stages or processes for implementing the regulation of abandoned land when referring to Article 41 of the Regulation of the Minister of ATR / Ka. BPN Number 20 of 2021 concerning Procedures for the Control and Utilization of Areas and Wastelands, namely the evaluation of abandoned land, the warning of abandoned land and the determination of abandoned land.

In supporting the implementation of the issuance and utilization of abandoned land, the government issued Presidential Regulation Number 86 of 2018 concerning Agrarian Reform (Mujiburohman, 2019). Agrarian Reform is defined as a more equitable rearrangement of the structure of control, ownership, use, and utilization of land through asset structuring and access arrangements for the prosperity of the people. There are 3 things regulated in this Agrarian Reform, namely asset arrangement, access arrangement, and resolving agrarian disputes and conflicts. The Presidential Decree on Agrarian Reform emphasizes the concept of land redistribution and asset legalization. Land redistribution is a division of land derived from several types of land and one of them is abandoned land to support government programs in implementing abandoned land control. Meanwhile, the object of asset legalization consists of transmigration land that has not been certified and land owned by the community (Mujiburohman, 2019).

## **CONCLUSION**

To minimize the high number of abandoned land, the Government feels the need to make efforts to reuse the abandoned land by regulating utilization. Utilization of abandoned land is the exploitation and rearrangement of land in order to bring results and benefits for the benefit of the community and the state. While regulation is a process or way to bring order. In supporting the implementation of the issuance and utilization of abandoned land, the government issued Presidential Regulation Number 86 of 2018 concerning Agrarian Reform. Agrarian Reform is defined as a more equitable rearrangement of the structure of control, ownership, use, and utilization of land through asset structuring and access arrangements for the prosperity of the people.

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