

---

**LEGAL CONSEQUENCES FOR NEGLECTED LAND HOLDERS RIGHT  
BASED ON GOVERNMENT REGULATION NUMBER 11 OF 2010****Firza Samiyah<sup>1</sup>, Bambang Arwanto<sup>2</sup>**Notary Faculty of Law, UNNAR Surabaya, Indonesia<sup>1 2</sup>firza9414@gmail.com, <sup>1</sup>bambang.arwanto@narotama.ac.id<sup>2</sup>

---

**ABSTRACT****KEYWORDS***Abandoned Land, Delete right on land, result law***ARTICLE INFO**

Accepted:

Revised:

Approved:

A neglected land is a plot of land that is purposely not utilized as allotment by the landholder. It is done in a certain period and causes consequences for people who are in the location land displaced be. What makes neglecting land become a wrong action is because it will arouse negative impact if it is handled wrongly. The aims of this research is to explore the legal consequences for neglected land holdres right based on government regulation number 11 of 2010. This is a normative law study, the researcher use legislation and library studies to collect the data. The reslts shows that to prevent the negative effect occurrence, land neglectment should be anticipated earlier. Hence, the Regulation of agrarian principles Number 15 of 1960 reminds everyone, especially the landholder, to not abandon the land purposely. The seriousness of the BAL prohibits the existence of neglecting land, looks at the threat in the form of sanctions that will be given, that is delete it right on the land in question, termination connection law between the land and the owner, and the land will be confirmed as State Land.

---

**INTRODUCTION**

The land is an abundance from Almighty God One for the people, nation, and the State of Indonesia, which must be cultivated, utilized, and used for big prosperity people. The Land is a source of life for creatures' life. Man lives and stays on land and uses the land for carrying out life. So the importance of land is because it can produce a very useful nature for many people. Naturally, if we manage land with the best so that it can be used could give prosperity people as mandated ( in Article 33 Paragraph (3) of The Constitution of the Republic of Indonesia, 1945), which states that, Earth, water and wealth" nature contained inside is controlled by the State and used for big prosperity the people. (Agrarian Minister, n.d.-c) formulate that all rights on land have function socially. Formulas that make holder rights owned by on land have an obligation for using the land in question following the situation, as well as nature and purpose, give the right to be useful for well-being and happiness for those who have nor for Public surroundings. It means that to rights owned by on land they must be worked and cannot be left any productive or abandoned, because if no right owned by on land this by the State will be revoked as Article 27 of the BAL (Agrarian Minister, n.d.-b), which outlines that one reason deletes it right owned by because abandoned. SInce that action neglects land, this must be avoided to avoid a negative effect on the land. Remember the importance of land, then should some institutions have authority like a country to manage and organize the existence and role of the land. Article 33 Paragraph (3) of The Constitution of the Republic of Indonesia (1945) affirms the role of the state in managing and organizing land, that the rich nature contained in it is controlled by the state and used for big prosperity (Harsono, 2003).

Consequent state recognition of right on land owned by a person or legal entity, then the state is obliged to guarantee certainty law to right on land that, so that any person or legal entity that owns the right could maintain his rights. Distribution rights on the land

according to the BAL are Ownership Rights, Cultivation Rights, Building Use Rights, Use Right, Rent Rights, Unlocking Land Rights and Rights Collecting Forest Products. As well as others rights that do not include in rights mentioned above and the rights that are while meant to give right on land based on the designation and the subject of the request right on land that. For example, land controlled by the state can be given Cultivation Rights if allotment land by the applicant right used for agriculture, fishery, or farms and land Building Use Rights could be given to the person or legal entity that will establish and own the buildings above land that is not hers.

In progress rights on land that has been given for various necessities as above, It does not always followed with physical activity use land. The following nature and purpose right or spatial plan from use and designation land, fine because holder rights not yet feel need to use the land or the holder rights not yet have sufficient funds for doing development or because things other (Sumardjono, 2007).

To prevent the appearance of negative that, then effort to neglect land should be quickly anticipated as early as possible. For that is in the Regulation of Basic Agrarian Law Number 15 (Agrarian Minister, 1960b), reminds everyone, especially the holders right, to not abandon the land on purpose. The seriousness of the BAL prohibits existence action neglect ground can be viewed as the threat in the form of sanctions that will be given. It is cancel their right on the land in question, Termination connection law between the Land and the Owner, and the land will be confirmed as State Land (Land controlled directly by the State), as in Articles 27, 34 and 40 of the LoGA.

Abandoned land is one problem necessary land got attention, if not handled with ok, thing this, in turn, will bother the way development and breaking principle Justice for society in general, remembering supplies more land limited and need for land for development, agriculture, and housing are increasingly increasing.

Principle agrarian law is basic law state administration in the field of land. In the BAL, it is determined type rights on land that can be owned by Indonesian citizens or legal entities. The rights on the land in question according to Article 16 paragraph (1) of the LoGA consists of: Ownership Rights, Cultivation Rights, Building Use Rights, Rights to Rent, Unlocking Land Rights, Collecting Land Proceeds Rights, and other rights that are not including in rights above will be applied with Constitution as well as inherent rights while (Agrarian Minister, n.d.-a). In the LoGA it is determined that in gift rights on land to Indonesian citizens or legal entities should notice use land following function and purpose gift rights and prohibited use land that is not following purpose and function gift the rights. The status of land in Indonesia itself is divided into two groups. First, state land, namely land which is still empty and not yet there is connection law with individuals. It means directly controlled and managed by the state as the governing body. Second, land that has connection law with private people or legal entities, or what is often called land rights. The purpose of this study is to explore legal consequences for neglected landholders' right based on Government regulation number 11 (2010).

## METHOD RESEARCH

Approach Problem Based on type normative research, then approach that can be used in a study this is approach legislation (state approach), namely, with study Relevant laws and regulations adrift with issue current law handled. The data sources are from legislation and libraries studies (Rijadi & Priyati, 2017). Libraries studies are marked with activity looking for existing literature relations with the core of the discussion, in particular about Settings land abandoned and everything the problem.

Procedure collection legal material for making it easy discussion, then the information is collected through a gradual process. It starts from sources written originating from regulation legislation and other related writings with the land. Next, the data that has succeeded collected, processed following necessity for made data discussion with technique data collection and classify in each of the chapters and sub-chapters that have been arranged sequentially according to main problem for then analyzed.

Processing and Analysis of collected the data based on the qualitative method, that is a method that produces information descriptive-analytical and collected for then decipher facts then concluding and utilizing deductive thinking method that draws a departing conclusion from things that are generally going to special things.

## RESULT AND DISCUSSION

In Indonesia, the law land set in Law No.5 of 1960 concerning the rules based on the the Basic Agrarian Law or what can be called as BAL (Agrarian Minister, 1960a). State gives rights on land for cultivation, use, or utilized in accordance with condition and function rights on land that has been obtained could delete right because of a number of things, one of which because abandoned. Abandoned land in Indonesia is not new Case in journey arrangement law agrarian in this country. Draft land displaced could be found in notions land abandoned: Based on the nature of the Principle Agrarian Law (BAL), all parties, especially the holders right on land, need to understand and take care not to occur land abandoned. A number of provisions in the related BAL with land displaced is as following:

- a) Article 2 paragraph (2) letter b, states that the state as organization power is authorized to "determine and regulate" relationships law between people with earth, water and space." Based on provision, the competent state cut off connection law among humans who have rights on land if man abandons the land.
- b) Article 6 states, "all right on land have social function." In Explanation General chapter the declared that right on land whatever is in someone no could allow that the land that will be used (or no used) solely for interest personal, moreover if Case that cause loss for society. Use land should customized with condition and nature than the right, until beneficial good for prosperity and happiness who have it nor also useful for society and state. Based on explanation the 6th article mandated that rights on land not only containing authority but also at the same time obligation for use, work on, and make use of it, so that letting land the displaced it means land the in state no work, no utilized means violate mandate Article 6 BAL.
- c) Article 10 paragraph (1) states that "every person or legal entity that has something right on land agriculture in principle is required to do or work on it alone by actively, which prevents blackmail". This gives definition that someone who has something right on ground in principle must do alone the land by active and not allowed same very for no strive or abandon land in accordance with allotment.
- d) Article 15 states that "maintaining" land, including add fertility as well as preventing the damage is the obligation of each person, legal entity or agency that has connection law with land that, with notice of economical party weak." Abandonment land is one action that can lower fertility land so that impact on quality environment, the contrary with mandate Article 15 of the BAL states that: It becomes an obligation for the party who owns connection law with land to look after as well as add fertility land.

- e) Article 27, a number 3, states that "Proprietary Rights to" land delete when the land fall down to the country because abandoned. "Then in the explanation declared that land abandoned if with on purpose not used in accordance with the situation or nature and purpose than his rights.
- f) Article 34 letter e, states that the Right for Cultivation is abolished because the land is abandoned."
- g) Article 40 letter e, states that Building Use Rights will be deleted because the land is abandoned.

Terms show that every right on given land or obtained from the state (Ownership Rights, Cultivation Rights, and Building Use Rights) will be canceled if abandoned. That means, their element intentionally does no use in accordance with the situation or nature and purposes his rights.

According to Regulation Government Number 11 of 2010 concerning Control and Utilization of Abandoned Land Definition land displaced could seen in explanation Article 2 Regulation Government Number 11 of 2010 concerning Control and Utilization of Abandoned Land which states that, "Object" land displaced covers land that has been given rights by the State in the form of Ownership Rights, Cultivation Rights, Building Use Rights, Right to Use, and Rights Management, or base mastery on land that is not work, no used or no utilized in accordance with state or nature and purpose gift right or base mastery (Regulation Government, 2010). Likewise the existing land base mastery declared as land displaced if the land had no work, no use, or not utilized in accordance with condition or set conditions in permission location, mail decision gift rights, letters decision release area forest, and/ or in permission/ decision/ letter other from authorized official. With this land displaced is land right property, right To use business, rights To use building, rights use, and rights management or existing land base his willful mastery no work, no used, no used in accordance with circumstances, nature and purpose his rights (Magnis-Suseno, 2016).

Many reasons underlying holder rights on land do not utilize land he owns, one of them is diversion asset riches or investment. Election land as shape diversion asset or infestation because value/price land tends to increase. Amount of needed party land for set up the place stay or the place effort not comparable with availability more land reduce breadth, p this is what makes owner land make land as one shape investment. Diversion shape investment in land no could be blamed, because sell return owned land to party anywhere is right from si holder right on land. However in the running time I feel very sorry because electing parties infest this forget or ignore not quite enough answer they as holder rights. In Article 10 of the BAL Paragraph (1) states "Every person and legal entity that has something right on land agriculture in principle required do or work on it alone by active, with prevent ways marketing." Abandonment made holder right result in owned land Becomes reduce Mark the benefits, especially for people who are in the location where land displaced be, which makes neglect land Becomes something wrong action because existence impact negative that can arise. As for the possible impact, occurring is the more increased gap social when silenced without strict rules could cause conflict social between Public However need remember that definition abandoned land different with indicated land abandoned. According to the Regulation Head of the Indonesian National Land Office (INLO) Number 4 of 2010 concerning Procedures for Issuing Abandoned Land, Agrarian Minister (2010), stated the definition displaced land are, "Land that has been given rights by the state in the form of Ownership Rights, Cultivation Rights, Building Use Rights, Use Right, and Rights Management, or base mastery on land that is not work, no used, or no utilized in accordance with the situation or nature and purpose gift right or base mastery." (Article 1 Number 6).

Essential elements happening land abandoned so criteria or available size worn for set plot land mastery agency government as land abandoned that is with method return explain with do interpretations to existing elements, with focus to purpose gift right on land. So if the condition of the physique looks like land not well groomed or not preserved, that means not in accordance with the purpose of giving his rights. So that criteria land abandoned namely:

1. There must be an owner / holder right on land (subject). The agency government that obtains land could submit an application right on land with type right on land that can be given for agency government, namely right use and rights management.
2. There must be land rights (Object) According to draft law land in Indonesia at this time, the agency government could control land with right use and rights management. Right use given to lands controlled by the agency government for implementation tasks, while right management given to agency government with meaning for handed over to party third, apart from it's also mastered land by agency government occur in shape base mastery on land.
3. There must be intentional acts of no use of land. Article 3 letter b Regulation Government Number 11 of 2010 as Replacement Regulation Government Number 36 of 1998 concerning Control and Utilization of Abandoned Land, states that no including object order land abandoned namely : land controlled government good by direct nor no direct and already status nor not yet status State/Regional Owned Goods that are not on purpose no used in accordance with state or nature and purpose gift his rights (Agrarian Minister, 2010a). The explanation confirmed that what is meant with " no " on purpose not used in accordance with state or nature and purpose gives the right " in provision this is because limitations State/ regional budget for try, use, or utilize in accordance with the situation or nature and purpose gift his rights. With so, can drawn conclusion, if, agency Government (Central/Region) has enough budget for try, use, or utilize land in accordance with state or nature and purpose gift right, then will increase original status no is object land abandoned, will become object order land abandoned. So what is meant on purpose could be interpreted as state capable from aspect State/ regional budget for try, use, or utilize in accordance with obligation.
4. There must be the action caused by His responsibilities Obligations that by general could put forward as following. Article 6 BAL, all right on land working social. It means right on whatever land one has no could be justified, that the land that will be used or not used solely for personal interest, moreover the Case that causes loss for society. Use of land should be customized with circumstances, nature and purpose from right on land, so that it is beneficial for those who have right neither on land nor for society and the State. Not look after signs boundary, ground left empty, as shape denial to function social or no heed function social right on land. Article 10 paragraph (1) BAL. Every person and legal entity that has something right on land agriculture in principle requires doing or working on it alone by actively preventing blackmail. With such a principle that basically everyone cannot deliver the land done by someone else.
5. There must be period time certain Where the holder right ignore his obligations Regulation Government Number 11 of 2010 as replacement Regulation Government Number 36 of 1998 concerning Control and Utilization of Abandoned Land, states that the organizing committee membership consist from elements of the National Land Agency and elements of agency related matters regulated by the

Head of the National Land Agency carry out identification and research to indicated land abandoned that. This thing implemented counted from 3 (three) years since put in order Right Use, the Rights Management; or since ending permission/ decision/letter base mastery on land from Authorized officials. Committee conveys report results identification, research, and Minutes to the Head of the Regional Office of the National Land Agency. If based on results identification and research concluded there is land abandoned, and then The Head of the Regional Office of the National Land Agency shall notify and at the same time give written warning first to Holder Rights. So that in period 1 (one) month since date publication letter warning, using the land in accordance the situation or according to nature and purpose gift right or in accordance permission/ decision/ letter as base his mastery. In the letter warning first need mentioned things that are concrete should be made by holder Rights and sanctions that can be dropped if Holder Right no heed or no doing warning meant. If Holder Right did not warn, the Head of the Regional Office of the National Land Agency gave a warning written second with period same time with warning first. In letter warning second, after notice progress from letter warning first, mention return things must be concrete made by holder Rights and sanctions that can be dropped if Holder Right no heed or no doing warning meant. If Holder Right no doing warning referred to, the Head of the Regional Office of the National Land Agency provides warning written third with period same time with warning second. In letter warning the third which is warning last, after notice progress from letter warning second, mention things must be concrete made by holder Rights and sanctions that can be dropped if Holder Right no heed or no doing warning meant. If Holder Right permanently did not warn, the Head of the Regional Office of the National Land Agency proposed to the Head of the National Land Agency to set the land in question as wasteland. With fulfilled criteria that, then Case that could be worn for set that land with right the abandoned. Assigned land as land abandoned, when its whole expanse, then right on the land abolished, decided to connect the law, and confirmed Becomes occupied land directly by the State. Land assigned as land abandoned, when is part abandoned expanse, then right on the land abolished, decided connection legal and confirmed Becomes occupied land directly by the State and so on to used Holder Right given return on part real land cultivated, used, and utilized in accordance with decision gift his rights. To get right on land on part land, former Holder Right could submit application rights on land in accordance with provision regulation legislation. If land abandoned rights are not enough from or the same with 25% (two fifty five percent), then Holder Right could submit application revision large on field real land used and utilized in accordance with the decision to give his rights. Cost on revision subtraction large the Becomes burden Holder rights.

Proposed land for set as land abandoned, declared in the state of the status quo since the date proposal. declared land in state of the status quo, no deed law on field land until published determination land abandoned which also contains determination to delete it right on land, all at once decide connection law as well as confirmed as occupied land directly by the State. Land that has been set as land abandoned, in a maximum period of 1 (one) month since the set decision determined land abandoned, mandatory vacated by former Holder Right on things on it with burden cost concerned. If used Holder Right does not fulfill obligation, then things no again Becomes belongs to him, and is controlled directly by the State.

Abandoned land whatever objects included into the land displaced loaded in Article 2 Regulation Government Number 11 of 2010 concerning Control and Utilization of Abandoned Land which mentions that: " Object " order land displaced covers land that has been given rights by the State in the form of Ownership Rights, Cultivation Rights, Building Use Rights, Hak Use and Rights Management, or base mastery on land that is not work, no used, or no utilized in accordance with the situation or nature and purpose gift right or base mastery".

Regulation Government Number 11 of 2010 determines object land displaced as arranged in Article 2, namely:

1. Land with Right to Cultivate, whether the subject is individual as well as legal entities established according to Indonesian law and domiciled in Indonesia 2. Land rights Use
2. Land with Building Use Rights (HGB), which holds the right individual and has the ability from aspect economy for seek, use and utilize land but no use land in accordance with state or nature and purpose give his rights.
3. Land with Building Use Rights (HGB) which holds rights in the form of a legal entity (individual Limited).
4. Occupied land Government (Land assets government ) and has enough budget for strive, take advantage of land will but with on purpose no use land in accordance with state or nature purpose give his rights.
5. Land Rights Management.
6. Lands controlled by parties who have base mastery on land (permit/decision/ letter from the authorized official who becomes base mastery on ground) but not get right on land in accordance with provision Regulation Applicable legislation.

All right on land have function social, then every person, legal entity or agency that has connection law with land must use the land with look after land, add fertility, prevent occur the damage so that more Empower use and succeed To use as well as beneficial for well-being society. Next could seen in the preamble Regulation Government Number 11 of 2010, where the settings more character preventive as well as consider that Regulation Government Number 36 of 1998 concerning Control and Utilization of Abandoned Land, no could again made reference solution control and utilization land displaced so that need done change. Based on consideration on Regulation Government Number 11 of 2010, the government also cares to environment where many land abandoned by the holder right Becomes decrease quality by economical, as could be listened to in consideration, " that " moment this neglect land more cause gap social, economic, and welfare people as well as lower quality environment, so need Settings return control and utilization land abandoned.<sup>1</sup>

If notice Settings land displaced street Regulation Government Number 11 of 2010, very clear object right on any land could be claimed by the state. In evaluating and assessing, Head of the Indonesian National Land Office guided by Identification land displaced done by the Head of the Regional Office of the Provincial National Land Office tell determination control and utilization land to Holder Land Rights, the party who obtains base mastery land, Regent/Mayor, Head of Land Office Districts/Cities and Agencies related. Identification and research land displaced include:

- a) Name and address Holder rights.
- b) Location, area, rights status or base mastery on land and circumstances physique occupied land Holder Right

<sup>1</sup>Preamble of PP No. 11 of 2010 concerning Control and Utilization of Abandoned Land

c) Circumstances that cause land abandoned.

After the result data identification and research rated enough as ingredient taking decision effort control, the Head of the Regional Office establishes a Committee C consisting of elements of Regional Offices, Land Offices, Regional Governments, and related agencies with allotment of the land in question.

By technical, mechanism-Setting land abandoned by the government has set more carry on in Regulation Government Number 11 of 2010 concerning Control and Utilization of Abandoned Land. In provision Article 2 has confirmed that object order land displaced covers land that has been given rights by the State in the form of Ownership Rights, Cultivation Rights, Building Use Rights, Use Right, and Management Rights, or base mastery on land that is not work, did not used, or did not utilized in accordance with the situation or nature and purpose gift right or base his mastery. With this Consequence law to owner Right over the Abandoned Land is by juridical, prohibited abandon land as declared in stipulations governing about obligation for holder right on land ( Article 6, 7, 10, 15,19 BAL) which is an existing principle In BAL. Implementation rights that don't in accordance with purpose right or allotment so to holder right will be sentenced a penalty that is right on land that will be canceled and resulted ending right on land. Next by sociological very tight ground attached to and needed by the people, because land Becomes source livelihood they that is for the place stay them, for grow and develop family and land worn for fulfill needs economy them, that why abandon land prohibited.

## CONCLUSION

Based on the discussion above, one could conclude that relationship and effect law for holder right on land with abandoned land is existence disconnection connection law with method the land returned to the intermediate country subject holder right on land with object land. Thus as declared in Article 9 paragraph (2) and paragraph (3) of the Regulation Government Number 11 of 2010 concerning Control and Utilization of Abandoned Land. The legal consequence to owner Right over the Abandoned Land is by juridical it is prohibited to abandon land as declared in stipulations governing about obligation for holder right on land (Article 6, 7, 10, 15,19 BAL), which is an existing principle in BAL. Implementation rights that do not following purpose right or allotment so to holder right will be sentenced a penalty that is right on land that will be canceled and resulted ending right on land. Next by sociological very tight ground attached and needed by the people, because land Becomes source livelihood they that is for the place stay them, for grow and develop family and land worn for fulfill needs economy them, that why abandon land prohibited. Protection law for those who control and manage land displaced is existence certificate right on land owner will be protected from action arbitrary from party other, as well prevent dispute ownership land.

## REFERENCES

Agrarian Minister. *Article 16 paragraph (1) of the LoGA.*

Agrarian Minister. *Article 27 of the Basic Agrarian Law.*

Agrarian Minister. *Article 6 of the Basic Agrarian Law.*

Agrarian Minister. *Law No.5 concerning the rules based on the the Basic Agrarian Law. , (1960).*



- Agrarian Minister. *Regulation of Basic Agrarian Law Number 15.* , (1960).
- Agrarian Minister. *Article 3 letter b Regulation Government Number 11 of 2010.* , (2010).
- Agrarian Minister. *Number 4 of 2010 concerning Procedures for Issuing Abandoned Land.* , (2010).
- Article 33 Paragraph (3) of The Constitution of the Republic of Indonesia.* , (1945).
- Government regulation number 11.* , (2010).
- Harsono, Boedi. (2003). *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria. Isi Dan Pelaksanaannya, Jilid, 1.*
- Magnis-Suseno, Franz. (2016). *ETIKA POLITIK. Prinsip Moral Dasar Kenegaraan Modern.* PT Gramedia Pustaka Utama.
- Regulation Government. *concerning Control and Utilization of Abandoned Land.* , (2010).
- Rijadi, P., & Priyati, S. (2017). *Memahami Metode Penelitian Hukum Dalam Konteks Penulisan Skripsi.*
- Sumardjono, M. S. W. (2007). *Kebijakan Pertanahan antara Regulasi dan Implementasi. Kompas.*

Copyright holder:

**Firza Samiyah, Bambang Arwanto (2022)**

First publication right:

**Devotion - Journal of Community Service**

This article is licensed under:

