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THE OWNERSHIP RIGHTS OF ABANDONED LAND ACCORDING TO LAW NO. 5 OF 1960 CONCERNING THE BASIC AGRARIAN PRINCIPLES IN THE PERSPECTIVE OF ISLAMIC LAW

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ABSTRACT

Indonesia is an agricultural country, where approximately 70% of the population in Indonesia works in the agricultural sector, but in fact not all farmers have their own agricultural land to manage, therefore providing human resources in the agricultural sector is very important. Judging from Islamic rules, if there is a plot of land that has not been managed or abandoned by the owner, then the land has the status of unowned land which can then give rise to new laws, namely that it can be assessed by other parties using methods to function, revive the land (Ihyā Al -Mawat). This research aims to determine the terms and conditions of ownership rights to abandoned land in UUPA no. 5 of 1960 and how to have rights to abandoned land according to UUPA from the perspective of Islamic principles. This type of research is library research, using a normative juridical approach. Ownership rights to abandoned land according to the Basic Agrarian Law Number 5 of 1960, can be obtained through land reform based on Article 17 paragraph 3 of the UUPA, then by the mechanism specified in the Regulation of the Head of the Land Agency. Land Band Number 5 of 2011 concerning Procedures for Using Used Land. Abandoned Land. In Islamic law, the study of abandoned land is known as ihya' al mawat, namely reviving dead land, and according to firm opinion, ownership rights require government permission. So that by opening up the abandoned land, the land can be utilized, managed and utilized according to its function.

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INTRODUCTION

Empty land in Indonesia often remains underutilized or poorly managed, whether it was previously cultivated and then abandoned or has never been utilized at all. This phenomenon indicates significant untapped potential in land management in Indonesia. The availability of agricultural land is crucial in Indonesia because not all

farmers have their own land to cultivate. Therefore, effective and optimal land management is key to supporting food security and the development of the agricultural sector in Indonesia.

The abandonment of land by its owners can result in the land becoming neglected and ultimately becoming state-owned. However, behind this inactivity lies an opportunity for communities to utilize it. This concept aligns with the principles of Islamic law, where abandoned land can be owned by legal subjects who utilize it (*Ihyā Al-Mawāt*). The purpose of this concept is to transform unproductive land into productive land, thereby ensuring the overall welfare of the community.

The development and utilization of abandoned land are strategic steps in expanding the agricultural land base in Indonesia. Through appropriate approaches, previously neglected land can be transformed into productive resources, which in turn will support increased food production and the welfare of farmers. However, challenges in terms of regulation and effective management remain the primary focus in optimizing the potential of this abandoned land.

In the context of utilizing abandoned land, it is important to consider various aspects, including environmental and social sustainability. Land development must be carried out with consideration for sustainability principles, so as not only to provide economic benefits in the short term but also not to harm the environment and surrounding communities in the long term. Therefore, thorough planning and collaboration between the government, communities, and other stakeholders are key to effectively managing abandoned land.

Based on the explanation above, this research aims to determine the requirements and conditions of ownership rights over abandoned land in the Land Law No. 5 of 1960, specifically concerning land clearing, cultivation, and management. Additionally, it aims to explore the ownership of abandoned land according to the Land Law within the perspective of Islamic Law.

METHOD

The type of research used in this study is normative research, supported by interviews with informants and relevant documents. Data for this research was collected through document analysis and literature review. Research on secondary legal materials derived from literature sources such as books, articles, and interviews served as supplements. The data collected will be analyzed qualitatively in a narrative manner.

RESULT AND DISCUSSION

Based on the research findings, the requirements and procedures for designating abandoned land under UUPA involve inventorying land rights or the basis of land control that is indicated as abandoned. In this stage, the head of the regional BPN office conducts an inventory of land that appears neglected. This inventory is based on information from various sources regarding the presence of abandoned land, as outlined in Regulation 4 of the BPN Regulation No. 4 of 2010, which includes: 1) Field monitoring reports from regional offices and land offices; 2) Reports from other

departments/agencies; 3) Written reports from the community; and 4) Reports from rights holders.

1. Identification and research of land indicated as abandoned

Table 1. Composition of Committee C

Chairperson	:	Head of Regional Office
Secretary	:	Head of Land Control and Community Empowerment Division, also serving as a member
Member	:	<ol style="list-style-type: none"> 1. Secretary of the District/City 2. Provincial Agency/Department related to land use 3. District/City Agency/Department related to land use 4. Head of the Land Office

Once the necessary data has been collected and deemed sufficient, the head of the regional workplace forms Committee C, consisting of representatives from the regional workplace, land office, Local Government, and relevant agencies related to the land in question. The composition of the Committee is as specified in Article 10 of the Regulation of the Head of the National Land Agency of the Republic of Indonesia No. 4 of 2010/combined with the Regulation of the Head of the National Land Agency of the Republic of Indonesia No. 2011, which includes (Supriyanto, 2010).

2. Warning to rights holders

If the land is declared abandoned, the Head of the Regional BPN Office will issue the first written warning to the land rights holder, stating that within a period of 1 month from the date of the warning letter, the rights holder must endeavor to acquire rights to the land in accordance with the conditions and nature of the land use rights. The Regional BPN Office will take action if the land rights holder ignores the first warning within 1 month. A second warning letter will be sent, which is essentially the same as the first warning letter, but within 1 month, the rights holder must report the utilization and use of the land periodically every 2 weeks.

3. Determination of Abandoned Land

If the third warning is ignored and the land rights holder fails to comply, the Regional Director of BPN will recommend to the Director of the National Land Agency (BPN RI) that the land be designated as abandoned land. In determining abandoned land, the calculation based on the proportion of land area is as follows: 1) Entire road segments or 100% abandoned; 2) More than 25% up to less than 100% of the population displaced; and 3) Displacement rate less than or equal to 25%.

If the land is designated as abandoned land, no legal action can be taken against it. Subsequently, the Head of the National Land Agency (BPN RI) will issue a decision letter identifying the abandoned land, revoking the land rights, terminating legal relationships, and confirming state ownership of the land. If the land is designated as abandoned, the original rights holder must vacate the land within one (1) month from the date of the decision.

The conditions and procedures for determining abandoned land in Islamic Law:

1. According to Imam Malik, in his view, the ownership of abandoned land must fulfill the following conditions: 1) Permission from the local Imam (religious leader) in the settlement area is required, but if the land to be managed is distant, Imam's permission is not necessary; and 2) Regarding the application for the management of abandoned land, it may come from the dhimmi (non-Muslim subjects of an Islamic state), but on the condition that the land being managed is not located within the Arabian Peninsula.
2. In the Imam Hanafi of thought, the conditions for ownership of abandoned land are as follows:
 - a. Having permission from the Imam
 - b. Ownership of abandoned land can be held by both Muslims and dhimmi (non-Muslim subjects of an Islamic state).
3. The land must have been abandoned for a period of 3 (three) years.
4. According to Imam Shafi'i, the conditions for ownership of abandoned land are as follows: 1) The land object to be managed must be within the territory of Muslims; 2) Obtaining permission from the Imam; 3) Non-Muslim dhimmis do not have the right to manage the land; and 4) However, if the land to be managed is in the territory of non-Muslims, Muslims are allowed to manage it, and non-Muslim dhimmis also have the right to manage the abandoned land (Abdullah et al., 2021)
5. According to the Hanbali scholars, in the ownership of abandoned land, it is sufficient to fence the land that one intends to manage. Additionally, obtaining permission from an Imam in that area is crucial.

The concept of ownership rights over abandoned land according to the Basic Agrarian Law No. 5 of 1960

Land, as a non-renewable natural asset, holds significant importance in human life. Indonesia, as an agrarian country, has regulations governing land ownership rights and responsibilities. The issue of abandoned land is increasingly prominent in Indonesia, drawing serious attention. Addressing abandoned land has the potential to reduce poverty, unemployment, and national losses. Land reform, which entails restructuring land ownership systems and distributing land to needy farmers, can revitalize abandoned land. The process of redistributing Land Ownership Rights through land reform is not without obligations; instead, owners are tasked with its management. Failure to fulfill these responsibilities can result in the revocation of land rights. Land and agrarian laws regulate the ownership of abandoned land, as stipulated in the Regulation of the Head of the National Land Agency No. 5 of 2011, which outlines the steps for the utilization of abandoned land. This process includes applying to the relevant Regional BPN Head for abandoned land, approval by the Head of BPN RI, and periodic reporting of utilization by the Regional BPN to BPN RI (Arba, 2019).

To ensure the legality of ownership rights over abandoned land, applicants must periodically register it with the Land Office according to the established system. This step is in accordance with Article 19 of the Basic Agrarian Law regarding Land Registration, aimed at ensuring legal certainty by the Government. The land registration process includes land measurement, mapping, and bookkeeping,

registration of land rights, and issuance of land ownership certificates for the requested land. Land registration is carried out by the National Land Agency, with the assistance of PPAT (Land Deed Official) and other designated officials as per Government Regulation No. 24 of 1997 concerning Land Registration. After the registration of land ownership rights is completed at the Land Office, the next step is to obtain a land ownership certificate, by meeting the requirements stipulated in the Regulation of the Head of the National Land Agency No. 1 of 2010 regarding Land Service Standards and Regulations (Mohammad Muhibbin, 2017).

Table 1. Requirements for Applying for Abandoned Land Certificate

Condition	Cost	Time	Information
<ol style="list-style-type: none"> 1. The application form that has been filled in and signed by the applicant or his proxy on a stamp is sufficient 2. Power of attorney if authorized 3. Photocopy of the applicant's identity (KTP, KK) and proxy if authorized, which has been matched with the original by the counter officer 4. Proof of land ownership/custody ownership rights/former customary ownership 5. Photocopy of the current year's SPPT PBB which has been matched with the original by the counter officer and submission of proof of SSB (BPHTB) 6. Attach proof of SSp/PPh in accordance with the provisions 	<p>In accordance with the provisions of Government Regulations regarding types and rates for types of non-tax state revenue that apply to the National Land Agency of the Republic of Indonesia</p>	<p>98 (ninety eight) days</p>	<p>The application form contains:</p> <ol style="list-style-type: none"> 1. Self-identity 2. The area, location and use of the land requested 3. Land requirements are not disputed 4. Statement that the land is physically controlled

To understand the process of applying for land registration until the issuance of the certificate of ownership of abandoned land, you can refer to the land registration scheme in the diagram below:

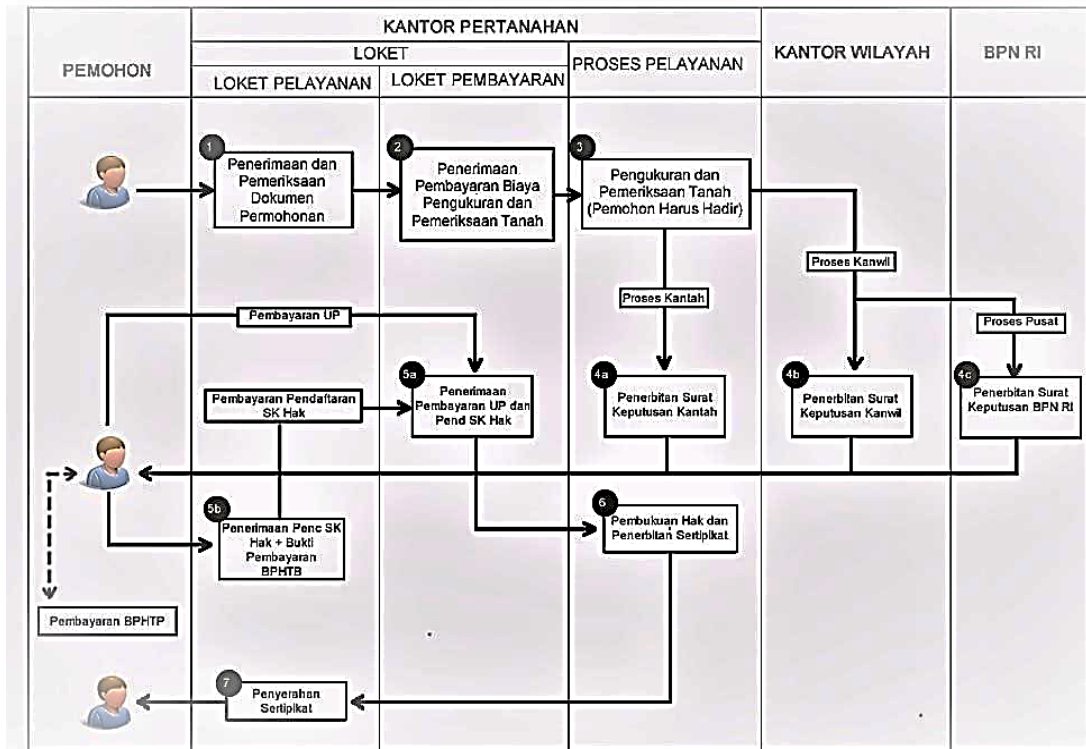


Figure 1. Procedure for Registering the Certificate of Ownership of Abandoned Land

By registering the abandoned land to be managed by the new rights holder and obtaining the certificate of ownership for that land, the owner now has clear legal provisions regarding ownership of the abandoned land and its utilization. This helps prevent confusion in the future. Furthermore, the allocation of abandoned land through land reform and individual or corporate applications is expected to reduce the number of abandoned lands in Indonesia. This would allow land to be utilized, managed, and utilized according to its function, thus ensuring the prosperity of all Indonesian citizens. This, in turn, can lead to a reduction in poverty and unemployment rates, and the Indonesian economy can grow more rapidly (Urip, 2012).

Ownership Rights Over Abandoned Land According to the Basic Agrarian Law No. 5 of 1960 from an Islamic Legal Perspective

In Islamic law, the study of land matters is always linked to individual ownership and control. Islam acknowledges the existence of abandoned land with two criteria: firstly, land that has never been owned or cultivated by anyone; secondly, land that was once owned and cultivated by someone but later abandoned.

According to scholars, the revival of neglected assets (Ihyā Al-Mawāt) is a valid reason to possess abandoned land, but there is a difference of opinion regarding

whether government permission is required. Imam Shafi'i argues that government permission is not necessary because the relevant hadith is general in nature. However, Imam Malik states that government permission is necessary if the land is in a remote area without interest from others.

The majority view asserts that government permission is required to own abandoned land, in accordance with prevailing traditions and rules. The significance of government permission aligns with Islamic law, which restricts the opening of new land related to ownership of abandoned land. This protects the common interests of Muslims. Opening land without permission can lead to conflicts between individuals and tribes regarding land rights. With government permission, all parties can benefit fairly (Abdullah, et al., 2021)

In the context of the Republic of Indonesia, which is based on law, it is important to obtain government permission to own abandoned land to ensure public interests and prevent violations of human rights. This is in line with Islamic values which also emphasize the importance of human rights. Thus, the relationship between Islamic law and Indonesian land law can be regulated so that once opened, abandoned land can be utilized according to the desired objectives, reducing poverty and unemployment, and realizing economic and social justice (Djufri & Irfan, 2021).

CONCLUSION

In the Basic Agrarian Law, the Ownership Rights Over Abandoned Land stipulates that there are two ways to obtain abandoned land. The first is through land reform, where the government acquires the land without individual applications, and the second is through land redistribution to farmers. The provision for land redistribution is also regulated in the Basic Agrarian Law in Article 17 paragraph (3). Then, from the perspective of Islamic law, jurists agree that it is possible to open up abandoned land for use as productive land to benefit the community and eliminate harm. This demonstrates ownership rights over abandoned land. Although Islamic law allows the use of abandoned land, not all land can be used for *Ihyā Al-Mawāt* (reviving neglected assets). The most prevalent opinion states that to obtain the right to own abandoned land, one must obtain permission from the government, thus ensuring that public interests are protected by law.

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