

Land Abandonment in Indonesia: Perspective of National Land Law and Islamic Law

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Abstract. *The increasing number of people causes the need for land to increase. On the other hand, there is still a lot of land neglect by individuals and legal entities, giving rise to social, economic, and people's welfare disparities and reducing environmental quality. This study aims to determine and analyze land abandonment from the perspective of national land law and Islamic law. The writing method uses juridical-normative legal research examining library materials or secondary data. The research results show that land abandonment from the perspective of national land law is currently regulated in the Regulation of the Government of the Republic of Indonesia Number 20 of 2021 concerning Controlling Abandoned Areas and Land. Abandoned freehold land becomes the object of control over abandoned land with the provision that it is not used, exploited, or maintained for 20 years. Meanwhile, land with building use rights, use rights, management rights, and business use rights becomes the object of controlling abandoned land if it is not used, utilized, or maintained for two years from the issuance of the rights. Meanwhile, from the perspective of Islamic law, land abandonment can be seen from the opinions of the Hambali, Syafi'i, and Maliki Fuqaha. The Hambali School stipulates three years for cultivating land. If the land cannot be developed within that time, the rights to the land will be lost, and the State will take the land to be distributed to other people. Meanwhile, the Syafi'i and Maliki schools do not determine a specific period but solely based on why the ground is not cultivated.*

Keywords: *Abandonment; Islamic; Land; Law.*

1. INTRODUCTION

The land is the primary resource needed for development to improve the standard of living of the people, nation, and State.¹ Therefore, land must be cultivated, exploited,

¹ Yang Zhou et al., "Targeted Poverty Alleviation and Land Policy Innovation: Some Practice and Policy Implications from China," *Land Use Policy* 74, no. January (2018): 53–65, <https://doi.org/10.1016/j.landusepol.2017.04.037>.

and utilized for the greatest prosperity of the people.² Many controlled and owned lands and existing or new land rights based on land acquisition are still neglected.³ So if the noble ideals of improving people's welfare are not achieved, seeing the condition of the increasing number of abandoned lands, it is necessary to reorganize them to realize ground as a source of people's welfare and to create a more just life, guarantee the sustainability of the Indonesian social and national system and strengthen social harmony.⁴ In addition, it is essential to maximize the cultivation, use, utilization, and maintenance of every plot of land in Indonesia to increase food and energy security, reduce poverty, and improve environmental quality. Current reality shows that land abandonment worsens ecological quality,⁵ social and economic disparities,^{6,7} and welfare.⁸ Land abandonment also impacts other development program objectives, vulnerability to food security and national economic resilience, and limited socio-economic access of communities to land.⁹

Previous research regarding land abandonment in Indonesia has been widely carried out, both before and after the enactment of Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land. Among them is research conducted by Limbong¹⁰, which explains that controlling abandoned land is to provide awareness to rights holders that land abandonment is an unfair act, which can result in lost opportunities to realize the

² Yang Zhou, Yamei Li, and Chenchen Xu, "Land Consolidation and Rural Revitalization in China: Mechanisms and Paths," *Land Use Policy* 91, no. November 2019 (2020): 104379, <https://doi.org/10.1016/j.landusepol.2019.104379>.

³ Dian Aries Mujiburohman, "Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL) Potential Problems of Complete Systematic Land Registration (PTSL) Dian," *BHUMI: Jurnal Agraria Dan Pertanahan* 4, no. 1 (2018).

⁴ Nabbilah Amir, "Aspek Hukum Pengaturan Tata Ruang Terhadap Alih Fungsi Lahan Dalam Rangka Pembangunan Nasional," *Jurnal Justiciabelen* 1, no. 1 (2018): 120, <https://doi.org/10.30587/justiciabelen.v1i1.497>.

⁵ Jesús Rodrigo et al., "Contrasted Impact of Land Abandonment on Soil Erosion in Mediterranean Agriculture Fields," *Pedosphere* 28, no. 4 (2018): 617–31, [https://doi.org/10.1016/S1002-0160\(17\)60441-7](https://doi.org/10.1016/S1002-0160(17)60441-7).

⁶ Hemant R. Ojha et al., "Agricultural Land Underutilisation in the Hills of Nepal: Investigating Socio-Environmental Pathways of Change," *Journal of Rural Studies* 53 (2017): 156–72, <https://doi.org/10.1016/j.jrurstud.2017.05.012>.

⁷ Wenqiu Ma et al., "How Do Population Decline, Urban Sprawl and Industrial Transformation Impact Land Use Change in Rural Residential Areas? A Comparative Regional Analysis at the Peri-Urban Interface," *Journal of Cleaner Production* 205 (2018): 76–85, <https://doi.org/10.1016/j.jclepro.2018.08.323>.

⁸ M. Graziano Ceddia, "The Impact of Income, Land, and Wealth Inequality on Agricultural Expansion in Latin America," *Proceedings of the National Academy of Sciences of the United States of America* 116, no. 7 (2019): 2527–32, <https://doi.org/10.1073/pnas.1814894116>.

⁹ Abd Haris et al., "Identifikasi Alih Fungsi Lahan Pertanian Dan Kondisi Sosial Ekonomi Masyarakat Desa Karangwidoro Kecamatan Dau Kabupaten Malang," *Media Komunikasi Geografi* 19, no. 1 (2018): 114, <https://doi.org/10.23887/mkg.v19i1.13967>.

¹⁰ Dayat Limbong, "Tanah Negara, Tanah Terlantar Dan Penertibannya," *Jurnal Mercatoria* 10, no. 1 (2017): 1, <https://doi.org/10.31289/mercatoria.v10i1.614>.

economic potential of the land. Meanwhile, Rochaeni¹¹ shows that the policy of controlling abandoned land and utilizing formerly abandoned state land in Indonesia in the form of Government Regulation Number 11 of 2010 is an action whose initial intent is perfect and the procedures are correct. However, there are still weaknesses, which are not all types of problems can be resolved appropriately, especially compensation problems.

On the other hand, Marfungah et al.¹² show that the regulation of abandoned areas and land still needs to be evaluated through an executive review to revise the contents of Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land, especially in articles that are not following Pancasila principles, so that activities to control abandoned areas and land are created that are and prosperous and do not repeat the dark times of the previous regulatory regime. Furthermore, Rahmawati¹³ shows that Cultivation Rights Land, which is intentionally or de facto not cultivated, used, and exploited starting two years from the issuance of the right, can be designated as an object for controlling abandoned land. The legal consequence of determining HGU land as abandoned land is that the right holder loses the right to the ground, and the land becomes an asset of the Land Bank and State General Reserve Land (TCUN).

This research complements previous research regarding land abandonment by individuals and legal entities in Indonesia, viewed from the perspective of the legal regulations that regulate it. Meanwhile, if you look at the implementation timeline, this research was carried out after the promulgation of Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land, so new things were discovered in the regulation of abandoned land. This research aims to determine and analyze land abandonment from the perspective of National Land Law and Islamic Law. Thus, it can be said that this research study contains novelty or new research related to land abandonment in Indonesia from the perspective of reviewing national land law and Islamic law.

This research was conducted based on the argument that abandoned land in Indonesia causes problems and needs to be regulated. Likewise, in Islam, abandonment of land means destruction, and this is, of course, clearly prohibited. The word neglect has a negative meaning. According to the Big Indonesian Dictionary, neglect comes from the

¹¹ Atik Rochaeni, "Penertiban Tanah Terlantar Dan Pendayagunaan Tanah Negara Bekas Tanah Terlantar Di Indonesia," *Jurnal Ilmiah Magister Administrasi* 13, no. 1 (2019), <https://jurnal.unnur.ac.id/index.php/jimia/article/view/274>.

¹² Luthfi Marfungah et al., "Internalisasi Nilai-Nilai Pancasila Terhadap Penertiban Kawasan Dan Tanah Terlantar," *Pancasila: Jurnal Keindonesiaan*, no. April (2022): 49–61, <https://doi.org/10.52738/pjk.v2i1.56>.

¹³ Sofia Rahmawati, "Analisis Yuridis Tanah Terlantar Berstatus Hak Guna Usaha," *Prosiding Seminar Nasional Instiper*, no. 2 (2021): 7–21.

word neglected, interpreted as not looked after, unkempt, no one takes care of it, or abandoned.

A review of the National Land Law will certainly place land abandonment cases as an act with legal consequences, namely the elimination of land rights due to the potential to worsen environmental quality, increase social, economic, and welfare disparities, and threaten food and energy security. Meanwhile, if viewed from the perspective of Islamic law, abandoning land is also not permitted because it is considered a waste of gifts from Allah SWT. Then, the land will be taken back by the State and distributed to other people. As in the Al-Quran, Surah Al-Baqarah verse 29 states that Allah has created the earth, water, and the natural resources contained therein for humans to maintain their survival and so that humans can serve Allah SWT.

2. RESEARCH METHODS

This research is juridical-normative legal research examining library materials or secondary data. The approaches used are the statutory approach and the conceptual approach. Library studies of legal materials carry out data collection techniques in normative legal research, both primary legal and secondary legal materials, as well as tertiary legal and non-legal materials.¹⁴ The primary legal material for this research is the Basic Agrarian Law, Law Number 11 of 2020 concerning Job Creation, and Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land. Meanwhile, secondary legal materials come from various literature, such as books, journals, and reports in official online media related to the research topic. Data is processed by inventorying and identifying laws and regulations following the research problem. Data analysis in this writing uses qualitative description, describing the results obtained and fully explained in the discussion.

3. RESULT AND DISCUSSION

3.1. Abandoned Land in Indonesia

Abandoned land is land rights or the basis for control over land not cultivated, used, or utilized according to the circumstances, nature, and purpose of granting rights or the motivation for power that has not been identified and researched.¹⁵ In principle, every holder of land rights, management rights, or primary land control is legally required to cultivate, use, utilize, and maintain his land. If this commitment is violated, it will result in the land becoming the object of control over abandoned land. On the other hand,

¹⁴ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris*, VI (Yogyakarta: Pustaka Pelajar, 2022).

¹⁵ Tutiek Retnowati and Widyawati Boediningsih, "Tinjauan Yuridis Perlindungan Hukum Pemilik Hak Atas Tanah Terlantar," *Lex Journal: Kajian Hukum & Keadilan* 5, no. 2 (2021): 255–75.

abandoned land has the potential to be controlled by the community in the long term or the near future.¹⁶

The problem of abandoned land is crucial in terms of its extent and the urgency of its use, which can be faced with the reality of land tenure inequality in Indonesia today. A lot of land has not been exploited or used optimally according to its control; on the one hand, there are still many people who do not own land and a place to live, while on the other hand, there are still many people who do not use land rights to the maximum, thereby contributing to social inequality. Determining land as abandoned land is not accessible; there are various processes and stages to choose a piece of land as abandoned land. Many obstacles are faced in controlling abandoned areas and land, so the process takes a long time.

Abandoned land, when viewed from the origin of the word, consists of two words: "land" and "abandoned". Land means the surface of the earth, which in its use also includes the body of the world and water and the space above it, which is only needed for purposes directly related to land use. Meanwhile, "abandoned" means land not looked after, cared for, managed, or worked on, or empty/sleeping land, so this definition is categorized as abandoned land. However, in another connection, land that is left unused can also be classified as non-abandoned land, in the sense that land abandonment can also benefit humans; for example, the benefits include passive revegetation and active reforestation, water management, soil restoration/maintaining soil fertility, nutrient cycling, and increasing diversity. Likewise, a quarter or half of the land is not used because some plants need space not to be planted to maintain quality.

The formulation of abandoned land in the UUPA is still very abstract; apart from that, the UUPA is a fundamental law, and considering the phenomenon that occurs with many abandoned lands, operational regulations are needed. For this reason, Law of the Republic of Indonesia Number 11 of 2020 concerning Job Creation, namely Article 180, stipulates that rights, permits, or concessions for land and areas that are intentionally not cultivated or abandoned for a maximum period of 2 (two) years from granted is revoked and returned to the State.

In implementing the return to the State as intended in paragraph (1), the central Government can designate such rights, permits, or concessions as Land Bank assets. On this basis, the Government issued Republic of Indonesia Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land. The objects of controlling abandoned land are regulated in Article 7 of the Government Regulation of the Republic of Indonesia Number 20 of 2021, including land ownership rights, building use rights, business use rights, use rights, management rights, and land obtained based on land control. Freehold land becomes the object of control over abandoned

¹⁶ M Yazid Fathoni et al., "Antara Masyarakat Dengan Investor Di," *Jurnal Hukum Jatiswara*, 2018.

land if it is intentionally not used, exploited, or maintained so that: a. is controlled by the community and becomes a village area; b. owned by another party continuously for 20 (twenty) years without any legal relationship with the Rights Holder; or c. The social function of Land Rights is not fulfilled, whether the Rights Holder still exists or no longer exists.

Until now, many cases of land abandonment have been found. The National Land Agency (BPN) recorded 1.2 million hectares (ha) of land indicated as abandoned in Indonesia. Of this total, land with Cultivation Rights (HGU) status dominates the amount of land shown as left, covering an area of 1.19 million hectares and reaching 1,172 plots. Then, land with Building Use Rights (HGB) status covers an area of 67,605 hectares or 3,113 fields. Lastly, the Right to Use (HP) land within a certain period is 6,043 hectares with 18 plots. HGU land has a rights area of 2.72 million hectares.

Meanwhile, HGB land has a rights area of 82,037 hectares, and HP land has 7,080 hectares. From this data, only 89,869 hectares have been designated as abandoned land. The remaining 226 thousand hectares of land have been utilized and removed from the database. Furthermore, the Ministry of ATR proposed determining abandoned land covering an area of 294,290 hectares. Then, 428,452 hectares of land whose status has not been controlled has been continued, rights have not yet been issued, and rights have not expired for 120,796 hectares and have not yet been controlled, but requests have passed for 106,108 hectares.¹⁷

3.2. Land Abandonment from the Perspective of National Land Law

In Indonesia, land abandonment is a severe concern in land law. Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) is the primary basis for regulating land issues in Indonesia. Land abandonment is handled in the UUPA and can potentially result in loss of land rights. According to the UUPA, land left neglected for a certain period can result in the land being transferred to another party who claims it, primarily through the transfer of rights due to maintenance not being carried out.

The perspective of national land law in Indonesia emphasizes the obligations of land owners to guard and care for their land. Land abandonment may be considered a violation of this obligation, especially if the ground is left unmaintained for a period stipulated by law. Land abandonment can open up opportunities for other parties to claim the land, sometimes resulting in complex and protracted ownership disputes.

The importance of land preservation in Indonesian land law is related to the security of ownership rights and the sustainable development and use of land. The Indonesian government has attempted to increase awareness of the importance of land care

¹⁷ Fry CNN, "BPN: 1,2 Juta Hektare Lahan RI Terindikasi Terlantar," 2021, <https://www.cnnindonesia.com/ekonomi/20211214161122-92-733968/bpn-12-juta-hektare-lahan-ri-terindikasi-terlantar>.

through various policies, including campaigns to encourage landowners to take responsibility for their property. In this context, a good understanding of legal obligations related to land maintenance is critical to maintaining the stability of land ownership in Indonesia.¹⁸

Land for human life is strategic because it has broad dimensions, including social, economic, cultural, political, production defense, and security. As a country with an agricultural background, land is significant in Indonesian people's lives. Land is also a permanent asset because it is intended for future life and cannot be renewed. Therefore, people always want to acquire and control land. However, on the other hand, some still do not make maximum use of land because it is often seen that the land is abandoned, even though the law prohibits land from being dumped.¹⁹

As a place for human life, land must be cultivated and utilized as well as possible for the prosperity of the people. Article 1 paragraph (3) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles states that "the relationship between the Indonesian Nation, earth, water and space is eternal. This lasting relationship indicates that the relationship between the Indonesian nation is not only for the current generation but also for future generations, namely for our children and grandchildren. So, we must continue protecting natural resources so they are not damaged or neglected."²⁰

The UUPA regulates the land rights owned by individuals and legal entities. The types of land rights held explicitly in Article 16 UUPA are ownership rights, business use rights, building use rights, use rights, rental rights, land clearing rights, and the right to collect forest products and other rights that do not include the rights mentioned above which will be determined by law as well as temporary requests. In traffic law practice, ownership of rights to something and land rights and legal relations regarding land are always accompanied by certain obligations that must be fulfilled and carried out.²¹

The existence of rights cannot be separated from obligations, including land rights, followed by the commitment to guard, maintain, and utilize the land according to its function.²² Based on the provisions of Article 4 paragraph (2) UUPA, holders of their land rights are given the authority to use the land in question, as well as the body of earth and water and the space above it, which is only necessary for direct interests

¹⁸ Meiliyana Sulistio, "Politik Hukum Pertanahan Di Indonesia," *Jurnal Education and Development Institut Pendidikan Tapanuli Selatan* 8, no. 2 (2020): 105–11.

¹⁹ Limbong, "Tanah Negara, Tanah Terlantar Dan Penertibannya."

²⁰ Vera Siti Parihah, Fakultas Hukum, and Universitas Bandar, "Penyelesaian Sengketa Tanah Dengan Hak Guna Usaha Dalam Penertiban Tanah Terlantar," *Administrative Law & Governance Journal* 5, no. 3 (2022): 205–15.

²¹ Lynda Chayadi, "Implikasi Hukum Atas Kedudukan Warga Negara Asing Sebagai Ahli Waris Untuk Hak Milik Atas Tanah," *Jurnal Ilmiah Penegakan Hukum* 7, no. 2 (2020): 159–68.

²² Ni Nyoman and Adi Astiti, "Akibat Hukum Terhadap Penelantaran Tanah Hak Guna Bangunan," *Jurnal Ilmu Hukum Tambun Bunga* 5, no. 2 (2020): 800–817.

related to the use of the land within the limits. Limits according to UUPA and other higher legal regulations. Every person with the right to land must protect and maintain soil fertility.²³ As regulated in Article 15 of the UUPA, maintaining land, including increasing its fertility and preventing damage to it, is the obligation of every person, legal entity, or agency with a legal relationship with that land, considering economically weak parties.

The provisions in Articles 27, 34, and 40 of the UUPA are that Hak Milik, HGU, and HGB can be declared as abandoned land and fall into state land if the land is deliberately not used by the right holder by the circumstances or the nature and purpose of the right or is not maintained correctly. Considering the clauses above, it is possible to conclude that the property rights holder intentionally causes abandoned land. (Hak Milik, HGU, HGB, or Hak Pakai) The holder of Management Rights or Rights other limited rights granted by the Government is not to use or do anything with the land in question.

Expressly, the UUPA provisions relating to abandoned land can be stated as follows:

1. Ownership rights to land are extinguished if the land falls to the State because it is abandoned (Article 27 point a.3). The explanation to Article 27 states: "Land is abandoned if it is deliberately not used following its conditions or the nature and purpose of its rights".
2. Cultivation Rights are extinguished due to neglect (Article 34 e).
3. Building Use Rights are terminated due to neglect (Article 40 e).

The provisions mentioned above show that every right to land granted or obtained from the State (Ownership Rights, Cultivation Rights, Building Use Rights) has its rights extinguished if abandoned; this means that there is an element of deliberate action in not using it according to the circumstances or the nature and purpose of the rights.

In 2021, the government issued Government Regulation Number 20 of 2021 concerning Controlling Abandoned Areas and Land. This Government Regulation was issued with the state's goal of maintaining land quality and improving the community's welfare. Rights Holders, Management Rights Holders, and Basic Ownership Holders of Land are expected to be able to protect and care for their land so that they do not neglect it. In the Government Regulation, it is stated that the objects that are the object of controlling abandoned land are regulated in Article 7 of Government Regulation Number 20 of 2021, including land ownership rights, building use rights, business use rights, use rights, management rights, and land obtained based on land control.

Freehold land becomes the object of control over abandoned land if it is intentionally not used, exploited, or maintained so that: a. is controlled by the community and becomes a village area; b. owned by another party continuously for 20 (twenty) years

²³ A Alfons, DA Mujiburohman, and M Mujiati, "Masalah Delik Pidana Pertanahan," *Jurnal Spektrum Hukum* 19, no. 2 (2021): 52–65.

without any legal relationship with the Rights Holder; or c. The social function of Land Rights is not fulfilled, whether the Rights Holder still exists or no longer exists. Meanwhile, land with building use rights, use rights, and management rights becomes the object of control over abandoned land if it is intentionally not cultivated, unused, exploited, and not maintained starting from 2 (two) years from the issuance of the rights.

Furthermore, land with cultivation rights becomes the object of control over abandoned land if it is intentionally not cultivated, not used, and not utilized starting from 2 (two) years from the issuance of the right. Meanwhile, land acquired based on the Basic Land Tenure becomes the object of control over Abandoned Land if it is intentionally not cultivated, unused, exploited, and not maintained starting 2 (two) years after the Basic Land Tenure issuance.

Government Regulation Number 20 Of 2021 concerning Controlling Abandoned Areas and Land, in particular Article 7 point (2), does not regulate exceptions to abandoned land objects, especially land ownership rights, due to the inadvertence or inability of land rights holders to manage their land. So, holders of land rights who accidentally, due to economic disadvantage or other reasons, will lose their rights unfairly due to the non-accommodation of exceptions to property rights as the object of control over abandoned land caused by accident. Meanwhile, Article 8 of Government Regulation Number 20 Of 2021 regulates that Land with Management Rights, excluded from the object of controlling Abandoned Land, includes Land with management rights of customary law communities and Management rights land, which is an asset of the Land Bank.

3.3. Land Abandonment from the Perspective of Islamic Law

In its development, the Muslim population continued to grow, and an increase followed this in the area of land controlled by Islam.²⁴ In response, the Prophet Muhammad SAW implemented several steps to improve the economy of Muslims. Among these are policies allocating land for public purposes and granting land from abandoned land.

Many narrations show that the Prophet SAW gave land, such as the hadith narrated by Asma bint Abu Bakr RA that Rasulullah SAW gave a plot of land to Az-Zubair RA in Khaibar, which contained palm trees and groves. Rasulullah SAW also handed over land and a land plot letter to Abu Tsalabah al-Khusyani RA. The Prophet SAW also

²⁴ F F Latifah and F N Krisnaningsih, "Urgensi Kehadiran Bank Tanah Sebagai Alternatif Memulihkan Perekonomian Di Indonesia Dalam Perspektif Hukum Islam," *Jurnal Ilmiah Ekonomi Islam* 7, no. 03 (2021): 1761–73, <http://jurnal.stie-aas.ac.id/index.php/jiedoi:http://dx.doi.org/10.29040/jiei.v7i3.3599>.

adopted the practice of giving land to those who had recently converted to Islam. as Rasulullah SAW did to Mujja'ah Al-Yamamah, a leader of the Bani Hanifah.²⁵

In Islamic law, there is an abandoned land institution called ardh al-mawaat. In the Al-Quran and Al-Hadith literature, land is referred to as ardh. The plural forms are aradhum, aradh, and arudh. Etymologically, it means "earth", land, and land (as opposed to sea). Meanwhile, mawaat comes from the words "mawaatun, yamutu, mata," which means it is desolate from villages and residents; there is no spirit in it, and no residents or people have ever used it. If the two are put together "ardh al-mawaat," then it means the earth is dead.²⁶ In Nataij al-Afkar's book, Deadland is defined as land that is not utilized because it lacks water, is difficult to use, is not owned, or is owned, but the owner is unknown and is far from residential areas.²⁷

The fuqaha (fiqh scholars) differ in their opinions regarding the definition of dead land/mawat land. According to Abu Hanafiah, mawat land is uncultivated land far from the cultivated area and has no water. According to the Maliki School, mawat land is untouched land freed from specific ownership through one's efforts. Al-Mawardi defines Mawat land from the Shafi'i School as not cultivated. Imam Ahmad bin Hanbali defines Mawat land as uncultivated land known to be owned by no one and does not show traces of cultivation. Meanwhile, Mawat land is determined by the Shiite Imamiyah group as land abandoned for various reasons, such as lack of water being submerged in water, and so on.²⁸

In Arabic, dead land is called ihya almawat or immar al-ardh. According to the jurists, dead land can be utilized in various ways, from providing fences, walls, buildings, and so on. The ground can be irrigated and turned into paddy fields, fields, or plantations, or by building on it. Utilizing dead land includes, among other things, managing it yourself, handing over the land to someone else to operate, and managing land left behind by the owner so that the land becomes his own.

Land management is a fundamental component of land ownership. Therefore, a person's land ownership is solely the right to develop the ground; if he fails to develop the land within a certain period, his claim to the land ends. As in the hadith, from Hisyam bin Urwah ra from his father, the Messenger of Allah said:

²⁵ Gita Anggraini, "Perjuangan Islam Untuk Menata Ketidakadilan," *BHUMI: Jurnal Agraria Dan Pertanian* 1, no. 2 (2015): 163–78.

²⁶ Agung Prasektiyo, "Implikasi Nilai Maslahat Terhadap Pemberdayaan Tanah Terlantar (Ihya'ul -Mawat) Di Kota Medan," *Jurnal Manajemen Pendidikan Islam* 01, no. 01 (2021): 20–29.

²⁷ Mujiburohman, "Potensi Permasalahan Pendaftaran Tanah Sistematis Lengkap (PTSL) Potential Problems of Complete Systematic Land Registration (PTSL) Dian."

²⁸ Muhammad Irfan Djufri, "Ihya ' Al -Mawat Perspektif Hanafiyyah Dan Syafi ' Iyyah (Studi Komparatif)," *SAKINA : Journal of Family Studies* 5, no. 1 (2021).

"Whoever manages empty land (mawat), then this has become his ownership right, and there is no right for the perpetrator of injustice to take and confiscate it".

Based on the above definition of al-mawat given by the fuqaha, the Islamic legal criteria for land to be designated as abandoned land are:

- a. Unowned land or land without title, regardless of whether it belongs to Muslims or non-Muslims.
- b. Uncultivated land. It can be seen from signs on the ground, such as fencing, previous planting, and other indicators commonly used by local people to indicate that the land has not been cultivated.
- c. The location of the land is far from the village.

According to Islamic law, there are two factors to determine land mawat. First, the land has never been owned or cultivated (permissible assets). Second, the determining factor for previously acquired but abandoned land is adhering to the practice of iqta' and tahjiir', namely three years' existence. Regarding the control of mawat land according to Islamic law, this can be understood by stating the meaning of revoking ownership rights to sawafi property (mawat land that someone does not own), as explained by Ridzuan Awang in Mujiburohman²⁹ as follows:

"Sawafi lands have been given ownership (iqta') by the Government to certain people to cultivate and prosper. If these lands are not developed within three years or become abandoned after three years, then the Government may take them back from their owners or give ownership to someone else. And this repossession is carried out without payment of a booty fee. Likewise, if the land owner is unable and does not have the effort to cultivate and develop his land because it is too large, then the kingdom (Government) can take back that level of power and give it to someone else".

Apart from that, controlling land plots in the Islamic Law system can be carried out through government land iqta'. Regarding this matter, the fuqaha argues:

"The Hambali School has set three years to work on it, which is the same time as the practice; if it turns out that the person who received the iqta' fails to accept the land within that period, then his right to the ground is lost. On the other hand, the Syafii school of thought does not set a specific period but is solely based on why the land is not cultivated. If the failure to acquire the land has a legitimate reason, then the ground is still controlled by the person who received the iqta', so that reason does not exist. Suppose you fail to cultivate the land without any reason. In that case, the person who received the iqta' of the land should immediately decide to grow it or let go of it so that it can be

²⁹ Dian Aries Mujiburohman, *Penegakan Hukum Penertiban Dan Pendaayagunaan Tanah Terlantar*, ed. Tim STPN Press (Yogyakarta: STPN Press, 2019).

handed over to someone more fortunate. This opinion is the same as the opinion of the Maliki School”.

Abandoned land (*mawat*) is regulated by Islamic law based on criteria, period, and the condition of the land which has become vacant again. First, the gift of land (*iqta'*) in Islam depends on the recipient's ability to cultivate the land. The maximum grace period given to IQTA recipients is three years. Suppose the ground is not developed or abandoned within three years. In that case, ownership rights are revoked, the State reclaims the land as a disciplinary action, and the land is distributed to other people. Second, the land has become empty land again. This criterion is more focused on the ground that has become someone's property, meaning that it has been worked on but left to its original State.

In Islamic law, as in Indonesian customary law, those who work on abandoned land have special rights. A person who restores a dead piece of land to life becomes a landowner. The introductory provisions in Islam are: First, those who cultivate land have the right to control it; Second, those who do not produce or make it productive cannot claim the land; Third, signs alone are not enough to confirm ownership; the land must be made effective by working on it; Fourth, the land owner's rights only apply as long as he uses the land for economic purposes (not to sell it). According to a hadith, whoever brings life to dead land has the most significant right to it.³⁰

4. CONCLUSION

The National Land Agency (BPN) recorded 1.2 million hectares (ha) of land indicated as abandoned. Meanwhile, regulations derived from the UUPA are considered ineffective because many things cannot be used as a reference in resolving abandoned land. In 2021, the government issued Government Regulation Number 20 of 2021. Land that is the object of controlling abandoned land is regulated in Article 7, including freehold land, building use rights, business use rights, use rights, management rights and land obtained based on the Land Control Basis. Freehold land becomes the object of controlling abandoned land if it is deliberately not used, not exploited, and/or not maintained so that it is controlled by the community and becomes a village area; controlled by another party continuously for 20 (twenty) years without any legal relationship with the rights holder; or the social function of land rights is not fulfilled whether the right holder still exists or no longer exists. Meanwhile, land with building use rights, use rights, management rights, business use rights, and land obtained based on the Basic Land Tenure will be the object of control over abandoned land if it is not used, utilized, and/or not maintained for 2 years from the issuance of the right. Meanwhile, from the perspective of Islamic law, the views of the Hambali, Syafi'i and Maliki Fuqaha regarding land abandonment are different. The Hambali School stipulates giving a period of 3 years to people who will cultivate land. If the land

³⁰ Mujiburohman.

cannot be cultivated within that time, the rights to the land will be lost and the land will be taken by the state to be distributed to other people. Meanwhile, in their opinion, the Syafi'i and Maliki schools do not determine a certain time period for cultivating land, but solely based on the reasons why the land is not cultivated and utilized. National Land Law and Islamic Law both place cases of land abandonment as acts that have legal consequences for the owner in the form of erasure of land rights. In Government Regulation Number 20 of 2021, land that is designated as abandoned land can become a Land Bank and/or TCUN asset. Meanwhile, in Islamic law, land that is declared abandoned will be distributed to other people/parties who wish to cultivate the abandoned land.

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