

UTILIZATION OF ABANDONED LAND BASED ON REGULATION OF THE MINISTER OF ENVIRONMENT AND FORESTRY NUMBER 07 OF 2021 FOR FOOD ESTATE

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ABSTRACT

Basic Agrarian Law no. 5 of 1960 stipulates that all land rights must have a social function, by Article 6 which states that land cannot be used solely for personal interests, especially if this is detrimental to society. Land use must be adapted to conditions and rights, providing benefits both for the owner & for the community and state. Abandoned land, including land rights, Management Rights, and land based on a Land Tenure Basis that is not used or cultivated, is the focus of this research. This research aims to explain the relationship between the 1960 Basic Agrarian Law regarding abandoned land and its derivative regulations, especially in the context of the National Food Estate Strategic Program. The research method uses secondary data with a normative juridical approach to synchronize legal provisions with field practice. Social Function is identified as an integral element in Land Rights, and the author believes that abandoned land, such as Cultivation Rights, can be used for the prosperity of the people. However, Minister of Environment and Forestry Regulation no. 07 of 2021 indicates that these social functions have not been fully utilized along with other land uses, creating inconsistencies in the implementation of the policy.

Keywords: *social functions, abandoned land, TCUN, national strategic projects, food estate*

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INTRODUCTION

The author, through "Common Sense", thinks that abandoned land mechanisms such as Cultivation Rights, can be applied to the people's prosperity, however, Minister of Environment and Forestry Regulation No. 07 of 2021, in reality, these social functions are not used which should be used in conjunction with other land uses. The horizontal principle of social function should be included in the regulations under UUPA NO. 5 of 1960 such as Ministerial Regulation Number 20 of 2021 must be emphasized that it can be used for Government Programs that aim for the prosperity of the Indonesian people (Nopvytasari & Fathurrahman, 2023; Sinjar et al., 2023). Abstractly, social function is an element contained in land rights so the principle of this social function becomes contradictory in fact if it cannot be used for the prosperity of the Indonesian people land is a source of human life that will never run out. Land functions to improve human life, so land must be used to increase people's prosperity. "That is why ignoring the obligation to use and manage it properly, in this case meaning according to one's rights, is an act of violation of the social function and denial of the philosophical aspects of land so that it is not justified for land not to be managed" (Suhariningsih, 2009)

A food estate or food barn is an integrated development plan between agriculture, plantations, and animal husbandry in an area to provide national food reserves and anticipate the food crisis due to the COVID19 pandemic. This program was designed as a form of government response to the Food & Agriculture Organization (FAO) report to be able to

prepare national food security as a form of anticipation of the possible negative impact of the COVID-19 pandemic (Mutia et al., 2022).

Minister of National Development Planning or/ Head of Bappenas Suharso Monoarfa chaired the Multi-Party Discussion Meeting on the Major Food Estate Project as an effort to anticipate food crisis conditions due to the Covid19 pandemic, increase national food reserves, reduce dependence on food imports, and become one of the strategies for Economic Recovery and Structural Reform which is the big theme of the 2022 Government Work Plan (RKP). Development of Food Estates or Food Production Center Areas (KSPP) is also a strategy for implementing National Priority One: Strengthening Economic Resilience for Quality & Fair Growth in the 2020 National Medium Term Development Plan (RPJMN). -2024 (Nurjanah et al., 2022; Yuliantika et al., 2022).

By the direction of the President of the Republic of Indonesia Joko Widodo (Jokowi), the initial location for KSPP development was directed at five locations, namely Central Kalimantan, North Sumatra, South Sumatra, East Nusa Tenggara, & Papua. KSPP is directed to support & strengthen the achievement of development targets, especially strengthening government rice reserves to 1 to 1.5 million tons of rice, increasing food production by 3 percent per year & agricultural productivity, increasing rice availability to 46.8 millionTons in 2024, Farmer Exchange Rate target of 103 to 105, & avoid land degradation or damage. The Ministry of National Development Planning/Bappenas is currently preparing a Masterplan/Master Plan for Food Estate Development using a Social-Ecological System (SES) approach as a foundation for the principles of sustainability, integrative, resilient, inclusive, as well as advanced and modern.

A food estate is a large-scale food business that consists of a number of operations done to meet human needs for food products through the integrated use of capital, technology, and other resources. These operations include food crops, horticulture, plantations, animal husbandry, and fisheries in a forest area., referring to Presidential Decree Number 108 of 2022, Food Estate is a strategic priority project. Food Estate is included in the national strategic project (PSN) category in Coordinating Minister for the Economy Regulation Number 21 of 2022

Food Estate itself is closely related to Food Security in Law No. 8 of 2012 concerning Food which states that food security is a condition where food is met for the country and individuals, it is demonstrated by the availability of enough food—safe, diversified, nutritious, equitable, and affordable—that does not contradict with community culture or religion and allows people to lead long, active, and productive lives., as well as in conjunction with Law no. 41 of 2009 concerning the Protection of Sustainable Agricultural Land, section c, argues that as the state upholds each citizen's access to food as a fundamental human right, it must also ensure food sovereignty, independence, and security. (Ayuningutami & Najicha, 2022).

One of the basic perspectives of land management is contained in Article 6 of the Basic Agrarian Law "All rights to land have a social function", land management is in principle a government matter. Therefore, the social function of land rights can be expressed in the form of policy, regulation, control, compliance, and service (Ramadhan et al., 2022). In When carrying out these social missions, the government takes land availability into account to accommodate interested parties' requests (stakeholders), fairness to all people, legal certainty

and protection for land rights holders, & sustainability in services, availability & ecosystem (Harefa, 2020).

Judging from *Das Sollen* and *Das Sein*, the use of forest areas refers to the Minister of Environment and Forestry Regulation No. 07 of 2021, more specifically the truth is that maintaining soil fertility and controlling erosion, flooding, seawater intrusion, and water systems are all made possible by using protected forests, which should be utilized as the primary means of safeguarding life support systems.. On a horizontal basis, there is a conflict regarding the designation of protected forests in these regulations. Deputy Chairman of Commission IV DPR, Dedi Mulyadi, assessed that this policy goes beyond the role of the Ministry of Environment & Forestry which should restore the function of protected forests as ecosystem buffers & prevent ecological disaster like landslides and floods. Forest Watch Indonesia (FWI) notes that in 2019, there were 1.5 million hectares of abandoned Cultivation Rights land. Meanwhile, 344,000 hectares of Cultivation Rights land is still forest. The abandoned lands, called *Dedi*, can be returned to the government by referring to Government Regulation Number 10 of 2010 concerning the Control and Utilization of Abandoned Lands which can then be used for the construction of food estates. If we refer to the provisions of Article 4 paragraph (2) of UUK, and relate it to the theory of authority, then the government has the authority to control, regulate & manage forests based on the attribution of authority given by the framers of the forestry law (Supriyadi, 2013).

In writing about this research topic, the author found several things that also discussed Food Estates in forest areas with the title. The difference with the topic raised by the author is that the author reviews it in terms of social function, as well as the use of abandoned land for food estates from the theory of legal certainty and harmony of existing positive law.

The Food Security Forest Area Scheme is in principle a scheme created to support the availability of land for the Food Estate program. The use of Protected Forest Areas in this scheme certainly has potential impacts on the sustainability of the protected forest itself. Therefore, is there no other alternative land that can be used for use, apart from protected forest areas which do not appear to have a protective function in the Minister of Environment and Forestry Regulation No. 7 of 2021? So it needs to be re-regulated clearly & firmly. Apart from that, the Government also has a role in controlling the implementation of the KHKP scheme so that The purpose of forest regions with protection stays intact, so that Indonesia can continue to be committed to reducing greenhouse gas emissions in efforts to change climate (Mutia et al., 2022).

Deputy Chairman of Commission IV DPR, Dedi Mulyadi, assessed that this policy goes beyond the role of the Ministry of Environment and Forestry which should restore the function of protected forests as buffers for ecosystems and prevent ecological disasters such as floods and landslides. 16 Notes from Forest Watch Indonesia (FWI) in 2019, there are 1.5 million hectares of HGU land were abandoned. Meanwhile, 344,000 hectares of Cultivation Rights land is still forest. The abandoned lands, called *Dedi*, can be returned to the government by referring to Government Regulation Number 10 of 2010 concerning the Control and Utilization of Abandoned Lands which can then be used for the construction of food estates (Ayu Mutia et al., 2022).

METHOD

Research data from secondary data sources are used in this study. When dealing with secondary data, a normative juridical method is employed, which aims to align relevant legal requirements with norms or other legal regulations in connection to how these regulations are applied in the field. The author uses this method specifically to examine abandoned land against the Minister of Environment and Forestry Regulation Number 7 of 2021 concerning forestry planning, changes in the designation of forest areas, & changes in the function of forest areas, especially the Food Estate section, then considers higher or parallel regulations that could be related to these regulations to analyze whether these regulations conflict or not.

RESULTS AND DISCUSSION

Social Functions and Objectives in the 1960 UUPA

In Article Number 6 of the UUPA land rights have a general nature for individual interests and are also for the public interest. These phrases are written, "so that they are beneficial, both for the welfare and happiness of those who have them, as well as for society and the state". The personal nature of land rights which also contains an element of community is emphasized in Article 6 of the UU. An agrarian principle which "All land rights have a social function" (Harefa, 2020). Indeed, one of the problems still being faced with the implementation of public interests is determining the balance point between public interests and private interests in development. The basic agrarian law, through the social function of land rights, considers personal preferences, community interests, and state interests, which makes them elements that must be included in land rights, and has the aim of the welfare and happiness of these stakeholders (Angrainy & Isharyanto, 2022).

Incarnation of elements of social function in unfulfilled land rights which become abandoned land

The social function is transformed into abandoned land because the general characteristic of social function is found in abandoned land in the phrase "not used" because in social function there is the phrase "until it is useful". Abandoned land itself means private land, land with management rights and land acquired through land control that is purposefully not farmed, utilized, exploited, or kept up (Limbong, 2017).

According to Boedi Harsono, land abandonment is more likely to lead to legal incidents occurring due to human actions so that land rights are lost. Boedi Harsono, gave the example of a company being granted Cultivation Rights for plantations by the government, but the rights to the land are not being used properly, then this can be used as a reason to cancel the relevant rights by authorized officials (Harsono, 2008).

Procedure for Determining the Status of Abandoned Land for Land Rights

Determining the Status of Abandoned Land begins with a scheme that can be seen in PP No. 20 of 2021:

- Article 23
 1. The goal of the assessment of abandoned land is to confirm that the land is owned or managed by the Rights Holder, Management Rights Holder, or Basic Land Control Holder and that it is being farmed, utilized, exploited, and/or maintained.

2. A committee appointed by the regional office head is responsible for evaluating abandoned land.

- Article 25

1. If the evaluation's findings indicate that there is abandoned land, the Regional Office's head provides a first written alert to the Rights Holder, Management Rights Holder, or Land Ownership Basis Holder and other interested parties.

2. Apart from being conveyed to the Rights Holder, Management Rights Holder, or Basic Ownership Holder of Land, the first, second & third written warnings are also conveyed to:

a. Minister;

b. holder of mortgage rights, when it comes to property that has mortgage rights attached to it; And

c. heads of agencies that manage state/regional property or assets of owned business entities state/region, in the case of land having the condition of state-owned property or regional corporate enterprises' assets.

- Article 26

If the address of the Rights Holder, Management Rights Holder, /or Basic Ownership Holder of Land is unknown or inappropriate, the process of notification and warning in implementing control over Abandoned Land is implemented using the ensuing guidelines:

a. for individual Rights Holders and Basic Ownership Holders of Land, notification and warning letters are published at the local village or sub-district office and the webpage for the Ministry; or

b. For rights Holders, Management Rights Holders, and Basic Land Control Holders, legal entities/central government agencies/regional governments or state-owned enterprises/regional-owned enterprises, notification & warning letters are sent to the addresses of the Rights Holder, Management Rights Holder, or Owner Basis of Land Control listed on the Ministry's website or in the legal entity information system run by the ministry responsible for overseeing government affairs in the areas of law and human rights.

- Article 27

If the Rights Holder, Management Rights Holder, / Basic Ownership Holder of Land does not carry out the third written warning as intended in Article 25 paragraph (4), the Regional Office Head within a maximum of 30 (thirty) working days suggests the determination of Abandoned Land to Minister.

- Article 28

Regarding the proposed designation of land as Abandoned Land as intended in Article 27, no legal action can be taken on that plot of land until a Ministerial Decree is issued.

- Article 29

The Minister determines what constitutes abandoned land by reviewing the proposal for that purpose as intended in Article 27. And the rest can be seen in PP Number 20 of 2021 concerning Controlling Abandoned Areas & Land.

Reserved Land for the State (TCUN)

In the end, abandoned land was transformed into Reserve Land for the state, through a confirmation mechanism, the following regulations:

Republic of Indonesia Government Regulation Number 20 of 2021:

- Article 1

21) State General Reserve Land, hereinafter abbreviated as Reserved Land for the State (TCUN), is land that has been designated as Abandoned Land & is verified to be land directly controlled by the state.

- Article 33

Land that has been assigned a designation as Abandoned Land can become an Asset of the Land Bank and/or TCUN.

- Article 35

1. Utilization of Reserved Land for the State (TCUN) is aimed at agriculture and non-agriculture in the interests of society and the state through:
 - a. agrarian reform;
 - b. national strategic projects;
 - c. Landbank; And
 - d. reserves of other countries.
2. Utilization of Reserved Land for the State (TCUN) can be based on suggestions or information starting from:
 - a. Ministries or/institutions;
 - b. Regional Office & Land Office; &/or
 - c. local government.
3. Utilization of Reserved Land for the State (TCUN) pays attention to:
 - a. national strategic policy;
 - b. spatial plan; and/or
 - c. soil suitability and regional carrying capacity.
4. The utilization of Reserved Land for the State (TCUN) is as decided by the Minister.

Directorate General of Land & Space Control and Regulation The Ministry of Agrarian Affairs & Spatial Planning or National Land Agency through the 2021 Performance Report of the Directorate for Controlling Land Tenure, Ownership and Use stated that there were 12,442.76 Ha Recommendations for Controlling Abandoned Land and 8,936.71 Ha Recommendations for Utilizing Abandoned Land.

National Strategic Project

The National Food Supply Improvement Program (Food Estate) itself is included in the List of National Strategic Projects according to Presidential Decree Number 109 of 2020 Number 8. The meaning of National Strategic Projects is as follows:

- Article 1

1. National Strategic Projects are projects and/or plans carried out by the federal government, local government, and/or corporate organizations with a strategic intent to

boost development and equity in order to enhance community welfare and regional development.

Utilization of Abandoned Land for Food Estate

The existence of law enforcement is because there is a law that is sleeping, so it must be awakened or re-enforced. Abandoned land should be used for food estates because it has been regulated in pp 2021 that TCUN (Incarnation of Abandoned Land) can be used for national strategic projects, therefore there are legal regulations that are not by regulation of the Ministry of Environmental and Forestry 2021 where land use is only using forest areas (Yuliantika et al., 2022).

In article 35 paragraph 1 of the Government Regulation of the Republic of Indonesia Number 20 of 2021, TCUN "The use of TCUN is aimed at agriculture and non-agriculture in the interests of society and the state," one of which is through the National Strategic Project for the sake of "equitable development to improve community welfare and regional development". In the Minister of Environment & Forestry Regulation Number 07 of 2021 itself, it is regulated that Food Estates use Forest Areas, therefore because TCUN should be able to be used for Food Estates, one of the writings in this Regulation must be to add TCUN as land for Food Estate use.

CONCLUSION

In the diagram that the author made above, it can be seen from Das Solen that TCUN should be used for Food Estates so that the regulations should be able to coexist with the use of forest areas. So the Minister of Environment and Forestry Regulation No. 7 of 2021 needs to be re-regulated clearly and firmly. Apart from that, the Government also has a role in controlling the implementation of the TCUN scheme so that it continues to run for the benefit of society and the state. The 2021 Performance Report of the Directorate for Controlling Land Tenure, Ownership & Use states that there are 8,936.71 Ha of Recommendations for Utilizing Abandoned Land, that is how much land can be utilized, which can be further selected through factors that are suitable for a Food Estate.

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