

LEGAL PROTECTION OF WASTELANDS REVIEWED FROM GOVERNMENT REGULATION NUMBER 20 OF 2021

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ABSTRACT

In terms of land, based on the state ideology, namely Pancasila, a special regulation is needed to regulate it. On September 24, 1960, Law No. 5 of 1960 concerning the Basic Regulation of Agrarian Principles (UUPA) was issued. The state principally provided land rights, or management rights, to the right holders to be cultivated, used, and utilized and to be properly maintained. In addition to the welfare of the right holders, these rights must also be aimed at the welfare of the community, nation, and state. The objective of UUPA in providing legal certainty guarantees for land rights was something that could not be bargained for anymore. The passage of the law on land was nothing but a guarantee of legal protection for all parties. Furthermore, the government issued Government Regulation No. 11 of 2010 concerning the Management and Utilization of Wastelands. The avoidance, management, and use of transferred land was an act that allowed the land to be used based on the manner and purpose of granting rights. Therefore, wasteland should be prevented and regulated to reduce or eliminate its adverse effects. In this study, the author examined how the legal protection of wastelands was reviewed in Government Regulation No. 20 of 2021. Legal protection when the implementation of land control was carried out to the owner of the land rights was in the form of preventive protection, i.e., warnings 1 (one) to 3 (three) to the holder of rights to the land whose land was indicated to be abandoned before the land was finally designated as wasteland. If it has reached the stage of a written warning, but there has been no action according to the time given, a determination will be made that the land becomes derelict. The legal consequence obtained is that the land becomes returned to the state or belongs to the state, which will later be utilized as its function by the government.

INTRODUCTION

As a country born in the 20th century, Indonesia adopted the concept of a legal state according to the principle of constitutionalism (Zulkarnain Ridlwan, 2012). A state that stands on the law, or state of law (*rechtsstaat*), ensures equity to its citizens and contains certain characteristics, counting the presence of a structure that contains the relationship between the ruler and the individuals; besides, the division of control, which is recognized and secured by the rights of the people's flexibility. The State of Indonesia could be a lawful state based on Pancasila and the 1945 Structure of the Republic of Indonesia; in this way, it is vital to recognize and secure the rights of people's opportunities (Habib Adji, 2020).

The state of the law, in principle, requires all actions of the ruler to have a clear legal basis, or there is legality both based on written and unwritten laws so that there is no arbitrariness committed by the power holder (Habib Adji, 2020).

Article 2 of Law No. 12 of 2011 states that Pancasila is the source of all sources of state law. An explanation of Article 2 is explained as follows:

“The arrangement of Pancasila as the source of all sources of state law is beneath the Preface to the 1945 Structure of the Republic of Indonesia, i.e., A conviction within the All-powerful God, fair and civilized humankind, the solidarity of Indonesia, vote based system guided by the internal intelligence within the unanimity emerging out of consultations among agents, and social equity for all Indonesian individuals. Setting up Pancasila as the premise and philosophy of the state and the philosophical premise of the state implies that any fabric substance of laws and controls must not strife with the values contained in Pancasila.”

In the case of land, based on the foregoing, a special regulation is needed to regulate it. Fifteen years after independence, on September 24, 1960, Law No. 5 of 1960 concerning the Basic Regulations of Agrarian Principles (UUPA) was issued after going through a long process since 1948. UUPA is intended to apply as a *lex generalist* (*basic law*) for further regulation of its material objects, namely the earth, water, and natural wealth contained therein, as mandated by Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Based on the law, land and natural resources must be used for the prosperity of the people, so the state must attempt to provide the greatest benefit to all Indonesians.

UUPA comprises of 67 (sixty-seven) articles, comprising of 58 (fifty-eight) articles, and 9 (nine) extraordinary articles related to transformation arrangements. In expansion to the 10 (ten) articles that control the premise and fundamental arrangements, the control on arrive is contained in 53 (fifty-three) articles, and the rest, 4 (four) articles, control things exterior the fundamental arrangements and arrive. Since of the predominance of arrive direction within the UUPA, it was once declared the title of this law within the handle of issuing. Iman Soetiknjo from the UGM Agrarian Area proposed the title “Land Law”, and since of this response, in its advancement, articles were included that were not as it were related to arrive (Iman Soetiknjo, 1987).

The state mainly gives arrive rights, or administration rights, to the proper holders to be developed, utilized, and utilized and to be legitimately kept up. In addition to the welfare of the proper holders, these rights must moreover be pointed at the welfare of the community, country, and state. In fact, when the state awards rights to a person or legitimate substance, they are continuously accompanied by commitments within the declare granting those rights. In this manner, the proper holder is disallowed from

abandoning his arrive. On the off chance that the correct holder deserts his arrive, the UUPA (Law No. 5 of 1960) has controlled the lawful results, to be specific the annulment of the proper to the arrive concerned and the end of legitimate relations, and asserted the arrive as being specifically controlled by the State. The objective of UUPA in providing legal certainty guarantees for land rights is something that cannot be bargained for anymore. Thus, to achieve legal certainty and certainty of rights, the law has strictly instructed the government and land rights holders to hold land registration (Soerodjo Irawan, 2002).

Agreeing to Satjito Rahardjo, "legal assurance is an endeavor to ensure a person's interface by distributing a human rights control to him to act within the setting of his interests" (Anon, 2018). Concurring to CST Kansil, "legal assurance is that all legitimate cures must be given by law requirement authorities to supply a sense of security, both rationally and physically, from impedances and different dangers from any party" (Kansil, 1089). Agreeing to Philipus M. Hadjon, "legal assurance is the assurance of respect, as well as the acknowledgment of human rights had by lawful subjects based on the common arrangements of the rent or as a collection of rules or standards that will be able to secure something else" (Kansil, 1089).

Agreeing to Muktie, A. Fadjar, "legal security may be a narrowing of the meaning of assurance, in this case as it were security by law alone. The security given by law to boot related to the nearness of rights and commitments; in this case, those had by individuals as authentic subjects in their instinctive with person people and their environment. As a subject of law, man has the right and commitment to perform a genuine action" (Kansil, 1089).

Based on the understanding of legitimate security clarified by these specialists, lawful assurance is to secure human rights that are hurt by others and those assurances are given to society to appreciate all the rights allowed by law (Satjipto Rahardjo, 2000).

Article 6 of the UUPA states that "all land rights have a social function". Based on this principle, if the land is used solely for personal gain or not used, it will harm the community a little bit and justify individual land rights, which I cannot do. Land use must be adapted to the situation, and have the right to provide benefits for the welfare of the community. To prevent optimal land use, the government issued Government Regulation No. 11 of 2010 concerning the Management and Utilization of Wastelands. The avoidance, management, and use of transferred land is an act that allows the land to be used based on the manner and purpose of granting rights. Therefore, wasteland must be prevented and regulated to reduce or eliminate its adverse effects. Wasteland regulated in the UUPA indicates that the state has banned it by expecting the land within one territory of the Republic of Indonesia can serve its owner's and society's interests.

Based on the explanation above, wasteland must be prevented and regulated so that the management of privately owned land can be utilized appropriately because it can support the implementation of national development programs, especially in agriculture, as regulated in the 1945 Constitution of the Republic of Indonesia, UUPA, and the National Long-Term Development Plan, commonly referred to as the RPJPN. Therefore, it is one of the supports in land use.

Government Regulation No. 11 of 2010 concerning the Management and Utilization of Wastelands is considered ineffective in solving problems that arise in implementing the management and utilization of wastelands. These issues relate, among other things, to objects, warning times, and steps to remove used land from the wasteland database. In addition to the dynamics of national development, there are also quite a lot of abandoned areas and wastelands that are currently based on facts on earth. Abandoned areas are non-forest areas that have not been related to land rights and are accidentally cultivated, underutilized, and/or have concession or business permits that are not used (Explanation of Government Regulation No. 20 of 2021 concerning wastelands Management). Therefore, Government Regulation No. 20 of 2021 concerning wasteland and land management has used a legal basis since 2021 to prevent wasteland. It is expected to prevent and create legal certainty regarding the provision of wastelands. The explanation above is the basis for researchers to further examine wasteland regulations and land law.

RESEARCH PROBLEM

The research problem concerned how the legal protection of wastelands was reviewed from Government Regulation 20 of 2021.

RESEARCH METHOD

In this composing, the creator conducted inquire about that was completely within the frame of library inquire about. It was composed by collecting and perusing investigate materials through logical books, diaries, and other books which were related to legitimate security for public accountants included in criminal cases separated from their obligations and positions.

RESULTS AND DISCUSSION

Legal Protection of Wasteland in terms of Government Regulation Number 20 of 2021

According to the Indonesian Dictionary (KBBI), "legal protection" means a place of shelter and deeds (things and so on) to protect. The linguistic meaning of the word "protection" has similarities in elements, namely elements of protective actions and ways of protecting. Thus, the word protects certain parties by using certain means.

Agreeing to Satjipto Rahardjo, lawful security secures the human rights hurt by others, and those assurances are given to society to appreciate all the rights allowed by law (Satjipto Rahardjo, 2000). Meanwhile, according to Philipus M. Hadjon, protection under the law is an act to protect or aid the subject of the law using legal tools (Philipus M. Hadjon, 2011).

Lawful security is something that must exist in a state of law. Since legitimate security comprises of two shapes; preventive security, which is in a general sense preventive and is translated as avoidance, preventive lawful security includes a huge meaning for government activities based on opportunity of activity since, with preventive legal security, the government is energized to take care in making choices. The shape of preventive legitimate security is contained in laws and directions to anticipate the event of a infringement and to supply impediments in carrying out commitments. In addition, severe legal protection serves to resolve debate that have emerged since of infringement. This security is the ultimate security within the frame of sanctions for infringement committed. The granting of land rights, the enforcement of laws, and the control of wastelands currently are like one piece of currency, as is the prevention of land liberalism so as not to neglect land socialism. The control of wastelands has become an obligation for the state to ensure management in public and private spheres so that all communities receive benefits legally and constitutionally.

Legal protection when implementing land control carried out for land rights owners is in the form of preventive protection, namely warnings 1 (one) to 3 (three) for the holder of rights to a land whose land is indicated to be abandoned before the land is finally designated as wasteland. Suppose it has reached the stage of a written warning, but there is no action based on the time given. In this case, a determination will be made that the land becomes derelict. The legal consequence obtained is that the land becomes returned to the state or belongs to the state, which will later be utilized as its function by the government (Raynaldi, 2022).

In Government Regulation No. 20 of 2021, Article 1 Paragraph 1, abandoned areas are non-forest areas that have not been attached to land rights that already have permits, concessions, or business permits but are deliberately not cultivated, not used, and/or not utilized, i.e., it is an area that is not a forest area that already has permission from the government to be used but is not utilized as it should be.

Legitimate Certainty of Rights to the no man's land is checked on from Government Direction No. 20 of 2021 concerning Controlling Ranges and Badlands. Article 33 (3) of the 1945 Structure directs the soil and water and the normal riches contained in that. Article 5, section 2, section 1 of the Essential Agrarian Law of 1960 assist states as takes after: "Earth, water, and space, counting characteristic assets, are overseen at the most noteworthy level as an organization of state power". Arrive, as alluded to in Articles 2 (2) and (3) of the 1945 Structure since the relationship between the state and the individuals with respect to the administration of common assets is one of state control. Arrive administration is concerned with Fundamental Agrarian Directions No. 5 of 1960. To decrease or dispose of their unfavorable impacts, the shirking and administration of badlands must be carried out. This marvel postures a major challenge for the government in managing with wastelands. Therefore, as a member within the implementa.

CONCLUSION

Based on the talk that has been depicted over, hence the creator can conclude as takes after:

The control of no man's land can be seen from the most elevated control, to be specific the 1945 Structure of the Republic of Indonesia in Article 33 Passage 3, which states that the water, soil, and normal riches contained in that are controlled by the state and utilized as much as conceivable for the thriving of the individuals. At that point, it can be seen in Fundamental Agrarian Law No. 5 of 1960 concerning the Fundamental Direction of Agrarian Standards, which states in Article 2 Section (1) that "Earth, water, and space, counting the characteristic riches in them at the most elevated level, are controlled by the state", as well as in Article 6 of the UUPA, which states that all arrive rights have a social work. Government Control 20 of 2021 states that "wasteland" is arrive rights, arrive administration rights, and arrive gotten based on control over arrive that's intentionally not developed, unused, utilized, and/or not kept up. On the off chance that the arrive is intentionally not utilized agreeing to its circumstances or nature; and the land

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