



Utilizing Abandoned Land for Public Interest: Agrarian Reform

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Abstract

This research examines the policy of utilizing abandoned land and its implementation in the agrarian reform program in Indonesia. The results of the research show that there are various obstacles in utilizing abandoned land, such as overlapping ownership, lack of accurate data, and resistance from inactive land owners. However, the policy of utilizing abandoned land has great potential to support agrarian reform if it is supported by a clear legal framework, coordination between institutions, and active community participation. In conclusion, utilizing abandoned land for public purposes can be an effective solution in agrarian reform, as long as it is carried out with a holistic and inclusive approach. The government needs to strengthen regulations, increase transparency of land data, and ensure the involvement of various parties to achieve the goal of just and sustainable agrarian reform.

Keywords: *Abandoned Land; Public Interest; Agrarian Reform*

Introduction

Agrarian law is a law that regulates the earth (land), water, space and all the contents contained therein along with all the ins and outs that are related to agrarian affairs or land. The scope of agraria according to UUPA (Basic Agrarian Law) includes earth, water, space and the natural resources contained therein.

The state grants land rights or management rights to the rights holder to be cultivated, utilized and utilized and maintained properly, apart from being for the welfare of the rights holder, it must also be aimed at the welfare of the community, nation and state. When the state grants rights to individuals or legal entities it is always accompanied by obligations. -obligations stipulated in Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles and decrees granting rights. Therefore, rights holders are prohibited from abandoning their land, and if the holder abandons their land, the Basic Agrarian Principles regulations regulate the legal consequences, namely the elimination of rights to the

land in question and termination of the legal relationship and it is confirmed as land directly controlled by the State.¹

For land where there is no land right, but there is a basis for control, the use of the land must be based on a land right in accordance with Article 4 in conjunction with Article 16 of Law Number 5 of 1960 concerning Basic Agrarian Principles Regulations. Therefore, a person or legal entity that has obtained basic control over land, whether by acquiring the land from someone else's rights, obtains an appointment from the holder of management rights, because they obtained a location permit, managed it well, and did not abandon it.²

There must be efforts to overcome land abandonment and be issued to reduce or eliminate its negative impacts. Thus, handling, controlling and utilizing land is an important step and prerequisite for carrying out national development programs, especially in the agrarian sector which has been mandated by the State Constitution. Republic of Indonesia 1945, Basic Regulations on Agrarian Principles, as well as the National Long-term development plan, meaning that holders of land rights or certain possessions do not abandon their land, it becomes empty or unproductive land.³

Inequality in land control is one of the strategic issues in the land sector, inequality in ownership, control, use and exploitation of land which is characterized by a small number of people controlling most of the land and conversely the majority of people only controlling a small area of land. On the other hand, the condition of ownership of very large assets is not commensurate with the ability to manage them, because not all land rights that have been granted are managed well by the rights holders, which results in a lot of land being abandoned. So that land loses its economic and social function, quite a few prolonged conflicts occur in areas that have been designated as abandoned land.⁴

Inequality in land tenure, in general, begins with the granting of permits/use rights by public officials who exclude a group of people from the land. The agrarian conflict in question was initiated by the issuance of a decree from public officials, including the Minister of Forestry, Minister of Energy and Mineral Resources (Energy and Mineral Resources), Head of BPN (National Land Agency), Governor, and Regent, which gave permits or rights to business entities or government agencies certain to control a plot of land where on that plot of land there are rights to land or local community access to certain natural resources, which mostly occurs in rural areas its natural resources are deliberately allowed to develop.⁵

Therefore, the importance of utilizing abandoned land for public purposes based on an agrarian law perspective will be discussed in this article. The research method used in this research is normative or doctrinal legal research methodology. This method is normative juridical legal research or normative legal research which is basically an activity that will examine the internal aspects of positive law. Normative legal research focuses more on the scope of legal conceptions, legal principles and legal rules. It can be concluded based on existing doctrine, that normative legal research is a type of legal research methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of the research.

¹ Dewi Yulinang, Sufirman Rahman, dan Anzar Makkuasa, "Efektivitas Pemanfaatan Hak Atas Tanah Terlantar Untuk Kepentingan Umum Di Kabupaten Buton Tengah," *Journal of Lex Generalis (JLG)* 4, no. 2 (2023): 359–68.

² Vera Siti Parihah, "Penyelesaian Sengketa Tanah Dengan Hak Guna Usaha dalam Penertiban Tanah Terlantar," *Administrative Law and Governance Journal* 5, no. 3 (2022): 205–15.

³ Yuni Karini, "Pelaksanaan Penertiban dan Pendayagunaan Tanah Terlantar Di Provinsi Sulawesi Tengah," 2021.

⁴ M Arafah Sinjar, Yuliana Yuli, dan Kayus Kayowuan Lewoleba, "Pemanfaatan Tanah Terlantar Dan Problematika Hukumnya," vol. 4, 2023, NPPM2023SH-116.

⁵ Sofia Rahmawati, "Analisis yuridis tanah terlantar berstatus hak guna usaha," vol. 1, 2022, 7–21.

Discussion

The application of social functions in the use of abandoned land often causes problems in society. The relationship between the social functions of land rights is stipulated in Law no. 5 of 1960 concerning basic agrarian regulations, namely Article 6 "all land rights have a social function". Abandoned land is one of the problems whose use must receive more attention. Issues relating to land must receive attention.

Regarding the factors that cause abandoned land, the research team presents various factors found in the field, as in general they are classified based on three factor approaches, namely: physical, economic and institutional factors. First, physical factors such as not finding land locations, especially business land, excessive land control, unavailability of irrigation facilities and road access. Second, economic factors are caused by limited funds and land control for investment purposes only. Third, institutional factors that can be identified include the absence of strict regulations, especially for property rights holders and the absence of sanctions for violations of existing regulations.⁶

Some of the most common factors that may play a role in the formation of abandoned land include:

1. Government Policy: Government policies that are ineffective in cultivating land or do not have proper regulations can result in abandoned land.
2. Land Ownership Disputes: Land ownership disputes can arise between various parties, including heirs, companies, and the government, resulting in land abandonment. Uncertainty of ownership and lengthy legal battles can make communities hesitant or unable to manage and develop their land.
3. Economic Conditions: Local economic instability or poor economic conditions can affect land owners' ability to manage or use their land effectively.
4. Urbanization and Migration: Changes in settlement patterns, rapid urbanization, or population migration from rural to urban areas can leave the countryside behind. Countries can be neglected and neglected when people leave the country.
5. Unrealized Development Plans: Certain properties may be abandoned due to unrealized development plans or stagnation of infrastructure projects.
6. Social and Demographic Problems: Social problems such as social conflicts, community tensions, and demographic changes within a region can also lead to land abandonment. Land can be abandoned or abandoned when social life or security becomes unstable.

Sectoralization and overlapping arrangements regarding agrarian issues as well as sectoral egos between institutions/ministries are one of the obstacles in the implementation of agrarian reform. In general, there are four important factors as prerequisites for implementing land reform, namely:

- (1) an aware and supportive political elite,
- (2) strong farmer and community organizations,
- (3) the availability of complete and accurate data, and
- (4) the availability of a sufficient budget. adequate.

In line with Gunawan Wiradi, the success of agrarian reform requires prerequisites that must be met, namely:

- (a) Political will from the ruling elite;
- (b) Government/bureaucratic elites that are separate from business elites;
- (c) Active participation from all social groups, pro-reform people's/peasant organizations;
- (d) Complete and thorough basic data on agrarian issues.⁷

⁶ Muhammad Agung Rojiun, "Eksistensi Bank Tanah Dalam Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja Demi Pelaksanaan Pembangunan Kepentingan Umum," *Jurnal Education and Development* 10, no. 2 (2022): 738–48.

⁷ Gunawan Wiradi, *Reforma Agraria, Perjalanan Yang Belum Berakhir*, (Yogyakarta: Insist Pess, KPA dan Pustaka Pelajar, 2000), hlm 181-182..

Apart from the four prerequisites, a Land Reform Court and a centralized Special Authority Body are also needed, which are independent and responsible only to the president.

Basically, it is clear that the UUPA is the most basic legal rule in encouraging equal distribution and distribution of the ownership structure of agrarian rights for the benefit of all the people. The state's obligation is to regulate land ownership and guide its use, so that all land is used for the greatest prosperity of the people. UUPA regulates the prohibition of land ownership that exceeds the limits; obligation for every person and legal entity that has rights to agricultural land to work or exploit it actively by preventing extortion methods; regulates the maximum and/or minimum area of land that may be owned with a right by a person or legal entity.⁸

Agrarian reform in a broad sense includes the implementation of agrarian law reform; elimination of foreign rights and colonial concessions on land; a gradual end to feudal exploitation; overhaul of land ownership and control as well as legal relations related to land control; planning the supply and allocation of land, water and the natural resources contained therein in a planned manner, in accordance with capabilities and capabilities.

On September 24 2018, the government issued Presidential Regulation no. 86 of 2018 concerning Agrarian Reform. This presidential decree is the government's commitment to implementing asset management and agrarian access as mandated in TAP MPR NO. IX/MPR/2001 and UUPA. The acceleration of agrarian reform is supported by the issuance of the Presidential Decree concerning Settlement of Land Tenure in Forest Areas (Presidential Decree No. 88 of 2017), and Postponement and Evaluation of Palm Oil Plantation Licensing and Increasing the Productivity of Palm Oil Plantations (Presidential Decree No. 8 of 2018).

Presidential Decree No. 86 of 2018 defines Agrarian Reform as a more equitable restructuring of the structure of control, ownership, use and utilization of land through asset management and access management for the prosperity of the people. Asset structuring is carried out through the redistribution of agricultural and non-agricultural land, while asset legalization is carried out through land certification. Agrarian Reform aims to: reduce inequality in land control and ownership in order to create justice; handling Agrarian Disputes and Conflicts; creating a source of agrarian-based prosperity and prosperity for society through regulating control, ownership, use and use of land; creating jobs to reduce poverty; improving community access to economic resources; increasing food security and sovereignty; and improving and maintaining environmental quality.

In general, this Presidential Decree regulates 3 main things in Agrarian Reform, namely asset management, access management, and resolving agrarian disputes and conflicts. Asset structuring is carried out through the redistribution of agricultural and non-agricultural land, while asset legalization is carried out through land certification. Meanwhile, the handling of agrarian disputes and conflicts is carried out based on the principles of legal certainty and social justice which is facilitated by the Agrarian Reform Task Force in stages, then resolving agrarian disputes and conflicts is regulated by a Ministerial Regulation.⁹

The Presidential Decree on Agrarian Reform mandates that planning and implementation of Agrarian Reform involve the community, academics or stakeholders. Community involvement can take the form of: TORA (Land Object of Agrarian Reform) proposals, TORA recipients, and types of access arrangements; and/or providing input in handling Agrarian Disputes and Conflicts. Subjects of Agrarian

⁸ Brenda Brilian Thenny, "KAJIAN YURIDIS PEMANFAATAN TANAH TERLANTAR MENURUT PERATURAN PEMERINTAH NOMOR 20 TAHUN 2021 TENTANG PENERTIBAN KAWASAN DAN TANAH TELANTAR," *LEX ADMINISTRATUM* 12, no. 2 (2024).

⁹ Indri Meliani, "PENETAPAN TANAH TERLANTAR DITINJAU DARI UNDANGUNDANG NOMOR 5 TAHUN 1960 TENTANG PERATURAN DASAR POKOK-POKOK AGRARIA Jo. PP NOMOR 11 TAHUN 2010 TENTANG PENERTIBAN DAN PENDAYAGUNAAN TANAH TERLANTAR DI KABUPATEN BOGOR," 2023.

Reform are TORA recipients who meet the requirements and can be: 1) Individuals; 2) Community groups with collective ownership rights; and 3) Legal entity.

TORA recipients must be individuals who must meet the following criteria: Indonesian citizen, 18 years old or married; and resides in the land redistribution object area or is willing to live in the land redistribution object area. then the criteria for TORA recipients are explained into 19 requirements for TORA recipients to have a job, namely; smallholder farmers with a land area of 0.25 hectares or less, sharecroppers, agricultural laborers, small fishermen, traditional fishermen, labor fishermen, small fish cultivators, cultivated land cultivators, small salt farmers, salt pond cultivators, honorary teachers, casual daily workers, wage workers, informal traders, informal sector workers, temporary employees, private employees with non-taxable income, civil servants under class III a, TNI/Police with a rank below second lieutenant or equivalent, and other jobs determined by the minister.

Subjects of Agrarian Reform have mandatory obligations, including: to use, cultivate and exploit their own land; and comply with the provisions on land use and utilization in accordance with the nature and purpose of granting rights and spatial planning; maintaining soil fertility and productivity; protect and conserve above-ground resources; and use the land according to the land's capabilities. Meanwhile, Agrarian Reform Subjects are prohibited from abandoning TORA. If Agrarian Reform Subjects transfer rights to TORA or convert TORA, they must obtain permission from the Minister through the head of the local land office.¹⁰

Meanwhile, for subjects in the form of community groups with joint ownership rights over land, these are ownership rights given to community groups residing in a certain area over several plots of land that are jointly owned and a certificate is issued containing the name and size of each share of the joint rights. received to one of the joint property rights holders upon written appointment of the other joint property rights holders.¹¹

The Presidential Decree also states that TORA subjects can be legal entities that meet the requirements. This legal entity can be a cooperative, limited liability company, or foundation, which is formed by Agrarian Reform Subjects, individuals or community groups with Joint Ownership Rights and Village-Owned Enterprises.

Conclusion

In conclusion, utilizing abandoned land for public purposes can be an effective solution in agrarian reform, as long as it is carried out with a holistic and inclusive approach. The government needs to strengthen regulations, increase transparency of agricultural data, and ensure the involvement of various parties to achieve the goals of just and sustainable agrarian reform.

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¹⁰ Ahsanul Rizky Ramadhan, Firman Muntaqo, dan Iza Rumesten, "Penertiban tanah terlantar dalam rangka penatagunaan dan pemanfaatan tanah," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 11, no. 1 (2022): 92–103.

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