



RECONSTRUCTION OF THE REGULATION OF THE UTILIZATION OF ABANDONED LAND IN ACCORDANCE WITH THE PRINCIPLES OF QUALITY SPATIAL PLANNING LAW

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Abstract:

Utilization of abandoned land that does not pay attention to social aspects can lead to marginalization for certain groups, such as indigenous peoples or the poor, who may lose access to land that they previously managed traditionally. Therefore, it is important to involve all parties in the planning process so that the utilization of abandoned land can provide fair and equitable benefits for all levels of society. This objective is reflected in the principles stipulated in the Basic Agrarian Law (UUPA) No. 5 of 1960, especially in Articles 2 and 6 which state that all land rights have a social function. Reconstruction of legal norms in the regulation of abandoned land is also very important so that there are regulations that are comprehensive and responsive to dynamics in the field. This reconstruction not only functions to provide legal clarity, but also guarantees the protection of the rights of previous owners and prevents social conflicts in the future. More than just a transfer of ownership, the reuse of abandoned land must be carried out in a planned and directed manner, referring to the principle of sustainable land use. This principle emphasizes the importance of land use that takes into account the balance between economic benefits, environmental sustainability, and social sustainability. Abandoned land that has been re-managed by the state can be directed to support better spatial planning such as the development of green open spaces, food agriculture areas, people's settlements, or public facilities, all of which have a direct impact on improving the quality of life of the community.

Keywords:

Abandoned Land; Spatial Planning; Spatial Reconstruction

1. Introduction

Land is an important asset for the Indonesian people and is a major factor in development aimed at creating a just and prosperous society, in accordance with Pancasila and the Opening of the 1945 Constitution of the Republic of Indonesia (UUD 1945) Paragraph 4 "Then from that to form a Government of the State of Indonesia that protects all the Indonesian people and all of Indonesia's territory and to advance public welfare, educate the nation's life, and participate in implementing world order based on independence, eternal peace and social justice..." (UUD 1945).

Land plays an important role in the dynamics of development, where the Indonesian economy is still based on the agricultural sector. Almost all aspects of human life, both directly and indirectly, are very dependent on land. Even in less than ideal conditions, humans still need land for housing. Thus, land has become an inseparable part of human existence throughout their lives (Jayantiari & Wijaya, 2017). Land is a very important source of life. Whoever

controls the land controls the food source, and whoever controls the food also has political power. In an agrarian perspective, regulations regarding land control, especially those related to the State's Right to Control and Ownership Rights regulated by the state, are very important. This is in accordance with the provisions of the 1945 Constitution, which states that land is controlled by the State and used as much as possible for the interests and prosperity of the people, as stated in Article 33 paragraph (3) of the 1945 Constitution.

The phrase "controlled by the State" does not mean that the land is owned by the state, but rather that the state has the authority to regulate land issues, starting from granting land rights, designation, use, maintenance, to regulating legal relations that can be carried out on the land. However, in practice, the state's authority in regulating legal relations between objects and subjects of rights often ignores the intended management objectives. Article 33 paragraph (3) of the 1945 Constitution emphasizes that natural resources, including land, are controlled by the state and used for the prosperity of the people. Therefore, it is important to have an institution that has authority like the state in managing the land (Tauchid, 2009).

Land is one of the national assets in the territory of the Republic of Indonesia. Land is used as a guarantee for the sustainability of the national and state life system and is the right of every citizen, not only in certain regions and islands. Land is a basic and fundamental right for the Indonesian people because it can determine the level of welfare, prosperity, justice and sustainability for the nation and state. If this right is not fulfilled properly and correctly, there will be many imbalances in power, ownership, poverty, disputes and structural social conflicts for the majority of the Indonesian people so that these rights must be guaranteed and protected by the state constitution (Firmansyah, 2014). Utilization of abandoned land is one of the pressing issues in the context of development and spatial planning in Indonesia.

Abandoned land, in the legal sense, refers to land that is not optimally utilized, either because there is no activity on it or its use is not in accordance with the designation determined by the state. Based on Law Number 5 of 1960 concerning Basic Agrarian Regulations (Law No. 5-1960 PA), land has a very important social function, where its control and utilization must be carried out for the public interest and people's welfare. In this case, abandoned land has the potential to become a neglected resource, even though in the context of land use, the land has a strategic value to be used productively (Muntaqo, 2022).

The state's authority to regulate land use contained in Article 33 paragraph (3) of the 1945 Constitution provides a strong constitutional basis. The state, through the central and regional governments, has a very important role in supervising and regulating land use, especially to avoid misuse of land rights. This aims to ensure that the use of abandoned land can be adjusted to its intended use in accordance with the regional spatial plan (RT/RW), thereby creating better and higher quality spatial planning. The government through Government Regulation Number 86 of 2018 concerning Agrarian Reform (PP No. 86-2018 Agrarian Reform) has mentioned land objects in agrarian reform, including: (1). Land that is not extended or cannot be extended; (2). Land that is a former western right that is subject to conversion provisions; (3). Land released from forest areas; (4). Abandoned land that is utilized for the benefit of the community and the state; (5). Land resulting from the resolution of agrarian disputes and conflicts; (6). Land that is ex-mining; (7). Land that arises; (8). Land that is donated; (9). Land that used to be an independent, private and eigendom right; (10). Land with maximum excess, absentee and self-government rights;

Furthermore, land that is not cultivated, used and utilized in accordance with the conditions or nature and purpose of granting land ownership rights can be said to be abandoned land so that the holder of the rights violates the existing provisions and regulations, therefore the land is included in the object of agrarian reform. Regulations on the regulation and utilization of abandoned land have been stipulated in Government Regulation Number 11 of 2010 concerning the Regulation and Utilization of Abandoned Land (PP No. 11-2010 Regulation and Utilization of Abandoned Land). Then, Regulation of the Head of the National Land Agency Number 4 of 2010 concerning Procedures for Issuing Abandoned Land and Regulation of the Head of the National Land Agency Number 5 of 2011 concerning Procedures for Utilization of Former Abandoned State Land have also been issued. All policies that have been issued are used to resolve the problem of abandoned land in Indonesia. However, the allocation of abandoned land has not been fully regulated, so the normative problem is the incompleteness of the norms governing the allocation of abandoned land (Kurniawan & Febriany, 2021).

The sociological aspect related to the concept of utilizing abandoned land based on sustainable spatial planning includes social dimensions related to the needs and welfare of the community, as well as social dynamics that arise due to changes in land use. In the context of utilizing abandoned land, sustainable spatial planning can have a positive impact on the community both regionally and generally. Sociologically, sustainable spatial planning

encourages the creation of a habitable environment, increases accessibility to basic services such as education, health, and the economy, and provides opportunities for the community to be involved in the decision-making process related to spatial management (Zainuddin & Ulya, 2018).

At the regional level, proper utilization of wasteland can stimulate local economic development through job creation, community empowerment, and improving the quality of life of the community. For example, if wasteland in an area is used for sustainable agricultural development or housing infrastructure development, this can increase the income of local communities and reduce social inequality. On the other hand, unplanned land utilization can trigger social conflicts, such as land disputes or differences of interest between community groups who have rights or access to the land. In general, the concept of wasteland utilization is also related to improving social relations between individuals and communities.

When abandoned land is utilized for activities that support the economy and sustainability, this will encourage the creation of stronger social bonds among community members, as well as increasing community participation in spatial planning and management. However, utilization that does not pay attention to social aspects can lead to marginalization for certain groups, such as indigenous peoples or the poor, who may lose access to land that they previously managed traditionally. Therefore, it is important to involve all parties in the planning process so that the utilization of abandoned land can provide fair and equitable benefits for all levels of society (Rochaeni, 2019).

One of the challenges in managing abandoned land is the uneven distribution of land, both in terms of ownership, control, and utilization. Abandoned land is often in dispute status or has not been managed effectively by the party that has the rights to it. In addition, the gap in knowledge and access to information regarding land use and good spatial planning is also a factor causing abandoned land (Limbong, 2017). In this context, a deeper understanding and policies that are responsive to community needs are needed, by involving active participation from the community in the spatial planning process. Regarding the utilization of abandoned land, we can refer to the example of case number 62/G/2013/PTUN.SBY. The case is related to a land dispute that is considered abandoned in Surabaya, which was submitted to the Surabaya State Administrative Court (PTUN). The disputed land in this case is land that was previously not utilized or not optimally managed by its owner, which leads to the status of abandoned land. As land that is not used productively, this land has the potential to be managed by other parties, including the government, to be used for broader interests and in accordance with the established regional spatial planning.

This case involves a party claiming rights to land that is considered abandoned, and the government that is trying to transfer the status of the land to be used in accordance with the Regional Spatial Plan (RTRW) that has been determined. In this case, the court decided to resolve the dispute by considering the status of the abandoned land and its impact on the public interest as well as government policies related to spatial planning and optimal land use. In the decision of case Number 62/G/2013/PTUN.SBY, the Surabaya State Administrative Court decided that the disputed land was land that was in an abandoned state, and therefore, the government had the right to transfer the use of the land for the public interest, by considering the applicable land use principles.

This decision illustrates that the state has the authority to regulate the use of land that is not optimally utilized, by considering the regional spatial plan (RTRW) and the socio-economic interests of the community. The court also emphasized the importance of utilizing abandoned land for more productive purposes, such as housing development, public facilities, or for economic activities that can improve community welfare. In addition, this decision confirms that landowners who do not actively and productively manage the land can lose their right to control the land, on the legal basis that land must provide benefits to the community. Thus, the court provides a way for the state to transfer or rearrange the use of abandoned land, with the aim of creating better and quality spatial planning. Therefore, it is important for the government to continue to develop policies that integrate legal and social aspects in the management of abandoned land, and involve the community in every stage.

The formulation of the problem is a breakdown of several sentences of problematic questions from an event in the form of simple, short, clear and concise sentences. Simply put, the formulation of the problem can be interpreted as a question that is related to the research. (Zainuddin Ali, 2012) There are several formulations of the problem that refer to the "Concept of Utilization of Abandoned Land Based on Sustainable Spatial Planning", namely:

- 1) Reconstruction of the regulation of the utilization of abandoned land according to the principles of quality spatial planning law
- 2) The concept of regulating the utilization of abandoned land based on the principles of quality sustainable land use

2. Research Method

The research used in this writing is legal normative juridical.

3. Result and Discussion

3.1. Reconstruction of the Arrangement of Utilization of Abandoned Land in Accordance with the Principles of Quality Spatial Planning Law

The National Land Agency (BPN) in the Regulation of the Head of BPN No. 4 of 2010 explains that abandoned land is land that has been given rights or a basis for control (such as Ownership Rights or Building Use Rights) that is not used in accordance with its designation or is not utilized. The procedure for determining abandoned land includes physical and legal verification to ensure that the land is not managed or used properly. Thus, Abandoned land is an agrarian law term that refers to a piece of land that has been granted rights by the state to individuals, legal entities, or certain institutions, but is not utilized, used, or managed in accordance with the purpose of granting the rights. In the context of Indonesian agrarian law, specifically based on Government Regulation Number 20 of 2021 concerning the Order of Abandoned Areas and Land, abandoned land is defined as land that has been granted rights by the state, but is not utilized, used, or maintained in accordance with the nature and purpose of granting the rights within a certain period of time. (Z. Asikin, 2014)

In accordance with PP 20 of 2021, land can be categorized as abandoned if:

- a. Land rights have been granted or have been obtained based on land ownership.
- b. Not utilized, used, or maintained in accordance with the nature and purpose of granting the rights;
- c. Occurs within a certain period of time (usually 2 consecutive years or more);
- d. There is no valid and legally justifiable reason for the inactivity.

This criterion does not only apply to freehold land, but also to land with the status of land use rights (HGU), building use rights (HGB), use rights, as well as land obtained from the release of forest areas and former western land rights. The regulation of abandoned land is carried out through several administrative stages by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). These stages include: (Zarbiyani and Sudiro, 2023) Inventarisasi dan Identifikasi: Pemerintah melakukan pendataan terhadap tanah-tanah yang diduga terlantar.

- a. Written Notification: The owner or rights holder is given a notification letter that his/her land is suspected of not being utilized.
- b. Monitoring and Evaluation: Within 1 year after notification, the rights holder is given the opportunity to utilize the land according to its designation.
- c. Determination of Abandoned Land Status: If there are no changes or improvements, the government can determine the land as abandoned land and then its rights can be revoked.
- e. Utilization: After being determined as abandoned land, the land becomes state land and can be allocated for agrarian reform programs, land redistribution, or other public interests.

If the land has been designated as abandoned and the rights to it are revoked, then all claims of ownership or control are forfeited, and the land returns to the state. Landowners who lose land are not entitled to compensation, because they are considered negligent in carrying out their responsibilities as land rights holders. This is an important lesson that land rights are not absolute rights, but rights that are inherent with social obligations to utilize and maintain them for the common good. (Sutedi, 2018)

Although regulations are available, the implementation of the regulation of abandoned land faces various challenges. One of them is the weak land monitoring and data collection system. In addition, there is also resistance from large landowners who feel threatened by this policy. The long legal process and complex bureaucracy are also obstacles. Land abandonment can be caused by various factors, one of which is natural factors. Natural conditions that are less supportive, such as barren, arid land, or located in dangerous locations such as steep cliffs or ravines, are the reasons why land is not utilized properly. Other similar natural factors also play a role. (Setiawan, 2016)

The most common cases of land abandonment in Indonesia are not caused by natural conditions, but rather by human factors. This means that the subjective aspect of the land owner or manager, either intentionally or unintentionally, plays a major role in causing the land to be abandoned and not utilized according to its intended use. Human factors that cause land to be abandoned can occur unintentionally, and this is influenced by various aspects. Some of them have been explained in detail in Government Regulation Number 20 of 2021 concerning the

Regulation of Abandoned Areas and Land, while several other factors have not been explicitly mentioned. However, the absence of such a mention does not mean that there are deficiencies or loopholes in the legal regulations, but rather weak supervision by the authorities in the jurisdiction where the land is located. In addition, the ignorance of land rights holders regarding their obligations to utilize and maintain land in accordance with legal provisions is also the main cause of unintentional abandonment (Ratnasari, 2018).

On the other hand, the Government Regulation also regulates land abandonment that is carried out either intentionally or unintentionally. One of the causes is the economic inability of the land rights owner to fulfill his obligations to manage and maintain the land as stipulated in the laws and regulations. In conditions like this, financial inability is considered a reason that cannot be blamed absolutely on the land owner. Therefore, the authorities can provide leniency so that the land is not immediately categorized as abandoned land (Pramono, 2020). Efforts to create good governance do not stop at making policies, but are also realized through the implementation of fair and selective supervision. This was done by the government through Government Regulation Number 36 of 1998 concerning the Order and Utilization of Abandoned Land, in which the government stipulates that the authority to decide whether a plot of land can be categorized as abandoned land lies only with the Minister of Agrarian Affairs, who is a state official who handles land affairs (Pramono, 2020).

The reconstruction of norms in the regulation of abandoned land is closely related to the theory of the purpose of land law and the principles of environmental ethics. Within the framework of this theory, the reconstruction of norms means formulating rules that regulate aspects of land ownership and utilization, including rights to ownership, use, and other legal aspects. This process must also ensure clarity of ownership status, legality of transactions, and protection of the rights of parties affected or previously having rights to the land (Dumais, 2014). Legal certainty is an essential element in the national legal system, especially in the regulation and regulation of abandoned land. In the context of land that is indicated to be in an abandoned land area, legal certainty is the main basis for ensuring that the management, regulation, and utilization of the land are carried out fairly, transparently, and legally. The unclear legal status of land can cause various problems such as ownership conflicts, investment uncertainty, and land utilization stagnation (M. Y. Harahap, 2015).

Based on the perspective of the theory of legal objectives, law is not only intended as a set of norms that regulate people's behavior, but also as a means to achieve fundamental values such as justice, certainty, and utility. This is in line with the thinking of Rudolf von Jhering, who stated that the main purpose of law is to protect social interests through the application of state power (M. Y. Harahap, 2015). In the context of land law, this purpose is reflected in the principles stipulated in the Basic Agrarian Law (UUPA) No. 5 of 1960, especially in Articles 2 and 6 which state that all land rights have a social function. Therefore, land should not be left in a state of neglect, because it is contrary to the principles of benefit and social justice. Legal certainty in the regulation of neglected land is very necessary to ensure that land that has gone through the identification and regulation process can be reused productively and in accordance with its designation. This includes clarity on ownership rights, the legal status of land after land clearing, and mechanisms for the legal transfer of rights to other parties, either through land redistribution or agrarian reform programs.

In addition, the reconstruction of legal norms in the regulation of abandoned land is also very important so that there are comprehensive regulations that are responsive to dynamics in the field. This reconstruction not only serves to provide legal clarity, but also guarantees the protection of the rights of previous owners and prevents the emergence of social conflicts in the future (Satjipto Raharjo, 2006).

3.2. The concept of regulating the use of abandoned land based on the principles of quality sustainable land use

Abandoned land, in general, refers to land that has been granted control or ownership rights to individuals or legal entities, but has not been utilized, used, or managed optimally according to its designation for a certain period of time. The existence of such land is contradictory to the community's need for land for housing, agriculture, or other economic activities. Therefore, the reconstruction of policies and their regulations must refer to the principles of sustainable land use in order to realize agrarian justice, environmental sustainability, and socio-economic sustainability of the community (Putra, 2024). First of all, the reconstruction must begin with the restructuring of the legal and regulatory framework regarding abandoned land. Current regulations such as Government Regulation Number 11 of 2010 concerning the Control and Utilization of Abandoned Land need to be aligned with

contemporary social, economic, and ecological developments. In this context, the principle of sustainable land use requires integration between ecological aspects (environmental carrying capacity and carrying capacity), social aspects (land access justice), and economic aspects (land productivity and efficiency). Therefore, the new regulations must not only be repressive (taking over unused land), but also promotive and preventive, namely encouraging land use through incentives, education, and partnerships between the government, land owners, and the community. (Putra, 2024)

Furthermore, the reconstruction of the arrangement must be based on participatory and adaptive spatial planning. This means that the reuse of abandoned land must take into account the regional spatial plan (RTRW), but also open up space for dialogue with local communities, local governments, and other stakeholders. In practice, many abandoned lands are located in areas that actually have great potential for food agriculture, people's settlements, or conservation areas. However, without community involvement and transparency in determining the designation, the risk of social conflict is very high. Therefore, the principle of sustainability is not enough with the labeling 'green' or 'environmentally friendly', but must side with vulnerable groups and strengthen the land rights of small communities (Putra, 2024). Another important aspect in this reconstruction is the use of information technology and geospatial information systems (GIS) in recording, mapping, and monitoring abandoned land. With this technology, the government can accurately identify land that is categorized as unused, analyze its ecological and social potential, and set priorities for restructuring based on urgency and benefits to the public. GIS is also an important tool in creating accountability and transparency, because the public can access the data and participate in monitoring the land reuse process (Habibah, Suharno, and Muryono, 2019).

In terms of implementation, the reconstructed regulation must also clarify the mechanism for redistribution or transfer of the function of abandoned land to parties who need it and are able to manage it productively and sustainably. This can be done through agrarian reform programs, sustainable agribusiness partnerships, or the development of community-based economic areas. However, this transfer must be accompanied by capacity building and assistance to land recipients so that they do not just become 'nominal owners' but can truly utilize the land optimally and sustainably. Finally, the reconstruction of this regulation must be part of the grand agenda of national sustainable development. Utilization of abandoned land is not only about increasing land productivity or preventing land speculation, but also about improving the relationship between humans and their living space. The principle of sustainable land use places land as a resource that must be maintained for the sake of present and future generations. Thus, the new regulation must reflect the integrity between ecological, economic, and social values in a fair agrarian policy that supports the sustainability of the earth and the welfare of the people (Habibah et al., 2019).

The principle of sustainable land use itself is rooted in the idea that land is not just an economic commodity, but a vital element in human life that has social and ecological functions. This principle demands that land use be carried out efficiently and productively without damaging the environment and ensuring justice for the community, especially those who have historically been marginalized from access to land. Therefore, in carrying out the reconstruction of the regulation of the use of abandoned land, the state needs to form a legal framework that is not only administrative, such as the takeover or revocation of rights to abandoned land, but also includes incentives and facilitation so that the land can be utilized by parties who have real capabilities and needs, especially local communities and farmer groups..

This regulation has a strategic impact in the long term. First, it can reduce the inequality of land ownership that has been the root of agrarian conflict. Second, it can increase national food security because idle land can be converted into production land. Third, it can reduce environmental degradation due to uncontrolled land conversion or illegal activities on unmanaged land. Fourth, it provides new economic opportunities for rural and marginalized communities who have had difficulty accessing productive resources. Fifth, it strengthens the state's position in carrying out its constitutional mandate for the greatest prosperity of the people. All of this is in line with the agenda of sustainable development or Sustainable Development Goals (SDGs), especially in terms of poverty reduction, food security, social justice, and sustainable management of natural resources (Habibah et al., 2019). Of course, this reconstruction is not free from various challenges. Among them are resistance from large landowners, limited valid and accurate data, legal dualism between national law and customary law, and suboptimal government institutional capacity. For this reason, solutions that can be taken include strengthening the land information system, involving civil society and academics, aligning regulations between sectors, and bureaucratic reform in the agrarian sector. Public education on land rights, the social function of land, and the importance of sustainable use are also very necessary to build collective awareness.

Ultimately, land is a fundamental matter for the sustainability of the nation. Reconstructing the regulation of the use of abandoned land is not merely an administrative task, but rather part of a transformative effort to realize social justice, environmental sustainability, and the economic welfare of the people. The state must not allow this vital resource to be neglected, but must strive to ensure that every inch of land provides the greatest possible benefits for human life and the ecosystem as a whole. In this context, the principle of sustainable land use becomes a moral and technocratic compass that must guide the direction of Indonesia's agrarian policy in the present and future (Wibowo, 2022).

Various parties have put forward definitions of sustainable development. The World Commission on Environment and Development (WCED), as quoted by Sudharto P. (2001), states that sustainable development is a form of development that aims to meet the needs of today's society without reducing the ability of future generations to meet their needs. In this concept, the quality of development is prioritized over simply pursuing quantity, with the main focus on improving all dimensions of human life both now and in the future. Therefore, sustainable development can also be understood as an effort to improve the quality of human life that is carried out carefully so as not to exceed the limits of environmental carrying capacity, so that the sustainability of the ecosystem is maintained and environmental quality does not decline (Iswantoro, 2014).

4. Conclusion

The regulation of abandoned land in the Indonesian agrarian legal system currently faces various fundamental challenges because although the Basic Agrarian Law (UUPA) No. 5 of 1960 has provided a basic framework regarding land control and utilization, the provisions in the UUPA have not explicitly regulated abandoned land. Article 7 of the UUPA stipulates that all land rights have a social function, which means that land utilization must provide benefits to the community and the state, so it must not be left abandoned without clear management. Article 10 emphasizes the obligation of land rights holders to actively cultivate the land, with Article 17 limiting the amount of agricultural land ownership to avoid the accumulation of control that can harm the welfare of the community. However, despite these principles, these articles have not provided a clear mechanism for the management of abandoned land, including definitions, criteria, and procedures for handling it, which results in unclear state authority to take firm action against land that is not utilized properly.

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