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Utilization of Abandoned Land under Government Regulation Number 48 of 2025 and Its Implications for Agrarian Reform

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Abstract

Land inequality in Indonesia remains a persistent structural issue, even as the government strengthens its policy on the control and utilization of abandoned land through Government Regulation No. 48 of 2025. This regulation authorizes the use of State Reserve Land (Tanah Cadangan Umum Negara/TCUN) for various purposes, including agrarian reform and national strategic projects, yet it does not establish a clear order of priority. The absence of such prioritization raises concerns about the direction of national agrarian policy and its consistency with the objective of equitable land distribution. This study examines the regulation of abandoned land utilization under Government Regulation No. 48 of 2025 from the perspective of legal certainty and evaluates its implications for the

implementation of agrarian reform as mandated by Presidential Regulation No. 62 of 2023. Employing a normative juridical method, the research applies statutory, conceptual, and historical approaches, with qualitative analysis based on systematic interpretation of relevant legal norms. The findings indicate that although agrarian reform is formally recognized as one of the objectives of TCUN utilization, the regulation lacks explicit normative safeguards to prioritize land redistribution amid persistent inequality. Broad administrative discretion in the transfer and allocation of land creates potential uncertainty in policy orientation. This study underscores the need for stronger normative integration between the abandoned land regime and agrarian reform policy to ensure that state land management advances social justice. Clear prioritization within TCUN utilization is essential to uphold the social function of land and the constitutional mandate of equitable distribution.

Keywords

Abandoned Land; Government Regulation No. 48 of 2025; Agrarian Reform; Legal Certainty; Land Utilization.

A. Introduction

Land has a very important position in Indonesian society because it functions as a living space, a means of production, and a support for national development. From an agrarian law perspective, land is not only understood as an economic object, but also has a social dimension attached to every right to it.¹ Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. This provision forms the basis for the enactment of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA), which in Article 2 paragraph (3) emphasizes that the state's right of control is used to achieve the greatest prosperity for the people, as stated in Article 6, and that every right to land has a social

¹ Nana Yogatiana and Mohammad Arief Hidayatullah, "Eksistensi Hak Tanah Ulayat Masyarakat Adat Dalam Hukum Tanah Di Indonesia," ANWARUL 2, no. 4 (2022): 323–33.

function. Thus, every state policy on land control and management must be directed towards the interests of the people and guarantee justice in the structure of land control.²

In practice, land management in Indonesia still faces various problems, one of which is the existence of abandoned land. Abandoned land is land that has been granted rights or control, but is not utilized in accordance with the purpose of granting those rights.³ This situation poses a problem because, on the one hand, there is unproductive land, while on the other hand, there are still many people who need land to meet their livelihood and economic needs. Abandoned land ultimately indicates that the social function of land rights, as intended by the Basic Agrarian Law, has not been optimally implemented.

The existence of abandoned land also has significant legal implications. Within the framework of the Basic Agrarian Law, every land right not only grants authority, but also carries with it the obligation to cultivate and utilize the land appropriately.⁴ Therefore, abandoned land can be viewed as a deviation from the purpose of granting land rights. The control of abandoned land is then understood as a legal instrument to restore the social function of land as well as part of the state's efforts to reorganize land ownership to be more equitable.⁵

In the context of regulating abandoned land, the previous government, through Government Regulation No. 20 of 2021, stated that land that has been deliberately left uncultivated, unused, unutilized, and unmaintained for two years since the issuance of the right to use the land may be taken over by the

² Setiyo Utomo, "Perjalanan Reforma Agraria Bagian Dari Amanah Konstitusi Negara," *Veritas et Justitia* 7, no. 1 (2021): 115–38.

³ Frency Siska, Eka An Aqimuddin, and Hasyim Adnan, "Hak Masyarakat Yang Menguasai Tanah Negara Berdasarkan Hukum Positif Indonesia," *Syar Hukum: Jurnal Ilmu Hukum* 19, no. 2 (2021): 149–74.

⁴ Hendra Sukarman and Wildan Sany Prasetya, "Degradasi Keadilan Agraria Dalam Omnibus-Law," *Jurnal Ilmiah Galuh Justisi* 9, no. 1 (2021): 17–37.

⁵ Amiratul Fatihah, "Kajian Hukum Penertiban Tanah Terlantar Menurut Peraturan Pemerintah Nomor 20 Tahun 2021 Tentang Penertiban Tanah Terlantar," *Jurnal Notarius* 2, no. 1 (2023).

state. A statement by the Head of the Public Relations and Protocol Bureau of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) in Kompas.com (July 18, 2025) confirmed that land that has not been utilized for two years will be identified by the state.⁶ This policy indicates strong state intervention in land that is considered not to be fulfilling its social function. However, at the same time, there has been no clear explanation regarding the priority framework for land utilization after it has been taken over by the state.

This issue has become increasingly relevant with the enactment of Government Regulation No. 48 of 2025. Article 38 paragraph (1) states that "In the context of utilizing Abandoned Areas, Permits/Concepts/Business Licenses that have been designated as Abandoned Areas may be transferred to other parties through transparent and competitive mechanisms." Furthermore, Article 40 paragraph (1) states that State Reserve Land (TCUN) can be utilized for agrarian reform, national strategic projects, Land Banks, other state reserves, and specific interests determined by the Minister.⁷ The regulation does not establish priorities or a hierarchy of utilization objectives, nor does it provide normative restrictions on who is meant by "other parties" in Article 38.

The lack of clarification regarding the subject and priorities of such utilization raises issues when linked to the principle of people's prosperity in Article 33 paragraph (3) of the 1945 Constitution and social functions in the Basic Agrarian Law. Land taken over by the state for failing to fulfill its social function is essentially an instrument for regulating land ownership irregularities.⁸ However, when the regulation

⁶ Kompas, "BPN Ungkap Kriteria Tanah Yang Bisa Dan Tak Bisa Diambil Negara Jika Dibiarkan Telantar 2 Tahun," Kompas.com, accessed February 10, 2026, <https://www.kompas.com/tren/read/2025/07/18/073000265/bpn-ungkap-kriteria-tanah-yang-bisa-dan-tak-bisa-diambil-negara-jika?page=all>.

⁷ Peraturan Pemerintah Nomor 48 Tahun 2025 tentang Penertiban Kawasan dan Tanah Terlantar

⁸ M Kasuma and Naufal Al-Hadi, "Reforma Agraria Dalam Upaya Optimalisasi Penyelesaian Sengketa Yang Berkeadilan Melalui

opens up the possibility of utilization for various interests on an equal footing without clarifying the main direction, there is uncertainty regarding the orientation of the agrarian policy to be achieved.

This issue becomes even more relevant when linked to the agrarian reform policy regulated in Presidential Regulation No. 62 of 2023. This regulation clearly defines the subjects of agrarian reform, namely individuals, community groups with joint ownership rights, customary law communities, and certain legal entities.⁹ Agrarian reform is designed as an instrument for restructuring land ownership in order to reduce inequality. However, in Government Regulation No. 48 of 2025, agrarian reform is only mentioned as one of the objectives of TCUN utilization, which is on par with national strategic projects and other interests. The clear disconnect between abandoned land as a potential object of agrarian reform and its utilization in the Government Regulation raises questions about the consistency of the direction of national agrarian policy.

Public data and reports show that the issue of land distribution and ownership in Indonesia still leaves significant inequality. Kompas.com (July 14, 2025) quoted a statement by the Minister of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) that 48% of 55.9 million hectares of land is controlled by 60 families in Indonesia.¹⁰ Kompas.com (January 18, 2025) also reported that 59 percent of land in Indonesia is controlled by one percent of the population, namely conglomerates.¹¹ On the other hand, the Central Statistics Agency noted that in 2023

Pembentukan Pengadilan Khusus,” *Jurnal Studia Legalia* 3, no. 02 (2022): 86–100.

⁹ Peraturan Presiden Nomor 62 Tahun 2023

¹⁰ Kompas, “Mengapa 60 Keluarga Bisa Kuasai Hampir Separuh Lahan Di Indonesia?,” Kompas.com, accessed February 10, 2026, <https://www.kompas.com/sulawesi-selatan/read/2025/07/14/051500888/mengapa-60-keluarga-bisa-kuasai-hampir-separuh-lahan-di>.

¹¹ Kompas, “Konglomerat Kuasai 59 Persen Tanah Di Indonesia, Apa Aksi Pemerintah?,” Kompas.com, accessed February 10, 2026, <https://www.kompas.com/properti/read/2025/01/18/200000721/konglomerat-kuasai-59-persen-tanah-di-indonesia-apa-aksi-pemerintah>.

there were 17,251,432 smallholder farmers who controlled less than 0.5 hectares of land.¹² This condition shows that there is a real need for the community to have access to land and the importance of state land utilization policies that favor equity.

In addition to inequality in land ownership, the issue of agricultural land depletion due to conversion also exacerbates the vulnerability of the national agrarian structure. Agricultural land conversion is seen as a serious threat to national food security because it has permanent, cumulative, and progressive impacts.¹³ Land conversion not only reduces the food production base, but also erodes the livelihoods of agrarian communities that depend on their land.

In the context of national development, the government is also encouraging the implementation of National Strategic Projects and the development of food estates in various regions. The statement by the Minister of Agrarian Affairs and Spatial Planning/National Land Agency in Kompas.com (December 31, 2024) regarding the potential of land prepared to support food self-sufficiency shows that state land, including land that has the potential to be designated as abandoned, can be directed for large-scale development interests.¹⁴ Although this policy is normatively aimed at the prosperity of the people, its orientation differs from agrarian reform, which specifically focuses on land redistribution to certain subjects. In this situation, the ambiguity of priorities in Articles 38 and 40 of Government Regulation No. 48 of 2025 raises questions about the direction of the policy on the utilization of abandoned land and its implications for the implementation of agrarian reform.

¹² Badan Pusat Statistik, "Jumlah Petani Pengguna Lahan Pertanian Dan Petani Gurem Menurut Wilayah, INDONESIA, Tahun 2023," 2023, <https://sensus.bps.go.id/topik/tabular/st2023/215>.

¹³ Suhadi Suhadi et al., "Aspek Kelembagaan Dalam Perlindungan Lahan Pertanian Pangan Berkelanjutan," Bookchapter Hukum Dan Politik Dalam Berbagai Perspektif, no. 2 (2023): 152–81.

¹⁴ Kompas, "Nusron Sebut Tanah Telantar Potensial 2024 Seluas 856.000 Hektar," Kompas.com, accessed February 10, 2026, <https://www.kompas.com/properti/read/2024/12/31/180000221/nusron-sebut-tanah-telantar-potensial-2024-seluas-856.000-hektar->.

Previous research by Nurhikmah entitled "The Role of the National Land Agency in the Control of Abandoned Land Based on Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land in Indragiri Hulu Regency".¹⁵ This study focuses on determining the role of the National Land Agency in controlling abandoned land based on Government Regulation No. 20 of 2021 concerning the Control of Abandoned Areas and Land in Indragiri Hulu Regency. In addition, this study also aims to identify the obstacles faced by the National Land Agency of Indragiri Hulu Regency in implementing the control of abandoned land. Unlike that study, this study shifts the focus of the study to the stage of utilizing abandoned land after it has been designated as state land. This study emphasizes the normative regulation of the utilization of abandoned land as stipulated in Government Regulation No. 48 of 2025 in terms of the principle of legal certainty. In addition, this study also examines the implications of the regulation of the utilization of abandoned land on the implementation of agrarian reform.

Previous research by Wardatul Muniroh Laili Saiful, et al., entitled "Utilization of Abandoned Land Based on the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Regulation No. 20 of 2021".¹⁶ This study focuses on the regulation of abandoned land utilization based on implementing regulations at the ministerial level, namely ATR/BPN Regulation No. 20 of 2021. This study aims to analyze the criteria for abandoned land and the procedures for its utilization as stipulated in the regulation. This study focuses on the interpretation of norms in the ATR/BPN Regulation, particularly those related to the stages of control,

¹⁵ Nurhikmah, "Peran Badan Pertanahan Nasional Dalam Penertiban Tanah Telantar Berdasarkan Peraturan Pemerintah Nomor 20 Tahun 2021 Tentang Penertiban Kawasan Dan Tanah Telantar Di Kabupaten Indragiri Hulu" (Fakultas Hukum Universitas Islam Negeri Sultan Syarif Kasim Riau, 2023).

¹⁶ Wardatul Muniroh Laili Saiful and Kholidazia Elhamzah Fathullah, "PEMANFAATAN TANAH TERLANTAR BERDASARKAN PERMEN AGRARIA DAN TATA RUANG/KEPALA BADAN PERTANAHAN NASIONAL NO. 20 TAHUN 2021," *Justness: Jurnal Hukum Politik Dan Agama* 4, no. 1 (2024).

the determination of State Reserve Land (TCUN), and the technical mechanisms for the utilization of abandoned land. Unlike the previous study, this study does not focus on the technical procedures for the utilization of abandoned land based on ministerial regulations, but rather examines the regulations on the utilization of abandoned land in Government Regulation Number 48 of 2025 as a higher-level norm. This study focuses on analyzing the legal certainty of the regulation on the utilization of abandoned land, particularly in relation to policy direction and clarity of priorities for land utilization after it has been designated as state land. In addition, this study links the regulation on the utilization of abandoned land with its implications for the implementation of agrarian reform.

This study aims to analyze and evaluate the provisions on the utilization of abandoned land in Government Regulation No. 48 of 2025 from the perspective of the principle of legal certainty, particularly regarding the clarity of the norm concerning the recipient referred to as "other parties", the hierarchy of objectives for the utilization of State Reserve Land (TCUN), and the normative limitations on the phrase "specific interests determined by the Minister". In addition, this study also aims to identify and examine the legal implications of the regulation on the utilization of abandoned land in PP No. 48 of 2025 on the implementation of agrarian reform policies as stipulated in Presidential Regulation No. 62 of 2023, in order to determine whether the regulation supports, hinders, or even creates uncertainty for the agrarian reform agenda in Indonesia. Thus, this study is expected to contribute to the strengthening of policies on the utilization of abandoned land that are fair and in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the social function of land rights in Law No. 5 of 1960 concerning Basic Regulations on Agrarian Principles.

This research is a normative legal study (juridical normative) that focuses on law as a norm embodied in legislation, legal principles, and legal doctrine.¹⁷ The

¹⁷ Yati Nurhayati, Ifrani Ifrani, and M Yasir Said, "Metodologi Normatif Dan

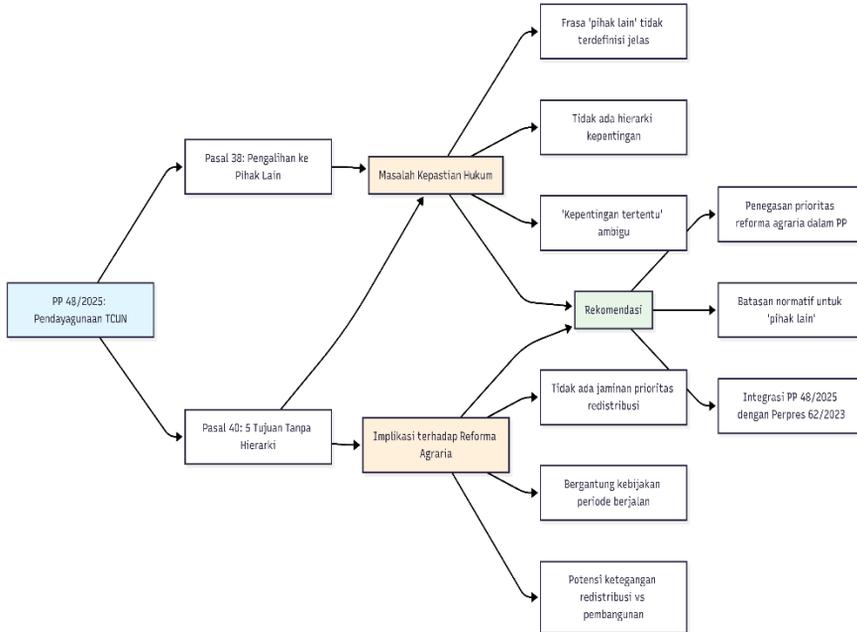
approaches used in this study include three approaches, namely the statute approach by systematically examining Government Regulation Number 48 of 2025, Presidential Regulation Number 62 of 2023, the Basic Agrarian Law, and other related regulations; the conceptual approach by reviewing legal concepts such as the principle of legal certainty, the social function of land rights, agrarian reform, and state control over land; and the historical approach by tracing the development of abandoned land regulation from previous regulations to Government Regulation Number 48 of 2025 to understand policy changes and continuity.

This research was conducted through library research by collecting, selecting, and classifying primary legal materials in the form of legislation, secondary legal materials in the form of textbooks, scientific journals, previous research results, and scientific articles.¹⁸ All legal materials are analyzed qualitatively using the legal interpretation method and legal argumentation techniques to determine the presence or absence of norm ambiguity, legal gaps, or regulatory disharmony in Government Regulation Number 48 of 2025, particularly regarding the direction of policies on the utilization of abandoned land and its implications for agrarian reform. The analysis is conducted descriptively-prescriptively, which is to provide an in-depth description of existing regulations while also giving assessments and recommendations on the regulations that should be in place based on the principles of legal certainty and agrarian justice.

Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021): 1–20.

¹⁸ David Tan, "Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum," *Nusantara: Jurnal Ilmu Pengetahuan Sosial* 8, no. 8 (2021): 2463–78.

Figure 1 Conceptual Framework: The Relationship between Regulation and Legal Implications



Source: Researcher's Analysis, 2026

The conceptual framework shows that the regulation of the utilization of abandoned land in Government Regulation Number 48 of 2025 becomes the main normative focus tested based on the principles of legal certainty and agrarian justice, and then its implications for the direction of agrarian reform implementation are analyzed.

B. Regulation of the Utilization of Abandoned Land in Government Regulation Number 48 of 2025 and the Problems of Legal Certainty

1. The Status of Abandoned Land and State Authority in Land Management

The status of abandoned land in the Indonesian agrarian law system cannot be separated from two main foundations, namely the state's right of control and the social function of land rights. The state's right of control as regulated in Article 2 of the UUPA is not interpreted as state ownership of all land.

On the contrary, this provision positions the state as the holder of public authority to regulate the allocation and use of land, as well as to establish and control legal relations between legal subjects and land, with the ultimate goal of realizing the prosperity of the people.¹⁹ This authority is directly rooted in Article 33 paragraph (3) of the 1945 Constitution which states that the earth and water are controlled by the state and must be utilized to the greatest extent for the welfare of the people.

Meanwhile, the social function as emphasized in Article 6 of the Basic Agrarian Law implies that every right to land is always burdened with the obligation to be cultivated, used, and maintained according to the purpose of granting the right.²⁰

When the rights holder allows their land to remain uncultivated, the issue no longer stops at the private relationship between themselves and the land. The impact spreads. Neglected land hinders the utilization of resources, deepens disparities in ownership, and often triggers agrarian conflicts.²¹ Therefore, the state cannot remain passive. The regulation of neglected land functions as a corrective instrument. The state revokes ownership rights that ignore social functions, then takes over the land to direct it towards a more just use that favors the public interest.

Since the enactment of Government Regulation Number 36 of 1998, the regulation of neglected land has experienced a fairly fundamental shift in the character of state authority. This regulation was born at the beginning of the reform era with a relatively simple approach. The state emphasizes the obligation of rights holders to immediately utilize their land and opens up room for regulation if the land is not used according to its designated purpose.²² However, from an

¹⁹ Fx Sumarja et al., "Problematika Perlindungan Lahan Pertanian Berkelanjutan Pasca Undang-Undang Cipta Kerja," SASI 27 (December 31, 2021): 492, <https://doi.org/10.47268/sasi.v27i4.562>.

²⁰ Undang-undang (UU) Nomor 5 Tahun 1960

²¹ Kasuma and Al-Hadi, "Reforma Agraria Dalam Upaya Optimalisasi Penyelesaian Sengketa Yang Berkeadilan Melalui Pembentukan Pengadilan Khusus."

²² Peraturan Pemerintah Nomor 36 Tahun 1998

institutional perspective, the mechanism is still limited. The identification and designation of idle land rely on the routine tasks of the Land Office, without support from an integrated database. Coordination between agencies also does not yet have clear parameters. As a result, the process of identification and assessment often depends on interpretation, so legal certainty is not yet fully guaranteed.

Government Regulation Number 11 of 2010 reinforces the previous framework. This regulation clarifies the object of regulation, establishes certain exceptions, and introduces a status quo mechanism to prevent manipulation during the ongoing process.²³ Government Regulation No. 11 of 2010 also regulates the direction of the use of state land originating from idle land. The state can use it for agrarian reform, to support strategic programs, or keep it as a state reserve. This regulation indeed has not established a clear scale of priorities. However, it still provides a clear limit, namely that before the government legally determines its allocation, the land must not return to being subject to licensing.

Significant changes appeared in Government Regulation Number 20 of 2021 through the introduction of the concept of State General Reserve Land (TCUN). Once the government designates land as abandoned, the state immediately takes possession of it and places it as a strategic reserve. From this position, the state can immediately utilize TCUN for agrarian reform, national strategic projects, the Land Bank, or other state reserve needs.²⁴ This change marks a shift in policy direction. The state no longer solely uses enforcement as a tool for correcting violations of social functions. Now, the government is building a more flexible and strategic land reserve management regime through state land schemes.

The strengthening of state capacity in the stage of regulation is not only seen in norms, but also in administrative achievements. The 2022 Performance Report of the Directorate General of Land and Spatial Control and Regulation recorded a target of regulating idle land covering

²³ Peraturan Pemerintah Nomor 11 Tahun 2010

²⁴ Peraturan Pemerintah Nomor 20 Tahun 2021

325,000 hectares with a realization of around 19,833 hectares, as well as follow-up regulation of about 7,750 hectares.²⁵ The data show that the country actively identifies and designates idle land through structured procedures. However, the gap between targets and realization indicates that the regulation often faces obstacles in the field. This situation becomes crucial after the land is back under state control. The government must immediately determine its utilization direction clearly and measurably. Without that certainty, the success of regulation does not automatically promote the realization of agrarian justice as the core social function of land.

The latest developments further confirm this strengthening. By early 2026, the government stated that it had taken over around 27,000 hectares of land designated as abandoned since 2020. In fact, the regularization process that previously could take up to 585 days was shortened to around 100 days under the latest regulatory regime.²⁶ The acceleration of these procedures emphasizes that the state is now firmer and more efficient in reclaiming land that neglects its social function. Therefore, the main issue in the idle land regime no longer lies in a lack of authority or weak enforcement capacity.

Government Regulation Number 48 of 2025 continues this strengthening by clarifying the stages of evaluation, warning, and determination. The government assesses the rights documents, utilization plans, and factual conditions on the ground before determining their status. Once determined, the rights holder is required to vacate the land within 30 days;

²⁵ DIREKTORAT JENDERAL PENGENDALIAN DAN PENERTIBAN TANAH DAN RUANG, "LAPORAN KINERJA SEKRETARIAT DIREKTORAT JENDERAL PENGENDALIAN DAN PENERTIBAN TANAH DAN RUANG TAHUN 2022," DIREKTORAT JENDERAL PENGENDALIAN DAN PENERTIBAN TANAH DAN RUANG, 2022, <https://djppttr.atrbpn.go.id/buku/laporan-kinerja-sekretariat-direktorat-jenderal-pengendalian-dan-penertiban-tanah-dan-ruang-tahun-2022>.

²⁶ Kumparan, "Menteri ATR/BPN Sita 27.000 Hektare Tanah Telantar Sejak 2020," kumparanNEWS, accessed February 15, 2026, <https://kumparan.com/kumparannews/menteri-atr-bpn-sita-27-000-hektare-tanah-telantar-sejak-2020-26nxqlqHVjp/full>.

otherwise, the objects on it can be declared as abandoned assets.²⁷ These provisions show that the state not only has normative legitimacy, but also strong administrative instruments to enforce the social functions of land.

Table 1 Evolution of Regulations for the Handling of Abandoned Land in Indonesia

Regulations	Year	Main Focus	Policy Innovation	Normative Weaknesses
Government Regulation No. 36/1998	1998	Obligation of land utilization by rights holders	First regulation on the control of abandoned land	Identification mechanism still depends on interpretation
Government Regulation No. 11/2010	2010	Confirmation of the objects of regulation & the status quo mechanism	Clarifying exceptions & preventing manipulation	Priority scale for utilization has not been determined
Government Regulation No.	2021	Introduction of the TCUN concept	Flexibility in state land management	Wide scope for administrative

²⁷ Peraturan Pemerintah Nomor 48 Tahun 2025

20/2021			ent	discretion
Government Regulation No. 48/2025	2025	Utilization of TCUN & acceleration of procedures	30-day deadline for land clearance	No hierarchy of utilization priorities

Source: Researcher's Analysis, 2026

The TCUN concept can be seen as an innovative step to prevent land resulting from reorganization from becoming abandoned again. However, when the government does not set clear limits and priorities, that flexibility actually expands the scope of administrative discretion.

Within the framework of the state's right to control aimed at the prosperity of the people, regulation should not stop at mere takeover. The state must continue it with utilization that clearly leads to agrarian justice. Without a clear orientation, the TCUN regime may lose its corrective function. It has the potential to transform from a tool for enforcing the social function of land into an administrative mechanism for managing state land.

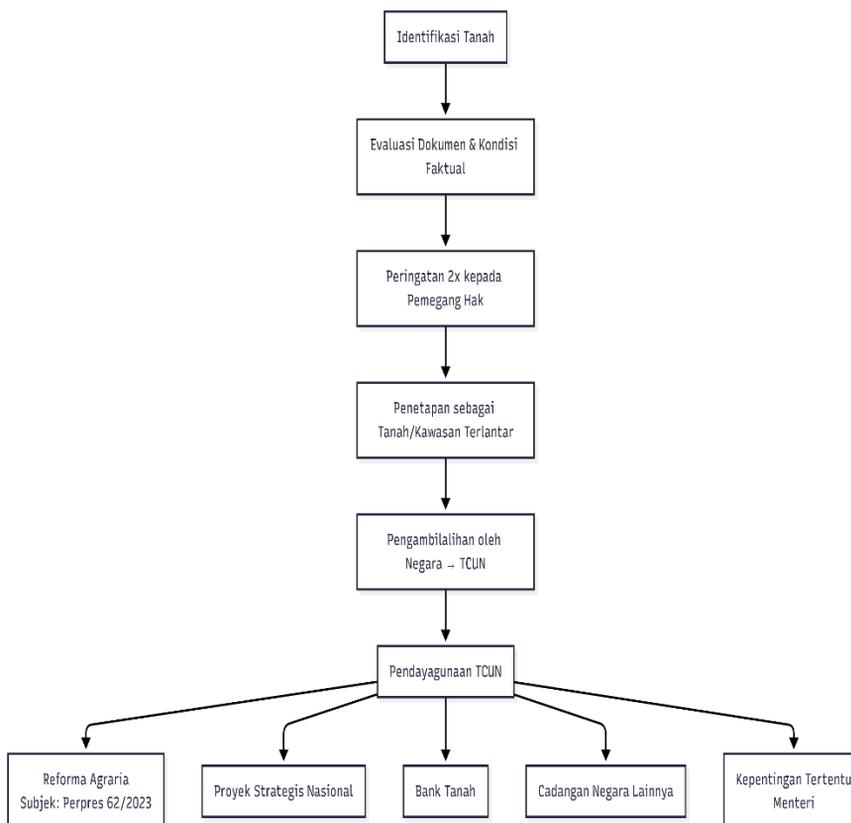
2. Mechanism for Utilizing Abandoned Land After Designation

Utilization becomes the most crucial stage in the neglected land regulation regime. After the government designates a plot as Neglected Land or Abandoned Area, any previously attached rights or permits are nullified. The state severs the legal relationship between the rights holder and the land, then asserts direct control over the land.²⁸ From the perspective of agrarian law, this not only reflects administrative changes. The state is transferring the

²⁸ Fatihah, "Kajian Hukum Penertiban Tanah Terlantar Menurut Peraturan Pemerintah Nomor 20 Tahun 2021 Tentang Penertiban Tanah Terlantar."

legitimacy of control, and this step requires a clear policy direction. This is where Article 38 paragraph (1) and Article 40 paragraph (1) of Government Regulation Number 48 of 2025 become key. Both provisions determine whether land withdrawn due to violations of social functions is genuinely directed towards agrarian justice, or instead managed as a flexible development reserve without clear priorities.

Figure 2 Process of Regularization and Utilization of Abandoned Land



Source: Researcher's Analysis, 2026

Article 38 paragraph (1) states that licenses, concessions, or business permits that have been designated as Abandoned Areas can be transferred to other parties through a transparent and competitive mechanism.²⁹ From a policy perspective, this provision reflects the state's desire to

²⁹ Peraturan Pemerintah Nomor 48 Tahun 2025

immediately reactivate land that was previously neglected. The government does not want the land regulated again to remain stagnant due to a lack of management. However, from a legal certainty standpoint, its formulation raises fundamental issues. The regulation does not provide a clear limit on the phrase "other parties." It does not clarify whether it refers to agrarian reform subjects, state-owned enterprises, cooperatives, national private business entities, or large corporations. The article's explanation only requires adequate capability and resources and does not provide objective parameters that can be legally tested.

This uncertainty makes land transfer highly dependent on the subjectivity of the authorities. Since regulations do not establish measurable criteria for "capability" and "resources," it is difficult for the public to assess who is worthy of receiving the land. From a legal certainty perspective, this situation is problematic. The norms do not provide clear boundaries, even though once the land is back under state control, its management direction should be clear and controlled.

The phrase "transparent and competitive mechanisms" also raises questions. The principle is indeed in line with good governance, but Government Regulation Number 48 of 2025 does not elaborate on its concrete form. The regulation does not explain whether the transfer is carried out through an open tender, administrative selection, or other schemes that consider social and redistributive dimensions. As a result, the implementation standards are entirely dependent on the applicable technical arrangements and sectoral policies.

The issue becomes increasingly complex when associated with Article 40 paragraph (1) which regulates the utilization of State General Reserve Land (TCUN). This norm mentions five purposes for utilization, namely for agrarian reform, national strategic projects, the Land Bank, other state reserves, and specific interests determined by the Minister.³⁰ The regulation places all five objectives on an equal footing, without any order of priority. The norm does not assert

³⁰ Peraturan Pemerintah Nomor 48 Tahun 2025 tentang Penertiban Kawasan dan Tanah Terlantar

agrarian reform as the main objective or one that should be prioritized. As a result, the direction of utilization becomes very open and in practice depends on the administrative policies in effect during a certain period.

Utilization data from TCUN shows that this flexibility is real in practice. As of 2024, it is recorded that out of a total of 33,654.01 hectares of land inventoried as a result of land regularization, around 11,257.44 hectares were allocated for agrarian reform, 15,976.81 hectares for the Land Bank, 721.09 hectares for National Strategic Projects, and 4,637.29 hectares for other state reserves.³¹ This condition indicates that the land resulting from regulation is not locked into a particular orientation. Although agrarian reform receives a fairly large allocation, the largest portion is actually diverted to the Land Bank. This fact confirms that the direction of utilization is highly dependent on current period policies, because Article 40 does not stipulate which objectives should be prioritized first.

Table 2 TCUN Utilization Allocation (Data up to 2024)

Utilization Purpose	Area (Hectares)	Percentage	Description
Agrarian Reform	11,257.44	33,4%	For redistribution to TORA subjects
Land Bank	15,976.81	47,5%	State strategic reserves

³¹ DIREKTORAT JENDERAL PENGENDALIAN DAN PENERTIBAN TANAH DAN RUANG, "Upaya Strategis Wujudkan Tertib Tanah Dan Ruang Di Era Kemudahan Berusaha," DIREKTORAT JENDERAL PENGENDALIAN DAN PENERTIBAN TANAH DAN RUANG, accessed February 15, 2026, <https://djppttr.atrbpn.go.id/berita/upaya-strategis-wujudkan-tertib-tanah-dan-ruang-di-era-kemudahan-berusaha>.

National Strategic Projects	721.09	2,1%	Infrastructure & food estate
Other National Reserves	4,637.29	13,8%	Central/local government needs
Total	33,654.01	100%	

Source: DJPPTR ATR/BPN, 2024

In legal doctrine, legal certainty should not be understood merely as the existence of written rules. Law must also provide a clear and consistent direction in its regulation. Van Apeldoorn emphasizes that the law must provide definite determination of concrete events, so that every legal subject can clearly understand the consequences of a provision.³² In Article 40 of Government Regulation Number 48 of 2025, the purpose of utilization is indeed explicitly stated. However, without a hierarchy of priorities, the norm does not provide binding guidance. Subjects of agrarian reform are not guaranteed that redistribution will be prioritized, because the regulation allows equal space for other purposes and opens up the category of "specific interests" without clear limits.

Thus, Articles 38 and 40 show a similar pattern. Both expand the scope of discretion without establishing binding normative priorities. The state indeed emphasizes the regulation procedure and strengthens the capacity for acquisition. However, when entering the stage of utilization, the policy direction is actually opened widely.

3. The Ambiguity of Norms in Regulating Subjects and Utilization Priorities

The principle of legal certainty (*rechtssicherheit*) is one of

³² Try Widiyono and Md Zubair Kasem Khan, "Legal Certainty in Land Rights Acquisition in Indonesia"s National Land Law," LAW REFORM; Vol 19, No 1 (2023)DO - 10.14710/Lr.V19i1.48393 , August 9, 2023, <https://ejournal.undip.ac.id/index.php/lawreform/article/view/48393>.

the pillars of a state governed by law. Gustav Radbruch places legal certainty as a fundamental value of law alongside justice and utility.³³ Legal certainty requires clear norms, does not allow for multiple interpretations, and provides predictable guidance. Without it, the law loses its sense of direction. Sudikno Mertokusumo emphasizes that legal certainty is a prerequisite for the enforcement of the law itself. It serves to protect seekers of justice from arbitrary actions, while also ensuring that everyone can obtain what is legally their right or expectation in a given situation.³⁴ With this size, the provisions in Article 38 and Article 40 of Government Regulation Number 48 of 2025 need to be tested normatively.

The first ambiguity lies in the phrase "other party" in Article 38 paragraph (1). In the theory of legal certainty, a norm must meet the condition of determinacy, which is the ability of the norm to clearly determine who the intended subject is. Van Apeldoorn states that the law must provide a definite determination regarding the subject and its legal consequences.³⁵ When a norm uses terms that are too general without category limits, it loses its determinative nature. The phrase "the other party" is not accompanied by classification or substantive criteria. The regulation does not explain whether it refers to agrarian reform subjects, certain business entities, or entities with specific characteristics.

The difference in clarity levels between the subject of agrarian reform and the phrase "other parties" can be determined as follows.

Table 3 Comparison of Agrarian Reform Subjects vs "Other

³³ "Dialektika Keadilan, Kepastian, Kemanfaatan Hukum Dalam Perspektif Gustav Radbruch Pada Hukum Indonesia," *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN : 3031-8882 3, no. 1 SE-Articles (December 7, 2025): 357–67, <https://doi.org/10.62379/qy4b6z80>.

³⁴ Siti Halilah and Mhd Fakhurrahman Arif, "Asas Kepastian Hukum Menurut Para Ahli," *Siyasah: Jurnal Hukum Tata Negara* 4, no. II (2021).

³⁵ Christiana Sri Murni, Bernadus Basa Kelen, and Sumirahayu Sulaiman, "The Legal Certainty of Land Ownership Right in Registration'S Context," *International Journal of Law Reconstruction* 6, no. 1 (2022): 13, <https://doi.org/10.26532/ijlr.v6i1.16422>.

Parties"

Aspect	Subject of Agrarian Reform (Presidential Regulation 62/2023)	"Other Parties" (Article 38 of Government Regulation 48/2025)
Definition	Individuals, community groups, customary law communities, certain legal entities	Not defined normatively
Recipient Criteria	Meet poverty/land access criteria	"Adequate capacity and resources"
Legal certainty	Clear and measurable	Vague and subjective
Policy Orientation	Redistributive & equitable	Flexible & discretionary

Source: Researcher's Analysis, 2026

This uncertainty becomes crucial because the object being regulated is land that is withdrawn due to violations of its social function. Within the framework of the Basic Agrarian Law (UUPA), the social function is not merely a declarative principle, but a concrete basis for limiting land rights. If the state revokes rights because the holder neglected the social function, then logically the subsequent transfer must restore that function. However, Article 38 does not link the recipient subject to the corrective purpose of the regulation. This norm does not guarantee that the transfer will align with the fundamental reason for revoking the rights. Here, the discontinuity between the normative foundation of the regulation and the direction of land transfer after it returns to state control becomes apparent.

From the perspective of legal certainty, norms that do not link the recipient with their fundamental purpose risk creating structural uncertainty. Legal subjects do not gain clarity about who is entitled or prioritized to receive the transfer. The rules do exist, but they remain at the formal level and lose their substantive content.

The second ambiguity appears in Article 40 paragraph (1) which places five objectives for the utilization of TCUN without a priority order. In fact, in the theory of legal certainty, clarity not only concerns the definition of terms, but also the structure of regulation. When a norm contains several objectives, it must indicate which is prioritized so that the policy direction can be predicted.

Article 40 places all utilization objectives at the same level without establishing a hierarchy of priorities. In the context of land resulting from regularization, this choice raises a conceptual issue. The land returns to the state because it previously did not fulfill its social function. Logically, its use should be directed to correcting land ownership imbalances. However, the norm does not assert agrarian reform as the main priority. As a result, the direction of utilization is more determined by the policies of the current period than by consistent normative directives.

The third ambiguity appears in the phrase "certain interests determined by the Minister". In the theory of legal certainty, every norm must have a recognizable limit. Here, that limit is not apparent. The regulation does not provide criteria regarding the type of interests referred to, whether they must be public, urgent, strategic, or have a certain character. Without clear parameters, the phrase becomes an open norm that is flexible and easily subject to expanded interpretation.

It should be emphasized that administrative law does not prohibit open-ended norms. Regulators often provide flexibility so that the government can adjust policies according to the dynamics of public needs. However, flexibility must still be accompanied by boundaries that can be tested objectively. Without clear parameters, open-ended norms can easily turn into overly broad discretion. Under such conditions, the direction of policy is determined more by the

judgment of officials than by the normative guidelines that have been previously established.

According to the school of legal positivism, law must be expressed in written rules, formulated clearly, and applied consistently. Thus, the validity of the law does not depend on the personal will of the ruler, but relies on norms that have been officially established.³⁶

In administrative law, authority that is not clearly limited is at risk of leading to abuse of power (*detournement de pouvoir*).³⁷ Deviation does not always appear in the form of blatant legal violations. It can emerge when officials use authority for purposes that diverge from the basis of its establishment. If the state regulates land due to a violation of social function, then its utilization must reinforce that function. Without clear boundaries, the authority of utilization can shift to policy agendas that are not directly related to the corrective purpose of regulation.

If these three aspects are read as a whole, it appears that the regulations regarding the recipient subjects and the prioritization of utilization are still unclear. The regulation does not specify who should be prioritized, does not determine which objectives should come first, and also does not clearly limit the meaning of "certain interests". From the perspective of the principle of legal certainty, this situation shows that the utilization mechanism does not yet have a clear, consistent, and predictable direction in its implementation.

In a state based on law, every extensive authority must be strictly limited. The state expropriates neglected land on the grounds of social function and the welfare of the people. Therefore, its utilization should also be locked into the same objectives. If regulations do not set clear limits and priorities,

³⁶ Jefrianus Tamo Ama, "Asas Legalitas Dalam Hukum Pidana Dan Hukum Tata Negara," *Indonesiana.id*, accessed February 16, 2026, <https://www.indonesiana.id/read/191390/asas-legalitas-dalam-hukum-pidana-dan-hukum-tata-negara>.

³⁷ Fauzan Zakir, "Relevansi Hukum Administrasi Negara Sebagai Instrumen Mewujudkan Pemerintahan Yang Responsif," *Journal of Global Legal Review* 3, no. 2 SE-artikel (December 30, 2025): 95–106, <https://doi.org/10.59963/jglegar.v3i2.583>.

the redistributive orientation loses its normative guarantee. This is where the crucial point of regulating the utilization of neglected land in Government Regulation Number 48 of 2025 lies. The problem is not only in the implementation but is already embedded in its normative design.

C. Implications of the Regulation on the Utilization of Abandoned Land for the Implementation of Agrarian Reform

1. *Agrarian Reform within the Framework of Presidential Regulation Number 62 of 2023*

In national policy, agrarian reform is no longer narrowed down to the division of land. The state designs it as a systematic program to reorganize the structure of land control and ownership. Presidential Regulation Number 62 of 2023 emphasizes two main approaches, namely asset arrangement and access arrangement. Through asset arrangement, the government distributes land or legalizes assets for entitled subjects. After that, access arrangement encourages economic empowerment so that the land received truly improves their welfare.

Presidential Regulation 62 of 2023 clearly regulates who can become the Subject of Agrarian Reform. Article 19 paragraph (1) mentions four categories, namely individuals, community groups with joint ownership, indigenous peoples, and legal entities.³⁸ This formulation emphasizes that agrarian reform is not open to everyone, but rather is aimed at subjects who have been determined. An individual generally refers to a person who meets the criteria for redistribution recipients, especially those who are landless or only control land on a very limited scale. Community groups open up space for collective ownership schemes. Meanwhile, recognition of customary law communities indicates that agrarian reform also aims to strengthen communal rights.

The direction of agrarian reform is increasingly emphasized through Presidential Instruction Number 8 of

³⁸ Peraturan Presiden Nomor 62 Tahun 2023

2025 concerning the alleviation of extreme poverty.³⁹ This policy directly links the designation of Agrarian Reform Object Land (TORA) with the poverty alleviation agenda. The government prioritizes recipients from groups in the DTKS deciles 1 and 2, namely the very poor and the poor and vulnerable who depend on land for their livelihoods, such as farmers and farm laborers. In fact, the government targets at least one million poor people to benefit from land redistribution through the TORA scheme.⁴⁰

This policy asserts that agrarian reform is not only based on the normative foundation in Presidential Regulation No. 62 of 2023, but is also more specifically directed as an instrument for the distribution of production assets to poor groups. Land designated as TORA is not intended solely for legalization. The government expects it to serve as a means of increasing income and strengthening the economic independence of the recipients.

From the perspective of land acquisition sources, Presidential Regulation 62 of 2023 stipulates that TORA can come from forest areas, non-forest areas, as well as the results of agrarian conflict resolution. In the category of non-forest areas, it is explicitly mentioned that state land from abandoned land utilized through agrarian reform is included as a source of TORA.⁴¹ Thus, normatively, abandoned land is part of TORA resources, as long as it has been designated as state land and allocated through the agrarian reform mechanism.

Data on the implementation of agrarian reform shows that this program has been carried out on a large scale. The realization of TORA resource provision from forest areas through the Land Control Settlement Program within the framework of Forest Area Arrangement (PPTPKH) has

³⁹ Instruksi Presiden Nomor 8 Tahun 2025

⁴⁰ KEMENTERIAN AGRARIA DAN TATA RUANG BADAN PERTANAHAN NASIONAL, "Jalankan Inpres 8/2025, Pemerintah Sepakat Tetapkan TORA Untuk Menanggulangi Kemiskinan Ekstrem," KEMENTERIAN AGRARIA DAN TATA RUANG BADAN PERTANAHAN NASIONAL, accessed February 17, 2026, <https://www.atrbpn.go.id/berita/jalankan-inpres-82025-pemerintah-sepakat-tetapkan-tora-untuk-menanggulangi-kemiskinan-ekstrem>.

⁴¹ Peraturan Presiden Nomor 62 Tahun 2023

reached 3.04 million hectares, or about 73 percent of the national target of 4.1 million hectares by October 2025. Of this amount, around 1.58 million hectares are allocated for settlements, transmigration, and community-managed land. In addition, 224 Decrees have been issued with a total area of 373,979 hectares covering more than 280 thousand land parcels.⁴² This achievement shows that agrarian reform is a concrete policy agenda and continues to be carried out.

Within this framework, fallow land has a strategic position as one of the resources that can strengthen the implementation of agrarian reform. However, because its position is on par with other resources, the direction of its utilization still depends on policies that determine whether the land is allocated for redistribution to agrarian reform subjects or directed for other purposes.

2. Agrarian Reform VS National Strategic Projects

Article 40 paragraph (1) of Government Regulation Number 48 of 2025 places agrarian reform, the National Strategic Project (PSN), the Land Bank, other state reserves, and certain interests determined by the Minister in one formulation of equivalent norms.⁴³ These provisions do not establish a hierarchy of priorities. Agrarian reform is indeed explicitly mentioned, but it is not positioned as a goal that must be prioritized. The norm allows for a wide range of policy options at the stage of utilizing the State's General Reserve Land (TCUN).

At the same time, the national development policy for the 2025–2029 period shows a significant strengthening of the agenda for National Strategic Projects. Presidential Regulation Number 12 of 2025 concerning the RPJMN 2025–2029 explicitly includes national strategic projects as

⁴² Admin Prpolitik, "Pemerintah Capai 73% Target TORA Kawasan Hutan, 3,04 Juta Hektare Lahan Dilegalisasi Melalui PPTPKH," prpolitik.com, accessed February 17, 2026, <https://prpolitik.com/pemerintah-capai-73-target-tora-kawasan-hutan-304-juta-hektare-lahan-dilegalisasi-melalui-pptpkh/#:~:text=Berdasarkan data Kementerian Kehutanan%2C realisasi penyediaan sumber,mencapai 3%2C04 juta hektar%2C atau 73%25 dari.>

⁴³ Peraturan Pemerintah Nomor 48 Tahun 2025 tentang Penertiban Kawasan dan Tanah Terlarang

part of the development strategy and requires all development actors to support their implementation.⁴⁴ The government even established 77 National Strategic Projects, consisting of ongoing and new projects, covering the food, energy, industrial area sectors, downstreaming of natural resources, and development of certain strategic areas.⁴⁵

Some of these PSNs are based on land needs on a large scale. The food estate development program in Merauke, for example, includes the development of sugarcane plantations and bioethanol covering 500,000 hectares, land optimization up to 100,000 hectares, as well as the creation of new rice fields covering one million hectares.⁴⁶ This scale shows that national development policies in the current period place land ownership and utilization as the main instruments for achieving food self-sufficiency and economic resilience. This orientation is expansive and focuses on increasing production on a large scale.

On the other hand, agrarian reform within the framework of Presidential Regulation Number 62 of 2023 has a different character. Agrarian reform is designed as a redistributive policy. The government reorganizes land ownership structures through redistribution to subjects who have been normatively designated, such as individuals who are landless or have insufficient land, community groups, indigenous peoples, and certain legal entities. Its main goal is not merely to increase production, but to improve inequalities in land ownership and strengthen economic access for vulnerable groups.

This difference in character is important to pay attention to. PSN is oriented toward accelerating development and

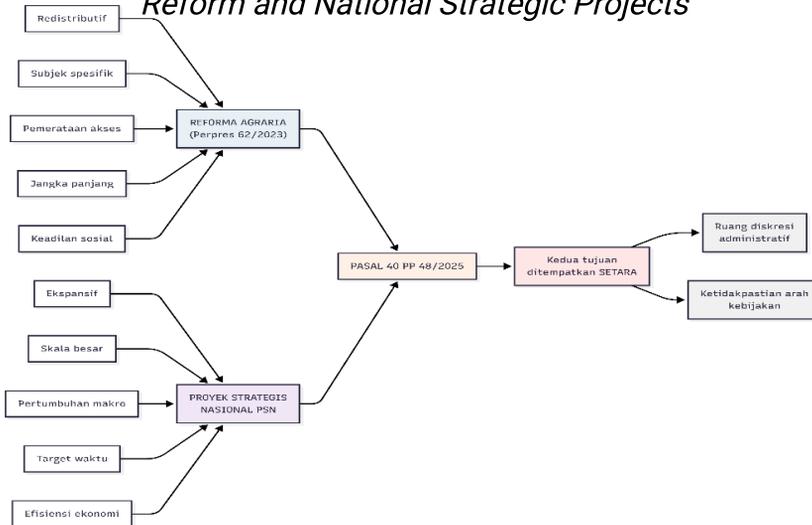
⁴⁴ Peraturan Presiden Nomor 12 Tahun 2025

⁴⁵ Kompas, "Ini Daftar Lengkap 77 Proyek Strategis Nasional 2025-2029," Kompas.com, accessed February 18, 2026, <https://www.kompas.com/properti/read/2025/03/03/143000021/ini-daftar-lengkap-77-proyek-strategis-nasional-2025-2029>.

⁴⁶ Bayu Saputra, "Pemerintah Lanjutkan Food Estate Guna Capai Ketahanan Pangan Nasional," antaranews.com, accessed February 18, 2026, <https://www.antaranews.com/berita/4598578/pemerintah-lanjutkan-food-estate-guna-capai-ketahanan-pangan-nasionalpada> 17 Februari 2025.

macroeconomic growth. Agrarian reform is oriented toward structural correction and equitable access to agrarian resources. Both can be claimed as instruments for achieving the prosperity of the people. However, the approaches taken are fundamentally different.

Figure 3 Comparison of Policy Characteristics: Agrarian Reform and National Strategic Projects



Source: Researcher's Analysis, 2026

From the perspective of agrarian law politics, policy orientation often follows the structure of national development priorities. The history of agrarian regulation shows that when the economic development agenda becomes dominant, land law tends to function as an instrument supporting investment expansion and industrialization. Conversely, when the equity agenda strengthens, agrarian law is directed at the distribution and reinforcement of people's rights to land.⁴⁷ This pattern is not always dualistic, but it shows that the direction of norm implementation is greatly influenced by the macro policies in effect during a given period.

In that context, the positions of agrarian reform and PSN,

⁴⁷ Fahmi Aditya and Sri Wahyu Handayani, "Politik Hukum Reforma Agraria Di Indonesia: Dari Orde Lama Hingga Era Otonomi Daerah," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 7737–45.

which are placed side by side in Article 40 paragraph (1) of the Government Regulation, do not establish a clear priority, and the direction of TCUN utilization can be greatly influenced by the dominant development policy structure. During periods when development acceleration and food self-sufficiency become the main agenda, the space for administrative discretion can more easily lead to land allocation for large-scale projects rather than redistribution to agrarian reform subjects.

This analysis does not intend to state that PSN is contrary to the principle of the social function of land. The social function in the Basic Agrarian Law does not rule out the use of land for national development purposes. However, the social function also requires that land control and utilization provide tangible benefits for equality and social justice. Agrarian law literature emphasizes that legal certainty and social justice must go hand in hand in the regulation of land rights.⁴⁸ Land cannot simply be positioned as a factor of economic production without considering the dimensions of distribution and access for vulnerable communities.

Therefore, the main issue in the relationship between agrarian reform and the National Strategic Projects (PSN) does not lie in the existence of either policy, but rather in the normative design that does not lock in the priority direction for the utilization of unused state-controlled land. Land that has been designated as idle essentially returns to the state because it previously did not fulfill its social function. Conceptually, such corrective measures should have a clear connection with the goal of improving the structure of land tenure. However, Article 40 does not provide a normative guarantee that redistribution through agrarian reform will be prioritized before being allocated for other purposes.

The absence of a priority hierarchy opens up a wide room for discretion at the implementation stage. Within the framework of the principle of legal certainty, norms that

⁴⁸ Lily Kalyana and Widodo Budidarmo, "Dynamics of Land Ownership Rights in the Perspective of Indonesian Agrarian Law in the Perspective of Legal Certainty and Social Justice," *JOSH: Journal of Sharia* 4, no. 02 (2025): 234–43.

contain multiple objectives without specifying an order can obscure policy direction. Subjects of agrarian reform do not gain certainty as to whether the land resulting from regularization will be directed first for redistribution or for large-scale development projects. This situation indicates a potential tension between the redistributive orientation and the development orientation within the TCUN utilization regime.

Thus, the relationship between agrarian reform and the National Strategic Project (PSN) in Government Regulation Number 48 of 2025 reflects the dynamics of contemporary agrarian legal politics. The regulation has provided various utilization goals. However, without clear normative priorities, the effectiveness of idle land as an instrument for correcting inequality is highly dependent on the administrative policies of the current period. This is where the urgency of clarity in policy direction lies, so that the utilization of idle land does not lose its redistributive function and remains in line with the mandate of social justice in Article 33 paragraph (3) of the 1945 Constitution and the social function of land rights in the Basic Agrarian Law.

3. Inequality in Land Ownership Structure and the Urgency of Clear Priorities

The structure of land ownership in Indonesia still shows significant inequality. Data from the Agrarian Reform Consortium (KPA) states that nearly 68 percent of land and natural resources are controlled by about one percent of the population.⁴⁹ The figure indeed comes from a civil society organization, but it shows a concentration phenomenon that is difficult to ignore. At the same time, the 2023 Agricultural Census by the Central Bureau of Statistics (BPS) provides a perspective from the other side, namely that the majority of

⁴⁹ Hilda B Alexander, "68 Persen Tanah Dan Kekayaan Indonesia Dikuasai Satu Persen Kelompok," Kompas.com, accessed February 18, 2026, [https://www.kompas.com/properti/read/2025/02/15/205644021/68-persen-tanah-dan-kekayaan-indonesia-dikuasai-satu-persen-kelompok#:~:text=68 Persen Tanah dan Kekayaan Indonesia Dikuasai Satu Persen Kelompok,-Kompas.com%2C 15&text=KOMPAS.com - Ketimpangan dan.](https://www.kompas.com/properti/read/2025/02/15/205644021/68-persen-tanah-dan-kekayaan-indonesia-dikuasai-satu-persen-kelompok#:~:text=68%20Persen%20Tanah%20dan%20Kekayaan%20Indonesia%20Dikuasai%20Satu%20Persen%20Kelompok,-Kompas.com%2C%2015&text=KOMPAS.com%20-%20Ketimpangan%20dan.)

farmers actually control land on a very small scale.

BPS recorded that there are 27,802,434 farmers using agricultural land in Indonesia. Of that number, 17,251,432 people are classified as small-scale farmers, namely farmers who cultivate land of less than 0.5 hectares.⁵⁰ This means that more than half of Indonesian farmers work on land that is economically very limited. This trend even shows an increase. The number of small-scale Agricultural Household Enterprises (RTUP) in 2023 reached 16.89 million, up 18.49 percent compared to 2013.⁵¹ This increase occurred amid the shrinking of agricultural land due to conversion.

Land use change data reinforces this picture. Indonesia loses around 110,000 hectares of agricultural land each year due to conversion for non-agricultural purposes. This figure surpasses the new rice field creation program, which only amounts to around 47,000 hectares per year.⁵² Thus, the agrarian structure not only shows concentration on certain groups, but also experiences continuous pressure due to the shrinking of agricultural production space.

Table 4 Data on Land Ownership Inequality in Indonesia

Indicator	Data	Source
Land Concentration	48% of 55.9 million hectares are controlled by 60 families	Kompas.com, July 2025
Conglomerate Control	59% of land is controlled by 1%	Kompas.com, January 2025

⁵⁰ Badan Pusat Statistik, "Petani Gurem," sensus.bps.go.id, 2023, <https://sensus.bps.go.id/main/index/st2023>.

⁵¹ Badan Pusat Statistik, "Rumah Tangga Usaha Pertanian (RTUP)," sensus.bps.go.id, 2023, <https://sensus.bps.go.id/main/index/st2023>.

⁵² Reisy Salsabila, "Lahan Pertanian Hilang 110 Ribu Hektar Per Tahun, Ketahanan Pangan Indonesia Terancam," *kompasiana.com*, accessed February 18, 2026, <https://www.kompasiana.com/reisyasalsabila0659/67e0f4d334777c344515c262/lahan-pertanian-hilang-110-ribu-hektar-per-tahun-ketahanan-pangan-indonesia-terancam>.

	of the population	
Smallholder farmers (<0.5 ha)	17,251,432 people (62% of total farmers)	BPS, 2023 Agricultural Census
Conversion of Agricultural Land	±110,000 ha/year	Academic Study 2023
Abandoned Land Seized (2020-2026)	±27,000 ha	ATR/BPN, February 2026

This situation needs to be viewed within the framework of national agrarian law. The Basic Agrarian Law through Article 6 affirms that every land right has a social function, Law Number 5 of 1960.⁵³ Furthermore, Article 7 of the Basic Agrarian Law prohibits ownership and control of land that exceeds limits and harms the public interest, as stipulated in Law Number 5 of 1960. The disparities reflected in this empirical data raise a normative question, namely to what extent the current land ownership structure aligns with the principle of social function and the prohibition of excessive concentration as formulated in the Basic Agrarian Law.

The large number of smallholder farmers shows that the need for access to land is still very real. Land less than 0.5 hectares is often not enough to ensure the sustainability of farming business, let alone improve family welfare. This condition drives many farmers to work as farm laborers or seek additional sources of livelihood outside the agricultural sector. In this context, agrarian reform is not just an administrative program, but an instrument to expand access to production resources.

Presidential Regulation Number 62 of 2023 explicitly formulates agrarian reform as an effort to organize assets and regulate access. This policy targets certain subjects,

⁵³ Undang-Undang Nomor 5 Tahun 1960

especially those who are landless or have insufficient land. The state acknowledges the need for redistribution. In fact, in the past year, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) reported that out of 5,198.13 hectares of State General Reserve Land (TCUN) designated through a Utilization Decree, around 5,006.68 hectares or 96 percent were allocated for agrarian reform.⁵⁴ This data shows that during a certain period the government gave a dominant share to redistribution.

However, these achievements need to be viewed in a broader context. The number of smallholder farmers reaches more than 17 million people, while idle land confiscated by the state since 2020 is recorded at around 27,000 hectares. Even if referring to the total claimed idle land reaching more than 100,000 hectares and has entered the Land Bank as TCUN, this area is still very small compared to the national need for land access. In other words, although the 96 percent allocation shows policy commitment in a certain period, the scale of redistribution still faces structural limitations.

This is where the urgency of agrarian reform as a long-term agenda becomes clear. The inequality in land ownership is not an incidental issue. It affects millions of farming households and has a direct impact on food security and rural welfare. Idle land that returns to the state should become an instrument for restructuring to expand that access.

Government Regulation Number 48 of 2025 through Article 40 paragraph (1) places agrarian reform, national strategic projects, the Land Bank, other state reserves, and certain interests determined by the Minister on an equal footing as the objectives of TCUN utilization. The norm does not establish a hierarchy of priorities. In conditions of still high structural inequality, this kind of normative design raises conceptual issues.

On one hand, the need for land redistribution is very large.

⁵⁴ KEMENTERIAN AGRARIA DAN TATA RUANG BADAN PERTANAHAN NASIONAL, "Setahun Menteri Nusron: 96 Persen Penertiban Tanah Telantar Dialokasikan Untuk Reforma Agraria," KEMENTERIAN AGRARIA DAN TATA RUANG BADAN PERTANAHAN NASIONAL, accessed February 15, 2026, <https://www.atrbpn.go.id/berita/setahun-menteri-nusron-96-persen-penertiban-tanah-telantar-dialokasikan-untuk-reforma-agraria>.

Data on smallholder farmers and the decline of agricultural land show that access to productive land is increasingly limited. On the other hand, the direction of TCUN utilization depends on the administrative policies in effect during a certain period, because the regulations do not explicitly lock agricultural reform priorities. Indeed, practices in the past year show a dominance of allocations for agrarian reform. However, these practices are not yet a binding normative guarantee for the following period.

It is this gap that creates the urgency for clarity in priorities. Idle land is essentially reclaimed by the state because it does not fulfill its social function. Logically, its utilization should closely relate to the goal of improving land ownership structure. If regulations do not set clear priorities in situations of evident inequality, then the effectiveness of idle land as a corrective instrument heavily depends on administrative discretion.

Thus, empirical data on inequality not only serves as a social background. It becomes a parameter to assess whether the normative design of utilizing idle land has been aligned with the principle of public welfare in Article 33 paragraph (3) of the 1945 Constitution and the social function of land rights in the Basic Agrarian Law. In the context of an still-lopsided agrarian structure, clarity of priorities in the utilization of idle state land is not merely a matter of policy technicality, but a normative necessity to maintain the consistency of agrarian reform direction as a fair distribution agenda.

4. Inconsistency in the Direction of National Agrarian Policy

Agrarian reform in Presidential Regulation Number 62 of 2023 is designed as a policy that has a clear direction and subject. The regulation emphasizes two main approaches, namely asset structuring and access structuring. The state not only distributes land, but also strengthens the economic capacity of the recipients so that the land truly becomes a source of livelihood.⁵⁵ The presidential regulation also

⁵⁵ Swandhana Pradipta et al., "Kekeliruan Pelaksanaan Redistribusi Tanah Dalam Penyebutan Pensertifikatan Tanah Pada Program Nawacita Di

explicitly formulates who can become the subjects of agrarian reform, namely individuals, community groups with joint ownership, customary law communities, as well as certain legal entities. Thus, agrarian reform has a structured redistributive orientation.

On the other hand, Government Regulation Number 48 of 2025 regulates the mechanism for the regulation and utilization of abandoned land through the State General Reserve Land (TCUN) scheme. Article 40 paragraph (1) states that TCUN can be utilized for agrarian reform, national strategic projects, the Land Bank, other state reserves, as well as certain interests determined by the Minister. The norm does not establish a priority sequence. Agrarian reform is indeed listed as one of the objectives, but it is not positioned as the main direction that must be prioritized.

Formally, there is no explicit conflict between Government Regulation Number 48 of 2025 and Presidential Regulation Number 62 of 2023. Both recognize agrarian reform as a state policy. However, when read systematically, there appears to be a lack of normative coherence in their regulatory design. Presidential Regulation Number 62 of 2023 positions agrarian reform as a strategic agenda for organizing land ownership structures. In contrast, Government Regulation Number 48 of 2025 treats agrarian reform as one of several options for utilizing state-controlled forest areas without establishing a hierarchical emphasis.

This difference in construction raises a conceptual issue. Abandoned land basically returns to the state because the previous rights holder did not fulfill their social function.⁵⁶ Logically, its utilization has a corrective dimension towards the uneven land ownership structure. However, Government Regulation Number 48 of 2025 does not explicitly link the utilization of idle land to the goal of improving the agrarian structure as formulated in Presidential Regulation Number 62

Sumatera Utara," *Law Jurnal* 3, no. 1 (2022): 80–92.

⁵⁶ Ahsanul Rizky Ramadhan, Firman Muntaqo, and Iza Rumesten, "Penertiban Tanah Terlantar Dalam Rangka Penatagunaan Dan Pemanfaatan Tanah," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 11, no. 1 (2022): 92–103.

of 2023. The relationship between the two is more implicit than explicit.

These conditions indicate that agrarian reform and the utilization of idle land have not been normatively integrated into a single, consistent policy framework. Agrarian reform stands with its own design. Idle land is regulated with the logic of managing state land reserves. The two do intersect, but they have not yet been locked into a single direction of firm policy.

The current national agrarian arrangements are spread across various regulations with different focuses. Agrarian reform is regulated in Presidential Regulation Number 62 of 2023. The control and utilization of abandoned land are regulated in Government Regulation Number 48 of 2025. National Strategic Projects are based on Presidential Regulation Number 12 of 2025 concerning the 2025–2029 RPJMN. The Land Bank has its own foundation within the legislative regime following the Job Creation Law. Each regulation contains legitimate objectives within the framework of national development.

However, this diversity of regulations has the potential to create a split in policy direction if not accompanied by a clear locking of priorities. Government Regulation Number 48 of 2025, for example, opens up the utilization of TCUN for various purposes, all of which are strategic in nature. In practice, over the past year, the government reported that around 96 percent of TCUN utilization was allocated for agrarian reform. This achievement indicates policy commitment during a certain period. However, this achievement is implementational and does not automatically constitute a normative guarantee for the subsequent period.

When norms do not set priorities, policy direction largely depends on the political structure and the prevailing development policies. During periods when infrastructure development or self-sufficiency in food agendas are strengthened, administrative discretion can lead to the utilization of TCUN for large-scale projects. At other times, redistribution through agrarian reform may become the main option. Such patterns are not necessarily wrong, but they show that regulations have not fully integrated various land

control instruments into a consistent design.

This division also appears in differences of approach. Agrarian reform emphasizes the subject that has been normatively determined and the goal of equalization.⁵⁷ The utilization of TCUN, on the other hand, places more emphasis on the flexibility of managing state assets. When flexibility is not balanced with the affirmation of priorities in situations of still significant structural disparities, agrarian policy risks losing its redistributive direction as a constitutional mandate.

The fundamental question that needs to be answered is whether the utilization of idle land in Government Regulation Number 48 of 2025 supports or actually hinders agrarian reform. On one hand, this regulation explicitly includes agrarian reform as a goal for the utilization of idle state-controlled land (TCUN). The practice of allocating 96 percent of TCUN for agrarian reform during certain periods also shows that idle land can be an important source for redistribution. From this perspective, Government Regulation Number 48 of 2025 provides a potential instrument to strengthen agrarian reform.

However, on the other hand, the regulation does not provide a normative guarantee that agrarian reform will always be prioritized in every utilization of TCUN. The absence of a hierarchy of objectives in Article 40 paragraph (1) opens up room for shifts in orientation according to the policies of the current period. In the context of a still uneven land ownership structure and the high need for access, this type of normative design has not fully secured the redistributive direction mandated by Article 33 paragraph (3) of the 1945 Constitution and the principle of social function in the Basic Agrarian Law.

Thus, the utilization of abandoned land through Government Regulation Number 48 of 2025 essentially has the potential to support agrarian reform. However, this potential has not yet been reinforced by regulations that explicitly prioritize redistribution in situations of structural

⁵⁷ Felishella Earlene and Benny Djaja, "Implikasi Kebijakan Reforma Agraria Terhadap Ketidaksetaraan Kepemilikan Tanah Melalui Lensa Hak Asasi Manusia," *Tunas Agraria* 6, no. 2 (2023): 152–70.

inequality. This is where the inconsistency in the direction of national agrarian policy lies, namely between the agrarian reform agenda designed as an instrument of equity and the design for utilizing abandoned land, which still leaves various possibilities open without asserting priorities.

This evaluation is not intended to dispute existing policies, but rather to highlight the need for stronger normative integration. Without clarity of priorities, agrarian reform is highly dependent on administrative policies and short-term political commitments. To ensure the consistency of national agrarian policy direction, regulations on the utilization of idle land need to more explicitly link the corrective function of land management with the goal of improving a fair land ownership structure.

D. Critical Reflection on the Regulation of the Utilization of Abandoned Land: Considering the Clarity of Norms and the Effectiveness of Monitoring

The discussion regarding the regulation of the utilization of abandoned land in Government Regulation Number 48 of 2025, especially concerning the phrase "other parties" in Article 38 paragraph (1), requires further examination. In an initial view, the phrase was considered vague because it does not provide certainty regarding the subject entitled to the land. However, after reviewing the construction of the norm as a whole and considering input from the thesis defense forum, that view needs to be corrected. Normative vagueness cannot be immediately attributed to the phrase "other parties" because the mechanism for the utilization of abandoned land does not stop at direct transfer, but is integrated with the institutional regime that has already been established.

Article 35 of Government Regulation Number 48 of 2025 explicitly states that land that has been designated as idle land can become an Asset of the Land Bank and/or part of the State General Reserve Land (TCUN). This provision serves as a key point of interpretation. The existence of the Land Bank functions as a managing institution that bridges the process of acquisition from the previous rights holders with

future utilization. Thus, the phrase "other parties" does not need to be rigidly detailed in the Government Regulation because the transfer will only occur once the land has been designated as managed state assets. The state, in this case the Minister of Agrarian Affairs/Head of BPN, has the authority to determine further allocation based on technical considerations, compliance with spatial planning, and the strategic value of the land location, as mandated in Article 40 paragraph (1) of Government Regulation Number 48 of 2025.

This mechanism strengthens legal certainty. The centralization of abandoned land management through the Land Bank ensures that confiscated state assets are not transferred irregularly. The process of transfer to "other parties", whether for agrarian reform, National Strategic Projects, or other utilization collaborations, will be subject to a transparent and competitive mechanism, the implementation of which will be further regulated in technical regulations under the coordination of the Land Bank and the Ministry of Agrarian Affairs/National Land Agency.

Beyond these normative issues, the aspect of implementation also becomes an important concern, particularly regarding the monitoring mechanism by the National Land Agency (BPN). In a discussion forum with examiners, a fundamental issue arose regarding how BPN monitors abandoned land that does not stem from conflict, such as inherited land left neglected due to the limited manpower and time of the heirs. This issue simultaneously highlights the weaknesses of the conventional oversight model, which has so far been more reactive.

Responding to this challenge, the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) has developed a new proactive and technology-based monitoring paradigm. The Directorate General of Land and Space Control and Regulation (DJPPTR) now implements a supervision system that no longer relies solely on public reports or the emergence of conflicts. Geo AI (Artificial Intelligence) technology is utilized to comprehensively monitor land use and status throughout Indonesia.⁵⁸

⁵⁸ RUANG, "Upaya Strategis Wujudkan Tertib Tanah Dan Ruang Di Era

Through this technology, satellite imagery and artificial intelligence are used to detect changes in land use, identify unproductive land, or land that is left idle. Thus, even inherited land that is not maintained can be detected from changes in its land cover when compared to previous utilization data or Spatial Planning. Monitoring becomes possible even without reports, thereby overcoming the weaknesses of conventional surveillance models that are passive in nature.

Table 5 Comparison of Monitoring Models

Monitoring Aspect	Traditional (Conventional) Model	New Model (PP 48/2025)
Nature of Monitoring	Reactive (waiting for reports/conflicts)	Proactive (comprehensive monitoring)
Detection Triggers	Disputes or community reports	Satellite image analysis & land cover change
Land Coverage	Limited to legally problematic land	All land parcels (including non-conflict inheritance)
Role of Rights Holders	Passive (only responds when called)	Active (required to report periodically/self-reporting)
Main Weakness	Undetected "ghost" abandoned land	Requires adequate technological infrastructure and

Kemudahan Berusaha.”

		human resources
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Source: Researcher's Analysis, 2026

Strengthening monitoring is also carried out through legal obligations imposed on rights holders. Articles 2 and 3 of Government Regulation Number 48 of 2025 require every holder of licenses, concessions, or land rights to submit periodic reports regarding the management and utilization of their land. This obligation is imperative. If no report is submitted, the land will be placed on the radar as a potentially abandoned object. In the context of inheritance, heirs are legally bound to continue this obligation. Inability to manage the land due to manpower and time constraints does not automatically exempt them from the legal obligation to report. If this obligation is ignored, the system will record it as an initial indication of neglect, which can then be further verified through field evaluation.

The process of determining abandoned land does not occur instantly or arbitrarily. There are staged evaluation and warning procedures, which are specifically designed to accommodate cases such as inheritance or technical constraints of the owner. The Head of the Rights Determination Sub-directorate, Yuliarti Arsyad, explained that after the rights are granted, within two years ATR/BPN will conduct field supervision.⁵⁹ This process continues with an evaluation by the regional team. If indications of neglect are found, the government issues three progressively phased warning letters. This warning period serves as a space for dialogue and an opportunity for the rights holders, including heirs facing difficulties, to come forward, clarify the obstacles they face, and immediately begin efforts to utilize their land. If, after the third warning, there is still no good intention to

⁵⁹ Yuliarti Arsyad, Kepala Subdirektorat Penetapan Hak Pakai, Ruang Atas Tanah dan Ruang Bawah Tanah Kementerian ATR/BPN, sebagaimana dikutip dalam Hanifah Dwi Jayanti, "Tanah Bisa Ditetapkan Sebagai Terlantar Bila Tak Dimanfaatkan, Ini Kriterianya!", Hukumonline, 10 September 2025, <https://www.hukumonline.com/berita/a/tanah-bisa-ditetapkan-sebagai-terlantar-bila-tak-dimanfaatkan--ini-kriterianya-lt68c2c79b1c3f1/>

utilize the land, only then is the land proposed to be designated as abandoned land.

Table 6 Stages of the Warning Mechanism

Stages	Main Activities	Legal Objectives
Field Control	Evaluation by the regional team (2 years after the rights are granted)	Ensuring that the land is used in accordance with the initial permit
Indications of Neglect	System for recording non-compliance in utilization	Legal basis for issuing warnings
Warning I, II, III	Gradual warning letters to rights holders	Providing space for dialogue & opportunity for improvement (due process of law)
Clarification of obstacles	Rights holders (heirs) convey obstacles	Accommodating reasonable technical/non-technical obstacles
Determination of abandoned land	Conducted if there is no good faith after Warning III	Legal certainty for transfer to the Land Bank

Source: Researcher's Analysis, 2026

Thus, the existing legal and technological frameworks have endeavored to address the challenges of monitoring idle land. The integration of periodic reporting obligations, Geo AI-based supervision, and fair warning mechanisms

demonstrates that the state not only strengthens its administrative authority but also builds a system that allows early detection of non-conflict idle land. This simultaneously affirms that the principles of legal certainty and justice can go hand in hand in the implementation of idle land regulation policies.

E. Conclusion

The management of abandoned land in Government Regulation Number 48 of 2025 demonstrates the strengthening of the role of the state, especially in the stages of regulation and supervision. The integration of periodic reporting obligations, field evaluations, tiered warning mechanisms, as well as the use of Geo AI technology marks a shift from a reactive oversight pattern to a more proactive and structured monitoring system. In this aspect, legal certainty is relatively more established because the determination of abandoned land is not done instantly, but through administrative stages that provide room for clarification and due process for the rights holders.

Nevertheless, legal certainty at the utilization stage still leaves issues regarding policy direction. Although Articles 38 and 40 have integrated abandoned land into the Land Bank and State General Reserve Land schemes and list agrarian reform as one of the objectives, these regulations have not established a clear normative priority. The absence of clear guidelines regarding utilization orientation makes its effectiveness as an instrument for restructuring agrarian structures highly dependent on administrative discretion and government policy choices. Therefore, affirming the priority of agrarian reform in the utilization of abandoned land becomes important so that state authority continues to operate within the framework of the social function of land and the mandate of Article 33 paragraph (3) of the 1945 Constitution.

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