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Legal Issues of Government Regulation Number 48 of 2025 on the Utilization of State General Reserve Land

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ABSTRACT

This article examines the legal and practical implications of Government Regulation Number 48 of 2025 concerning the Management and Control of Abandoned Areas and Land. The Regulation is intended to optimize the utilization of land reserves for the benefit of the State, National Development, and Agrarian Reform. However, its implementation has generated critical issues related to legal certainty, the protection of land ownership rights, and inconsistencies within the existing agrarian legal framework. Employing a normative juridical approach, this study analyzes the contradictions between statutory provisions and their enforcement in practice, particularly with respect to certified land rights and state-owned assets that may be deemed abandoned land, thereby resulting in the loss or extinguishment of rights when such land is not effectively utilized. Furthermore, this study proposes an ideal reconstruction of the regulatory framework to ensure legal certainty, justice, and utility in accordance with progressive agrarian law principles that reflect society's needs and interests. Given that land regulation constitutes a fundamental aspect of both public welfare and state governance, the establishment of an effective, equitable, and legally certain land management regime is indispensable for achieving sustainable national development and optimal utilization of land resources.

Keywords: *Land Law, Legal Certainty, Abandoned Land, Agrarian Reform, Indonesia, State Land Reserves.*

INTRODUCTION

The national land law system, encompassing agrarian administrative governance, is an integral component of Indonesia's legal constellation. This system is anchored in philosophical tenets, juridical foundations, principles, doctrines, and ownership theories derived directly from Pancasila, the 1945 Constitution, and their entire hierarchy of implementing regulations. Nonetheless, Indonesia still faces a fundamental challenge due to the absence of a comprehensive "Land Ownership Theory" that conceptually translates the state's philosophical values and legal doctrines. The formulation of such a theory is crucial to serve as a blueprint for drafting subsequent legal norms, enforcing justice, and resolving agrarian conflicts for citizens. Furthermore, developing this independent theoretical framework is urgentlynecessary to decisively replace obsolete colonial tenure doctrines such as *eigendom* and *domein verklaring*.

Although Article 20 of the Basic Agrarian Law (UUPA No. 5/1960) formally establishes the concept of ownership rights (*Hak Milik*), its operational philosophy remains heavily influenced by colonial paradigms, specifically *eigendom* rights and the *domein verklaring* doctrine, despite its purported roots in customary law (*hukum adat*). This legacy is evident in the current evidentiary standard, where a land title certificate (*Sertifikat*

Hak Milik) serves as the exclusive legal proof of ownership, —a mechanism that directly echoes the colonial requirement of an *acte van eigendom*.

A similar misalignment with public justice occurs in the enforcement of the Right to Cultivate (*Hak Guna Usaha* / HGU) and the Right to Build (*Hak Guna Bangunan* / HGB) under the current UUPA framework. The modern interpretation of these rights remains tethered to the civil law concepts of *erfpacht* and *recht van opstal* found in the *Burgerlijk Wetboek* (Civil Code), triggering widespread public demands for the restoration of state-controlled lands to their original customary (*adat*) custodians. To resolve this friction, modern land law enforcement must integrate comprehensive *de facto* and *de jure* ownership theories to completely dismantle the obsolete *eigendom* and *domeinverklaring* models of land ownership. Additionally, the HGU and HGB should be phased out and replaced by a time-bound Right to Use (*Hak Pakai* / HP) framework based on mutual contractual agreements between the parties involved.

Furthermore, the specific legislation mandated by Article 50 (1) of the UUPA to govern ownership rights remains unrealized. This prolonged regulatory lacuna underscores the urgent need to enact a comprehensive Law on Land Rights that expands the original, limited mandate of the UUPA into a broader statutory framework. In practice, this statutory void is exacerbized by institutional inconsistencies within land administration bodies. The National Land Office (*Kantor Pertanahan*) frequently disregards its own administrative regulations. Consequently, legitimate acquisitions of land ownership rights, although backed by sound statutory foundations, are often stalled or left unimplemented under various administrative pretexts. This institutional reluctance is evident in the implementation of Government Regulation (PP) No. 24 of 1997 on Land Registration. Even when an applicant has comprehensively fulfilled the statutory criteria outlined in Article 24, paragraph (2), the local Land Office often fails to grant the decree necessary for certificate issuance. A parallel discrepancy occurs regarding Government Regulation No. 20 of 2021 on the Management of Abandoned Areas and Land. While this regulation reclassifies neglected land into unencumbered state land (*Tanah Negara bebas*), thereby legally qualifying individuals who have continuously and productively occupied the plot for over two decades to obtain formal land rights, administrative practice tells a different story.

Historically, a similar dynamic can be traced back to Government Regulation No. 8 of 1953 on controlling state lands. Under this framework, occupants who have actively cultivated the land, paid relevant property taxes, and met all *de facto* requirements—aligning with the standards later codified in Article 24, paragraph (2) of PP No. 24 of 1997—frequently see their claims dismissed by the land authorities. Even in non-disputed cases or when the applicant holds a final, legally binding judicial verdict (*inkracht*) confirming their entitlement, the National Land Agency routinely overlooks these petitions. Adding to this administrative friction, the recently issued Government Regulation No. 48 of 2025 on the Management of Abandoned Areas and Land has created systemic and operational ambiguity. This regulatory shift inadvertently threatens the legal certainty of legitimate landholders, including those holding Ownership Rights (HM), Rights to Use (HP), Land Management Rights (HPL), Rights to Build (HGB), and Rights to Cultivate (HGU).

Fundamentally, administrative cartography and the execution of agrarian policies must strictly align with recognized legal frameworks, ensuring that they do not breach the foundational philosophy, principles, doctrines, and core theories of land law. The pervasive instability within current land and agrarian institutions can be attributed to the volatile enforcement of statutory land regulations. Paradoxically, despite these legislative frameworks being drafted with direct institutional input from the land agencies, their actual enforcement is profoundly inconsistent. This regulatory unpredictability has sparked widespread public grievances, especially regarding newly enacted agrarian directives that have inadvertently infused systemic ambiguity into the land tenure system.

A prominent illustration of this regulatory friction is Article 96 of Government Regulation (PP) No. 18 of 2021, which mandates the following:

"Written evidence of former customary land rights (tanah bekas milik adat) owned by individuals must be registered within a maximum period of 5 (five) years from the date this Government Regulation becomes effective."

This provision raises a problematic legal question concerning the status of actively and continuously farmed uncertified customary lands (*tanah adat*): are these areas also vulnerable to being classified as neglected or abandoned? Concurrently, a double standard appears to emerge, as even formally registered parcels backed by official land certificates are subject to punitive actions and labeled as abandoned land if the owners fail to actively cultivate, utilize, or develop them.

In short, legislators are bound by a fiduciary duty to protect public interests over their ancestral domains. A case in point is the *Batak Tano* land within the *huta* (indigenous villages) of Tapanuli, North Sumatra, where the vast majority of communal properties remain uncertified. Occupation is traditionally substantiated only through *girik*, *Surat Keterangan Tanah* (SKT), or similar informal customary proofs. In various cases, written titles are entirely absent despite continuous intergenerational occupancy dating back to the community's ancestors (*opung*), often marked by ancestral burial sites within the residential perimeter. Under Article 96, paragraph (1) of Government Regulation (PP) No. 18 of 2021, a strict five-year window was mandated for formalizing these rights. Consequently, as this deadline lapses in 2026, these unregistered indigenous lands face an imminent risk of reverting to unencumbered state land (*tanah Negara bebas*) and being classified as abandoned property. This precarious situation demands a critical reassessment of statutory instruments that systematically disenfranchise Indigenous communities (*masyarakat adat*).

The core objective of any legislative enactment must be the maximization of public welfare rather than the imposition of administrative burdens. Regulatory frameworks that marginalize customary societies inevitably foster systemic and institutional instability. Similarly, the enforcement of Article 6 of Government Regulation (PP) No. 48 of 2025 on the Management of Abandoned Areas and Land introduces a severe threat of arbitrary title expropriation, impacting not only state- and regionally-owned enterprises (BUMN/BUMD) but also private corporate entities. Within this opaque statutory environment, unconstitutional maneuvers and discretionary agendas easily manifest, ultimately generating a chaotic and deeply contradictory regulatory landscape in China.

PROBLEM STATEMENTS

1. How does Government Regulation Number 48 of 2025 concerning the Management of Abandoned Areas and Land provide legal certainty regarding land ownership to serve as a valid guideline for the public under the prevailing legal framework?
2. How is Government Regulation Number 48 of 2025 utilized as a framework for legal protection of land ownership for the public, public legal entities, and private corporate entities?
3. How can Government Regulation Number 48 of 2025 be ideally reconstructed to guarantee legal certainty over land and provide robust legal protection for the public?

DISCUSSION

Guidelines Applied to Realize Land Legal Certainty under Government Regulation Number 48 of 2025 concerning the Management of Abandoned Areas and Land.

Legal Certainty of Government Regulation Number 48 of 2025 concerning the Regulation of Abandoned Areas and Land

The concept of legal certainty fundamentally operates at two distinct levels. First, the formulation of general rules serves as a benchmark for individuals to discern legally permissible conduct from prohibited conduct. Second, it functions as a mechanism to safeguard citizens against arbitrary state actions. Through these codified rules, individuals can anticipate the specific obligations or legal measures that the state may lawfully enforce upon them.

Furthermore, legal certainty serves as an indispensable safeguard for justice seekers against potential arbitrary actions or abuses of authority by law enforcement officials during their duties. Such certainty can only be actualized through precise, coherent, and unequivocal statutory drafting, which guarantees clarity and consistency in practical enforcement.

Previously, abandoned land governance was regulated under Government Regulation No. 20 of 2021 concerning the Management of Abandoned Areas and Land, which mandated that such plots revert to unencumbered state-owned land (*Tanah Negara Bebas*). This provision amended Government Regulation No. 11 of 2010 concerning the Management and Utilization of Abandoned Land *juncto* Government Regulation No. 36 of 1998 concerning the Management and Utilization of Abandoned Land. Notably, Article 3, Paragraph (5) of Government Regulation No. 36 of 1998 explicitly defines the parameters of abandoned land as follows:

> *"Abandoned land constitutes land that has been neglected by its tenure holder, the holder of Land Management Rights (Hak Pengelolaan or HPL), or any entity possessing a foundational title for land control that has not yet secured formal land rights pursuant to the prevailing statutory regulations."*

The regulatory framework for abandoned land was established under Government Regulation No. 20 of 2021 concerning the Management of Abandoned Areas and Land, which stipulated that such properties revert to unencumbered state-owned land (*Tanah Negara Bebas*). This legislation amended Government Regulation No. 11 of 2010 *juncto* Government Regulation No. 36 of 1998 concerning the Management and Utilization of Abandoned Land. Pursuant to Article 3, paragraph (5) of Government Regulation No. 36 of 1998, it was explicitly declared that:

> *"Abandoned land refers to real property neglected by the holder of land rights, the recipient of Land Management Rights (Hak Pengelolaan or HPL), or any party that has obtained a foundational title for land control but has not yet secured formal land rights under current statutory provisions."*

In addition, Article 3 of Government Regulation No. 36 of 1998 concerning the Management and Utilization of Abandoned Land categorically stipulates that:

> *"Right of Ownership (Hak Milik), Right to Build (Hak Guna Bangunan or HGB), or Right to Use (Hak Pakai or HP) over land may be designated as abandoned land if the right holder deliberately fails to utilize the land in accordance with the conditions, nature, and explicit purpose of the granted right, or otherwise fails to provide adequate maintenance."*

The regulatory framework governing state land acquisition has been updated through Government Regulation No. 48/2025, which specifically addresses the procurement of general state-reserve land. This regulation operates under the legal mandate of Article 180 of Law No. 6/2023 (Job Creation Law), in conjunction with Articles 27, 34, and 40 of Law No. 5/1960 (Basic Agrarian Law). Collectively, these statutory provisions dictate that land rights are automatically extinguished upon neglect, thereby necessitating secondary legislation to manage such neglected territories. Under this framework, a distinction is made between "abandoned areas"—defined as unpermitted, uncultivated non-forest zones possessing active or expired concessions—and "abandoned land," which refers to legally titled or managed plots left unutilized by their holders. However, a critical evaluation of Government Regulation No. 48/2025 reveals internal normative contradictions, particularly in Article 6. This specific clause permits the state to seize land assets held by both public and private entities, necessitating a comprehensive judicial or legislative review.

A critical paradox arises within the conceptual framework of Agrarian Reform (*Reforma Agraria*) concerning registered and inventoried landholdings. Under current practices, the mere state of non-utilization or lack of cultivation suffices for the government to classify such properties as abandoned, thereby earmarking them for state-land reserves. This approach directly conflicts with the foundational tenets of land reform, which fundamentally seeks to redistribute land ownership, tenure, and usage rights to foster socioeconomic equity. Mechanized through asset and access reforms, these initiatives are legally designed to mitigate land disparity, adjudicate agrarian conflicts, improve smallholder welfare, and promote inclusive economic growth. To achieve these objectives, the National Land Agency has historically executed administrative mandates rooted in the Basic Agrarian Law (BAL/UUPA). This administrative evolution began with the systematic conversion of Western land tenures, operationalized through the Minister of Agrarian Affairs Regulation No. 9 of 1965. It subsequently progressed into the contemporary statutory land registration regime governed by Government Regulation No. 24 of 1997 *juncto* Government Regulation No. 10 of 1961.

The ultimate objective of these administrative interventions is to institutionalize regulatory orders within the land registration framework. Accordingly, upon the elevation of land titles, the protection of the titleholders' private civil rights (*hak keperdataan*) must be strictly maintained as a foundational doctrine for the judicial and law enforcement agencies. From this perspective, penalizing a certified landholder by classifying their property as "abandoned" solely due to a lack of physical occupancy or cultivation necessitates a rigorous jurisprudential critique of Article 6 of Government Regulation No. 48 of 2025 concerning the Management of Abandoned Areas and Land. This provision undermines the core tenets of legal certainty and public equity.

Furthermore, proprietary rights (*hak kebendaan*) vested in a legitimate titleholder demand absolute protection. The state is precluded from arbitrarily expropriating or extinguishing these entitlements in the absence of a stringent, legally certain statutory process. To legally determine that a right-allocated parcel has been abandoned, an explicit procedural mechanism—such as a formal relinquishment of rights (*pelepasan hak*)—must be invoked; mere failure to actively cultivate the land cannot automatically trigger state forfeiture. Ultimately, the current fragmentation of land rights regulations across disparate statutory instruments has introduced systemic inconsistencies and contradictions. This normative disharmony is particularly pronounced in terms of the duration of land tenure, the formal procedures for their establishment, the statutory obligations imposed on titleholders, and the classification of rights based on land-use designations. Fundamentally, statutory enactments are promulgated to govern or complement general provisions, thereby functioning as normative behavioral frameworks for society. Consequently, the formulation and enforcement of these legal rules are intrinsically linked to the realization of legal certainty. With respect to the governance of abandoned areas and land—presently institutionalized through Government Regulation No. 48 of 2025 *juncto* Government Regulation No. 20 of 2021 *juncto* Government Regulation No. 11 of 2010 *juncto* Government Regulation No. 36 of 1998—the regulatory framework should be insulated from rapid and volatile shifts that induce public confusion. Within the realm of subsidiary legislation, such frequent amendments inadvertently cultivate normative instability, directly undermining the predictability that administrative regulations are intended to secure.

Objects of Abandoned Land Management

It is regulated under Article 6 of Government Regulation No. 48 of 2025 on the Management of Abandoned Areas and Land, which encompasses the following:

1. *The objects of abandoned land management include land under ownership rights (hak milik), rights to build (hak guna bangunan), rights to cultivate (hak guna usaha), rights to use (hak pakai), land management rights (hak pengelolaan), and land acquired based on a basic title of land control.*
2. *Land under ownership rights (hak milik) shall not be subject to abandoned land management, unless it is intentionally left uncultivated, unutilized, and/or unmaintained, resulting in conditions where:*
   a) *The land is occupied by the community and has transformed into a residential settlement (perkampungan);*
   b) *The land is continuously occupied by another party for 20 (twenty) years without any legal relationship with the titleholder; or*
   c) *The social function of the land rights is unfulfilled, regardless of whether the titleholder is still present or absent.*
3. *Land under rights to build (hak guna bangunan), rights to use (hak pakai), and land management rights (hak pengelolaan) shall become objects of abandoned land management if it is intentionally uncultivated, unutilized, undeveloped, and/or unmaintained, commencing at the earliest 2 (two) years from the date the right was granted.*
4. *Land under rights to cultivate (hak guna usaha) shall become an object of abandoned land management if it is intentionally uncultivated, unutilized, and/or undeveloped, commencing at the earliest 2 (two) years from the date the right was granted.*
5. *Land acquired based on a basic title of land control shall become an object of abandoned land management if it is intentionally uncultivated, unutilized, undeveloped, and/or unmaintained, commencing at the earliest 2 (two) years from the issuance or execution of the said basic title of land control.*

A pivotal point of contention within Government Regulation No. 48 of 2025 regarding the Management of Abandoned Areas and Land centers on real estate assets held by State-Owned Enterprises (BUMN), Regionally-Owned Enterprises (BUMD), municipal authorities (*Kota Praja*), or private corporate entities. Under this framework, parcels secured by registered Right of Ownership (HM), Right to Cultivate (HGU), Right to Manage (HPL), Right to Build granted over Right to Manage (HGB di atas HPL), or standalone Right to Build (HGB murni) are susceptible to being designated as abandoned. This classification applies if such lands remain unutilized, undeveloped, or unmaintained for a duration beginning at the earliest two years from the formal invocation of the respective right.

These statutory parameters for land abandonment demand rigorous re-evaluation, particularly by factoring in the objective operational capacities and genuine requirements of the respective titleholders of the land. Even when land entitlements have been elevated to certified forms, it remains a fundamental canon of property law that a land certificate constitutes conclusive evidence (*bukti hak yang sempurna*) of ownership. Manifestly, when a statutory instrument fails to cultivate legitimate expectations of legal certainty and social equity, it becomes inherently dysfunctional and lacks normative effectiveness. Consequently, a petition for judicial review may be submitted to the Constitutional Court (*Mahkamah Konstitusi*) on the grounds that the enacted Government Regulation fails to render meaningful public utility to society.

With respect to right-allocated lands institutionalized as corporate assets of State-Owned Enterprises (BUMN) or Regionally-Owned Enterprises (BUMD), such properties fall under the official oversight of the Directorate General of State Assets (DJKN). Consequently, the enforcement mechanism stipulated under Government Regulation No. 48 of 2025 regarding the Management of Abandoned Areas and Land is legally inapplicable to these assets. Classifying these parcels as abandoned is functionally equivalent to the expungement of state-linked corporate property—an administrative action that requires prior statutory authorization from the Ministry of Finance of the Republic of Indonesia.

Conversely, regarding private corporate entities, should a designation of abandonment be initiated by a local government or the relevant Regional Office of the National Land Agency (Kanwil BPN), any subsequent asset forfeiture or divestment must be formalized. This formalization requires a Notarial Deed of Relinquishment of Rights (*Akta Pelepasan Hak*, APH). This specific instrument legally affirms the absolute severance of the legal relationship between the proprietary titleholder and the land, systematically reverting the asset to the direct custody and control of the State.

This is also reflected in the Jurisprudence of the Supreme Court Decision No. 217 K/Sip/1958, dated August 27, 1958, which states:

> *"The intent to numbers/relinquish a right must be visibly and concretely proven."*

In land administration, including the granting and certification of land rights and licensing related to land utilization, complications arise from other institutions, such as the Ministry of Agriculture and the Ministry of Mining. This is due to administrative overlaps, inter-sectoral licensing conflicts, or the issuance of overlapping decrees and dual certificates. Consequently, designating such land as abandoned and reverting it to unencumbered state land status creates profound land law disputes.

Utilization of State Reserve Land (Tanah Cadangan Untuk Negara – TCUN)

The institutionalization of State Reserve Land (*Tanah Cadangan Umum Negara*, TCUN) is strategically intended to maximize land utilization for public infrastructure, national development projects, agrarian reform initiatives, and broader social welfare. By definition, the TCUN is populated by real estate assets that have been formally designated as abandoned and explicitly placed under the sovereign custody of the state. Normatively, the primary regulatory objective of Government Regulation No. 48 of 2025 *juncto* Government Regulation No. 20 of 2021 is to legally compel holders of permits, concessions, business licenses, Rights to Manage (HPL), and foundational land tenure instruments to maintain active cultivation on their land. Non-compliance with this operational mandate results in the immediate enrollment of the property into the administrative inventory of suspected abandoned land.

Nevertheless, because the regulatory scope of Government Regulation No. 48 of 2025 comprehensively encompasses all categories of proprietary land rights—including the Right of Ownership (HM), Right of Use (HP), Right to Build (HGB), Right to Manage (HPL), Right to Build on Land Management Rights (HGB di atas HPL), and Right to Cultivate (HGU)—its operational enforcement invariably creates a direct normative collision with the stringent, non-discretionary statutory frameworks governing the divestment and relinquishment of public assets.

Article 40 stipulates the framework for TCUN as follows:

1. The utilization of State Reserve Land (TCUN) is earmarked for:
   a) Agrarian Reform (Reforma Agraria);
   b) National Strategic Projects (Proyek Strategis Nasional);
   c) The Land Bank (Bank Tanah);
   d) Other State Reserves; and
   e) Specific interests determined by the Minister.
2. The utilization of TCUN can be initiated based on proposals or information received from:
   a) Ministries or State Institutions;
   b) Regional Offices and Local Land Offices; and/or
   c) Regional Governments.
3. The utilization of TCUN must take into account:
   a) National Strategic Policies;
   b) Spatial Planning Schemes (Rencana Tata Ruang); and/or
   c) Land suitability and regional carrying capacity.
4. The utilization of TCUN is formally enacted by the Minister.

Implementation of Government Regulation Number 48 of 2025 against Land Ownership Rights

The Implementation of Government Regulation Number 48 of 2025 concerning the Management of Abandoned Areas and Land

Public property and government real estate, regardless of their certification status, are legally classified as State Asset Land. Within Indonesian jurisprudence, a sharp doctrinal distinction must be maintained between "State-Owned Land" (*Tanah Milik Negara*) and "State Land" (*Tanah Negara*). The former encapsulates sovereign property acquired through lawful budgetary allocations or legitimate acquisition mechanisms. Conversely, under the Basic Agrarian Law (UUPA), the latter represents land under the direct, unencumbered custody of the state, encompassing both primary and derivative jurisdictions.

Furthermore, any alienation of national or regional assets demands strict adherence to the doctrine of *juridisch levering* (legal delivery), which may manifest as a sale, asset exchange, grant, or capital contribution (*inbreng*), contingent upon prior legislative authorization from the House of Representatives (Dewan Perwakilan Rakyat, DPR). While a transfer of title alters the underlying ownership of State Asset Land, asset erasure (*penghapusan*) systematically deletes property from the official state asset registry. Constitutionally, the executive prerogative to alienate or delist state property is vested in the President, who delegates this authority to the Minister of Finance.

Given these normative tenets, implementing abandonment mechanisms under Government Regulation No. 48 of 2025 is functionally equivalent to unauthorized asset erasure. Should this administrative framework be applied to Right of Use (HP) or Right to Manage (HPL) certificates issued over state assets, an irreconcilable statutory conflict becomes inevitable. Accordingly, to insulate the principle of legal certainty from erosion, resolute and definitive measures are mandated within the sphere of land-law enforcement.

Land law enforcement in Indonesia is paramount as it serves as the final link in the closing cycle of land policy planning, which mandates the following:

1. Future land legislation must respond to public interests;
2. Land boundaries permissible for community agricultural management must be strictly and explicitly demarcated;
3. Land laws must be firmly enforced to provide a sense of justice for the public.
4. Land law enforcement must be administered without discrimination.

In the context of law enforcement, it is a well-established tenet that future agrarian legislation must align with public interests; however, the promulgation of Government Regulation (PP) No. 48 of 2025 demonstrates a profound misalignment with contemporary social needs. Under its current abandonment framework, a mere two-year period of non-utilization of certified land suffices as legal grounds for an abandonment decree. This raises a critical jurisprudential inquiry: If these property assets are secured by formal titles, what is the legal status of uncultivated registered holdings belonging to entities such as PT KAI (Persero), PT Pelindo, PT PLN, Perhutani, or various state ministries? Classifying these tracts as abandoned introduces a severe legal anomaly regarding non-consensual forfeiture and deprivation of state property rights.

Furthermore, while unencumbered State Land (*tanah Negara bebas*) permits any party holding an underlying claim (*alas hak*) to petition for a formal title based on continuous, good-faith occupancy, a distinctive legal paradox emerges when land remains unutilized, yet the original certificate retains full validity. Legally, the state cannot validly issue a new land title under a subsequent application while the original titleholder still possesses an active preferential right (*Hak Preferent*). Crucially, the fixed assets of State-Owned Enterprises (BUMN) and Regionally-Owned Enterprises (BUMD) are capitalized via the State Budget (APBN) and designated as segregated state equities. Consequently, allocating or certifying these corporate state assets to third parties without the explicit written authorization of both the Ministry of Finance and the Ministry of BUMN constitutes a prima facie unlawful alienation of state wealth.

Because the assets of State-Owned Enterprises (BUMN) and Regionally-Owned Enterprises (BUMD) are capitalized through the State Budget (APBN) as segregated state equity, any unauthorized conveyance or title certification of these fixed properties to third parties—absent the explicit endorsement of both the Ministry of Finance and the Ministry of BUMN—constitutes *prima facie* unlawful divestment of state wealth. To prevent unauthorized alterations during administrative investigations, once a parcel of land is placed under a *status quo* designation pending an official abandonment decree, a strict jurisdictional embargo is imposed.

Consequently, no administrative decisions, enforcement actions, or operational licenses may be legally issued by any authority other than the Head of the National Land Agency.
With respect to the Right of Ownership (*Hak Milik*), a formal declaration of abandonment necessitates a rigorous threshold: the property must be intentionally left unutilized, neglected, or unmaintained, culminating in continuous adverse possession by third parties or local communities for a minimum duration of 20 (twenty) years. Within this framework, establishing the element of "intent" (*dengan sengaja*) imposes a demanding burden of proof that must be substantiated through evidentiary facts. Given the profound procedural hurdles citizens face to secure a *Hak Milik* certificate, subjecting titleholders to state forfeiture merely due to a lack of immediate capital for physical construction—especially when they consistently fulfill their land tax obligations—inflicts disproportionate economic injury on lawful owners.
Pursuant to the established property law doctrine, a Freehold Title (*Hak Milik*) can only be legally classified as abandoned if it is willfully left unutilized, unexploited, or neglected, resulting in uninterrupted adverse possession by third parties or the public for 20 consecutive years. This requirement of willful intent operates as a strict legal presumption that demands concrete evidence. This high evidentiary threshold is vital, given the formidable administrative and financial hurdles citizens must surmount to secure a freehold certificate. It is inherently unjust for such hard-earned titles to be stripped due to mitigating or unforeseen circumstances that temporarily impede active utilization. In most instances, non-utilization stems from capital scarcity rather than an intention to abandon, as evidenced by landowners who remain fully compliant with their annual property tax obligations. Consequently, statutory mechanisms that summarily declare these properties abandoned cause disproportionate prejudice to legitimate landowners. Furthermore, the executive branch appears to have acted prematurely by imposing an undifferentiated two-year non-utilization threshold across diverse land tenures, including the Right to Manage (HPL), Right to Build (HGB), Right to Cultivate (HGU), and Freehold Title (HM). This sweeping administrative timeline triggers an automatic abandonment status that effectively amounts to regulatory expropriation or the non-consensual revocation of vested rights. Legally, any such deprivation of property must necessitate explicit, formalized proof of rights divestment via a Notarial Deed, rather than an immediate, arbitrary reversion to the State's domain. Constructing a presumption of intent regarding the waiver of rights remains an intricately complex issue in jurisprudence. A titleholder's inability to execute physical construction should never be automatically conflated with legal abandonment, provided that they preserve the property's legal nexus through continuous tax compliance. Under the classical doctrine of possession, immediate physical development within a strict, arbitrary timeframe is not a mandatory prerequisite for title security; thus, such lands cannot be validly categorized as "indicated abandoned land."
The enactment of Government Regulation No. 48 of 2025 concerning the Regulation of Abandoned Areas and Land is part of a regulatory continuum that traces back to the Regulation of the Head of the National Land Agency (BPN RI) No. 4 of 1991 on Land Consolidation. Land consolidation is defined as the restructuring of land possession, ownership, use, and utilization in accordance with regional spatial planning. This mechanism aims to provide land for housing and residential development, thereby enhancing environmental quality and preserving natural resources through public participation. The scope of land consolidation comprises non-agricultural state land and/or private land titles in both urban and rural areas, as expressly designated by the Head of the National Land Agency.
Status Quo Declaration & Abandoned Area Designation
When the land of right-holders is placed under a *status quo* designation and no official decree on abandoned land has been enacted, no administrative decisions, actions, or permits may be executed by any authority other than the Head of the National Land Agency (BPN). Any violation of this provision constitutes an abuse of competence (*detournement de pouvoir*) or an act exceeding authority (*ultra vires*) by the respective official. Pursuant to Paragraph 3 of Article 17 of Government Regulation No. 48 of 2025 concerning the Regulation of Abandoned Areas and Land, which operates under a 'status quo' mechanism, the chief executive of the issuing agency must deliver a written warning to the permit, concession, or business license holder, requiring them to optimize the cultivation of the land within 30 (thirty) calendar days.
Should the first warning be disregarded, the head of the agency is obligated to issue a second warning within a 30-day calendar period, followed by a third and final warning under the same 30-day timeframe.
If compliance is still not met after the third warning, the head of the agency officially designates the area as abandoned. This property is then recommended to the Head of the BPN Regional Office as a target for

abandoned land regulations. Within six months, the Head of the BPN Regional Office shall submit a proposal for the official Designation of Abandoned Land to the Minister of Agrarian Affairs and Spatial Planning.
"Article 19 paragraph (1) and (2) stipulate:

1. If the holder of a permit, concession, or conditional license fails to comply with the third written warning as provided under Article 17 paragraph (4), the Head of the agency shall designate the area as an abandoned area.
2. The designation of an abandoned area, as referred to in paragraph (1), shall incorporate the following: The revocation of the permit, concession, or conditional license; and/or The confirmation of the area as land directly controlled by the state."

These dual regulatory provisions induce a severe legal anomaly that fundamentally prejudices the institutional interests of State-Owned Enterprises (BUMN), regionally owned enterprises (BUMD), and various government organs. It is commercially and legally inconceivable for the executive leadership of a BUMN or BUMD to voluntarily acquiesce to the forfeiture of corporate real estate under the guise of abandonment decree. Such an administrative mechanism would legally compel these corporate entities to permanently derecognize immovable properties from their official financial statements and asset-liability balance sheets. Enactments that precipitate such destructive outcomes represent a profound policy failure, exposing systemic flaws in regulatory design. Because this statutory framework invariably generates severe financial and proprietary injuries, it is practically impossible for the highest administrative authorities within public institutions to comply with a mandate that forces such arbitrary asset deregistration.

The Ideal Reconstruction of Government Regulation Number 48 of 2025 concerning the Regulation of Abandoned Areas and Land is Expected to Provide Benefits and Legal Protection for the Community.

The comprehensive enforcement of Government Regulation No. 48 of 2025, regarding the Regulation of Abandoned Areas and Land, has ignited a profound jurisprudential controversy, primarily due to the systemic erosion of statutory protections for legitimate landholders. Under the doctrine of eminent domain, the state legitimately seeks to accelerate infrastructure targets, bolster food security, enhance economic resilience, and elevate public welfare through spatial planning and land optimization recalibration, in practice, this mechanism triggers a severe regulatory backlash that inadvertently stifles national development, particularly when enforced indiscriminately against public enterprises and private corporate entities possessing registered titles.

Profound legal and financial anomalies emerge when real estate is held by State-Owned Enterprises (BUMN)—officially recorded as sovereign wealth under the Directorate General of State Assets (DJKN) *cq.* the Ministry of Finance—is designated as abandoned solely because of a temporary lack of development capital within an arbitrary two-year window. This administrative approach destabilizes state asset inventory protocols. Under this framework, if an adverse possessor occupies and exploits the property without any legal privity with the rightful titleholder, the unauthorized party could potentially petition for a land title certificate pursuant to Government Regulation No. 48 of 2025 (promulgated on December 6, 2025). This statutory mechanism inflicts fatal proprietary and financial injuries on lawful landowners.

The executive's precipitous enactment of this Government Regulation precipitates distinct norm conflicts, jeopardizing the foundational principle of legal certainty (*rechtszekerheid*) while concurrently introducing the risk of involuntary delisting of registered government land assets from official public inventories. To remedy this, the scope of this Government Regulation must be structurally revised to focus exclusively on private landholdings that are demonstrably neglected—defined as being willfully abandoned for a reasonable statutory duration, such as five (5) consecutive years—and where ownership titles have not undergone formal upgrading. Only under these strict parameters should a parcel be classified as abandoned and designated unencumbered state land (*tanah Negara bebas*).

Furthermore, this statutory framework must explicitly exempt sovereign assets, including land held by BUMN, BUMD, *Swapraja* (autonomous regions), *Kota Praja* (municipalities), and *Swatantra* (self-governing territories). Because an abandonment decree functions to extinguish proprietary rights, sever the legal nexus between citizens and their property, and unilaterally revert the title to the State, the authority to issue such a decree must reside solely within the non-delegable prerogative of the Head of the National Land Agency

(BPN). Nevertheless, the current core of contention remains the critical absence of exhaustive statutory criteria required to definitively declare a property abandoned once the prescriptive *status quo* period expires.

CONCLUSION

The legal mechanism for classifying unmanaged and uncultivated properties as abandoned land prior to placing them under a *status quo* designation and subsequently enacting an official abandonment decree—faces substantial procedural hurdles in Brazil. Operationally, it is virtually impossible for the National Land Agency (BPN) to continuously monitor the vast expanse of both private and state-owned idle land. Consequently, the agency cannot abruptly impose a *status quo* on a property and summarily declare it abandoned. However, an exception may arise if a third party applies for a new land title based on continuous possession of idle land in good faith (*bona fide*), certified by local neighborhood authorities (*Rukun Tetangga/RT* and *Rukun Warga/RW*). In such instances, the new application must formally proceed through the standard statutory framework for title certificate issuance.

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