

UTILIZATION OF BENGKOK LAND AS CULTIVATED LAND AFTER THE ENFORCEMENT OF KUDUS REGENT REGULATION 62/2023

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Abstract

The utilization of bengkok land in Undaan Tengah Village is regulated under Kudus Regent Regulation No. 62 of 2023, which requires village asset management to be further stipulated through Village Regulations. However, in practice, the village has not yet established a specific Village Regulation governing the utilization of bengkok land as agricultural land. This study aims to analyze the implementation of bengkok land utilization and identify the legal and practical obstacles arising from the absence of such regulation. This research employs a juridical-empirical method with a descriptive qualitative approach. Data were collected through interviews with the Village Head, Village Consultative Body, village officials, auction committee members, and community participants involved in bengkok land management, supported by relevant legal documents and literature. The findings show that bengkok land is utilized through an annual auction system; however, the absence of a Village Regulation results in weak legal certainty. Problems include defaults by auction winners, re-auctions, delays in planting seasons, and reduced economic efficiency. The study concludes that establishing a Village Regulation is important to ensure legal certainty, clarify rights and obligations, prevent defaults, and optimize land utilization.

KEYWORDS

Bengkok Land; Village Assets; Land Utilization; Village Regulations; Legal Certainty



Introduction

A village is a legal community unit that has territorial boundaries and has the right to regulate and manage government affairs, interests in local community actions, ancestral rights and traditional rights that are recognized and respected in the government system of the unitary state of the Republic of Indonesia.¹ The definition of a village as stated in Article (1) letter (a) of Law Number 6 of 2014 concerning Villages emphasizes that the government of the unitary state of the Republic of Indonesia recognizes the autonomy possessed by villages. Law Number 6 of 2014 contains various provisions related to the implementation of Village Government, including regulations regarding the management of village assets, such as bengkok land.

Bent land is historically known as cultivated land which is designated as the main source of income for the Village Head or Village Officials before the existence of the law on villages.² In practice, this bengkok land is used to support the implementation of the duties of the Village Head and his/her staff so that the rights to the land cannot be released because they are based on the original rights that are bound during the term of office of the Village Head or Village Staff.³ Along with the development of the Village Government system and the strengthening of the principle of accountability in managing village assets, the position of bengkok land is no longer merely understood as a position allowance based on original rights, but rather as part of village assets whose management must be subject to positive legal

¹ Masnun and Sepiyah, "Kebijakan Pemerintah Dalam Menerapkan Kewenangan Desa Terhadap Penyelenggaraan Pemerintahan Menurut Undang-Undang No.6 Tahun 2014," *AL-BALAD : Jurnal Hukum Tata Negara Dan Politik Islam* 4, no. 1 (2024): 105–25, <https://doi.org/10.59259/ab.v4i1.166>.

² Nur Rizqi Arifin et al., "PENGELOLAAN TANAH BENGKOK DALAM MENUNJANG BIAYA PENDIDIKAN BAGI PERANGKAT DESA KARANGAMPEL" 12, no. 2 (2024): 189–94, <https://doi.org/10.25157/je.v12i2.15842>.

³ Vina Yunia Tiyani and Rahayu Fery Anitasari, "Utilization of Bengkok Land by Means of a Rental System to Steam Power Plants and Communities in Tubanan Village, Jepara Regency," *Annual Review of Legal Studies* 1, no. 1 (2024): 127–52, <https://doi.org/10.15294/arls.vol1i1.4095>.

provisions.⁴

Refers to the definition of land itself, where soil is the topmost surface layer of the earth.⁵ Land is considered one of the most important natural resources for the Indonesian nation and is useful for the welfare of the people. This is emphasized in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that the land, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. According to this article, land is the surface of the earth controlled by the state for the welfare of the Indonesian people.⁶ Consequently, every use of land, including bengkok land as a village asset, must be carried out based on a clear legal framework so that the goal of maximizing the prosperity of the people can be realized in an orderly and responsible manner.

Land regulation in Indonesia is strengthened by Law No. 5 of 1960 (UUPA), which standardizes various traditional land rights into the national legal system.⁷ Article VI converts rights such as bengkok and others into use rights (*hak pakai*), granting authority to use and benefit from land under certain obligations.⁸ These rights are not merely based on rental arrangements but must align with the principles of the UUPA.⁹

Bengkok land is customary village land used as compensation for

⁴ Dwi Winarto, "LEGITIMASI PENGELOLAAN TANAH BENGKOK DESA DI INDONESIA," *Syntax Literate: Jurnal Ilmiah Indonesia* 9, no. 2 (2024): 1064–76, <https://doi.org/10.36418/syntax-literate.v9i2>.

⁵ Vasco Javarison Zacharias et al., "Penyelesaian Sengketa Perdata Tentang Tanah Dalam Perspektif Hukum Agraria Di Indonesia," *Journal of Indonesian Comparative of Syari'ah Law* 7, no. 1 (2024): 115–32, <https://doi.org/10.21111/jicl.v7i1.12342>.

⁶ Yagus Suyadi, Dhanica Vania Yoshi Kendra, and Risahlan Rafsanzi, "Pengelolaan Tanah Oleh Badan Bank Tanah Demi Kesejahteraan Masyarakat Dalam Perspektif Islam," *The Indonesian Journal of Islamic Law and Civil Law* 4, no. 2 (2023): 228–43, <https://doi.org/10.51675/jaksya.v4i2.542>.

⁷ Arvita Hastarini and Gusti Fadhil Fithrian Luthfan, "Kedudukan Hukum Masyarakat Adat Dalam Memperoleh Hak Atas Tanah Di Indonesia," *Jurnal Hukum Sasana* 8, no. 2 (2022): 243–64, <https://doi.org/10.31599/sasana.v8i2.1326>.

⁸ Fatma Afifah, Fikri Hadi, and Farina Gandryani, "KONSEP HAK MILIK, HAK GUNA USAHA, HAK GUNA BANGUNAN DAN HAK PAKAI DALAM UNDANG-UNDANG NOMOR 5 TAHUN 1960" 3, no. 2 (2025): 115–27, <https://doi.org/10.38156/jihwp.v3i2.326>.

⁹ Abdul Hamid Usman, "Mencegah Sengketa Tanah," *Sol Justicia* 5, no. 1 (2022): 63–75, <https://doi.org/10.54816/sj.v5i1.478>.

village heads and officials, which can take forms such as rice fields, dry land, or fish ponds.¹⁰ Although often cultivated directly, it is not private property but village-owned assets recognized under Law No. 6 of 2014.¹¹ Today, bengkok land functions as an allowance rather than the main source of income, while the income of village officials is regulated under Article 66 of Law No. 6 of 2014 and further implemented through Government Regulations.

Kudus Regent Regulation No. 62 of 2023 replaces Regulation No. 38 of 2017 and is based on the Minister of Home Affairs Regulation No. 1 of 2016, aiming to improve village asset management in accordance with regional needs. This regulation was established due to concerns over misuse and disorder in managing village assets, including bengkok land, leading to revisions of previous provisions to better align with village governance dynamics.

Referring to the definition of village asset utilization, Kudus Regent Regulation Number 62 of 2023 concerning Guidelines for Village Asset Management describes in Article 1 number 22 that utilization is part of the implementation of village government in the management of assets that are not used directly to support the implementation of village government. This provision aims to ensure that village assets retain their utility value and can provide economic and social benefits to the village community, without changing the ownership status of the village assets.¹²

¹⁰ Lingga Dwi Humantoro, "Penguasaan Tanah Kas Desa (Tkd) Oleh Pemerintah Kabupaten Wonosobo Yang Tidak Sesuai Peruntukannya Berdasarkan Undang-Undang Nomor 41 Tahun 2009 Tentang Perlindungan Lahan Pertanian Pangan Berkelanjutan," *UNIVERSITAS ISLAM INDONESIA* (UNIVERSITAS ISLAM INDONESIA, 2022), <https://dspace.uui.ac.id/bitstream/handle/123456789/38763/18912018.pdf?sequence=1>.

¹¹ Wahyudi, "KEDUDUKAN HUKUM TUKAR MENUKAR TANAH ASET DESA BAGI KEPENTINGAN STRATEGIS NASIONAL Wahyudi," *Acta Universitatis Agriculturae et Silviculturae Mendelianae Brunensis* 4, no. 1 (2023): 46–62, <https://doi.org/10.22437/mendapo.v4i1.23237>.

¹² Leny Putri Melati and Setyaningsih Sri Utami, "Pengaruh Pengelolaan Aset Desa, Alokasi Dana Desa, Badan Usaha Milik Desa Terhadap Pendapatan Asli Desa (Studi Kasus Desa Cangkol Kecamatan Mojolaban Kabupaten Sukoharjo)," *PENG: Jurnal Ekonomi Dan Manajemen* 3, no. 1 (2026): 765–80, <https://doi.org/10.62710/tnorr280>.

The utilization of village assets in Kudus Regent Regulation Number 62 of 2023 concerning Guidelines for Village Asset Management is indeed a change from the previous Law, namely Kudus Regent Regulation Number 38 of 2017 concerning Guidelines for Village Asset Management. The change is the addition of an Article specifically related to the Utilization of village assets, namely bengkok land as cultivated land as in Article 14 paragraph (2) letter (e) which states that the form of utilization of village assets can be in the form of rent, loan use, utilization cooperation, build operate transfer or build transfer use, and bengkok land as cultivated land. This utilization must then be determined through Village Regulations as written in Article 14 paragraph (3).

In essence, bengkok land is a village asset whose utilization is determined by Village Regulations. These provisions position Village Regulations as a strategic legal instrument that bridges legal norms at the regional level with asset utilization practices at the village level.¹³ This demonstrates that the implementation of the positive legal system regarding the use of village assets, including bengkok land, in Kudus Regency has a strong legal basis, supported by Village Regulations, which serve as the legal basis for asset utilization in each village. However, Undaan Tengah Village has not yet enacted a Village Regulation on the Use of Village Assets.

Undaan Tengah Village is located in Undaan District, Kudus Regency, Central Java Province. This village is one of the few villages that still maintains bengkok land as part of the village assets. Undaan Tengah Village has original village assets in the form of village treasury land, often also called Bondo Deso land by the community. This bondo deso land is one of the original sources of village wealth. In addition, this village certainly has bengkok land which is used to provide allowances for the Village Head and Village Officials. Undaan Tengah Village has an area of approximately 622

¹³ Taryanto Ria Bella, Syam Hanafiah, "Efektivitas Pengawasan Badan Permusyawaratan Desa Terhadap Pemerintah Desa Dalam Pembangunan Desa Berdasarkan Undang-Undang Nomor 6 Tahun 2014," *INNOVATIVE: Journal Of Social Science Research* 4, no. 6 (2024): 2626–35, <https://doi.org/10.31004/innovative.v4i6.16666>.

hectares. This village is bordered to the north by Undaan Lor Village, Kudus Regency, to the east by Baleadi Village, Pati Regency, to the south by Undaan Kidul Village, Kudus Regency, and to the west by Demak Regency.¹⁴

The Undaan Tengah Village Government utilizes village assets through annual auctions, including vacant bengkok land, while some land attached to village officials is managed directly or delegated to third parties without auctions. In 2025, issues arose when a tenant defaulted by failing to pay the rent for auctioned bengkok land, causing delays in cultivation and resulting in less optimal land utilization.

Based on Attachment I of the Decree of the Head of Undaan Tengah Village Number: 141/24/2025 concerning the Determination of the Location of the Village Bondo Rice Field Land and the Empty Village Apparatus Bengkok to be Auctioned in 2025, it is known that the auctioned bengkok land is entirely in the Larik Joyo Block, with details of three plots being the Hamlet Head's bengkok on Plot 23, each with an area of 10,000 m², and three other plots being the Kasi Pelayanan bengkok on Plot 27 with the same area, namely 10,000 m² each. All plots of land have a sold status as recorded in the official statement from the Undaan Tengah Village Government Office. This data shows that in 2025 there were six plots of bengkok land with a total area of 60,000 m² that had been auctioned, which were part of the village asset management in the form of empty bengkok land.

Referring to the official website of the Kudus Regency Regional Secretariat's Legal Documentation and Information Network, a total of five village regulations concerning the utilization of village assets in Kudus Regency have been issued since the enactment of Kudus Regent Regulation Number 62 of 2023 concerning Guidelines for Village Asset Management. These village regulations include those for Pasuruan Lor Village, Besito Village, Japan Village, Golantepus Village, and Kuwukan Village.

¹⁴ PT Digital Desa Indonesia, "Profil Desa Undaan Tengah," 2025, <https://undaantengah.digitaldesa.id/profil>.

Consequently, there are still 118 villages in Kudus Regency that have not yet ratified their Village Regulations concerning the utilization of village assets. This also includes Undaan Tengah Village, which has yet to be ratified.¹⁵

In practice, villages not only function as administrative government units, but also as living spaces for communities bound by hereditary social relations.¹⁶ Social relations result in the management of village assets, including bengkok land, having a strong social dimension because it concerns the relationship between the Village Government and the community. Therefore, the management of village assets related to the utilization, addition, and disposal of assets should ideally be determined through Village Regulations based on village deliberation agreements and implemented with due regard to the principles of public interest, legal certainty, openness, and accountability. The utilization of bengkok land is indeed understood by the community as part of a shared resource whose existence is directly related to a sense of social justice, equitable distribution of economic benefits, and a way to improve community welfare.¹⁷

Undaan Tengah Village was chosen as the research location due to a gap between legal provisions and actual practice. Although Kudus Regent Regulation No. 62 of 2023 requires the use of village assets to be regulated through a Village Regulation, such regulation has not been established, while bengkok land utilization continues through auctions, leading to issues such as defaults in 2025.

Several studies related to bengkok land and village asset management have been conducted previously. Dimas Siswanda Purba's (2022) study

¹⁵ Sekretariat Daerah Kabupaten Kudus, "Jaringan Dokumentasi Dan Informasi Hukum Sekretariat Daerah Kabupaten Kudus," JDIH Kabupaten Kudus, 2025, https://jdih.kuduskab.go.id/himpunan_perundangan?kategori=29&bidang=&status_hukum=&id_opd=&nomor=&thn=&tentang=pemanfaatan+aset+desa%0D%0A.

¹⁶ Lubabin Nawval Muhammad, Mohammad Hikmal Akbar, and Najwa Faridillah, "Struktur Sosial Dan Dinamika Persekutuan Hukum Adat Di Indonesia : Mohammad Hikmal Akbar Najwa Faridillah Melainkan Terdapat Juga Yang Bukan Persekutuan Hukum . Dengan Demikian Terdapat Syarat," *TARUNALAW: Journal of Law and Syariah* 03, no. 02 (2025): 131–41, <https://doi.org/10.54298/tarunalaw.v3i02.462>.

¹⁷ Rudy, *BUKU AJAR HUKUM PEMERINTAHAN DESA* (CV. Anugrah Utama Raharja, 2013), <http://repository.lppm.unila.ac.id/40442/>.

examined the resolution of the land swap dispute from the perspective of positive law and Islamic law; Nisfa'ul Khusna (2022) examined the practice of profit-sharing agreements for cultivating bengkok land from the perspective of Fiqh Muamalah; Agnes (2023) analyzed the optimization of village treasury land utilization in increasing Village Original Income; Bayu Bahrul Ulum (2023) examined the management of bengkok land based on the Brebes Regent's Regulation from the perspective of Siyasaḥ Maliyah; and Fiki Apriliawan Rizal (2023) discussed the implementation of bengkok land leases and their legal consequences. However, none of these five studies specifically discussed the use of bengkok land as cultivated land in the absence of Village Regulations as required by Kudus Regent's Regulation Number 62 of 2023, especially in the context of the emergence of default issues in the implementation of bengkok land auctions as occurred in Undaan Tengah Village and is the focus of this study.

This study contributes to the academic field by examining the legal implications of the failure to establish Village Regulations on legal certainty and the effectiveness of utilizing bengkok land as part of village assets. This study not only examines the normative aspects of the legislation but also analyzes the reality of its implementation through a juridical-empirical approach. It is hoped that this will enrich the discourse on agrarian law and village governance law, particularly in understanding the relationship between the obligation to establish regulations at the village level and the practice of asset management that occurs in the field.

Based on the problems that illustrate that the absence of Village Regulations on the Utilization of Village Assets in Undaan Tengah Village is not merely an administrative problem, but has a direct impact on the implementation and obstacles to the utilization of bengkok land as cultivated land, one of which is reflected in the emergence of defaults in the utilization of bengkok land resulting from auctions so that the land cannot be cultivated optimally. Therefore, the author is interested in studying this in the form of legal research.

Methods

The research method in this article uses a juridical-empirical approach with a descriptive qualitative research type. The research was conducted in Undaan Tengah Village, Undaan District, Kudus Regency, Central Java Province, as a case study location related to the utilization of bengkok land as cultivation land after the enactment of Kudus Regent Regulation Number 62 of 2023. The data used consists of primary data obtained through interviews with the Village Head, the Chair of the Village Consultative Body, Village Officials, the chairman of the auction committee and the community or parties involved in the auction and cultivation of bengkok land, as well as secondary data in the form of laws and regulations, official village documents, agrarian law literature, and doctrines related to legal certainty and village governance. Data collection techniques were carried out through observation, interviews, documentation studies, and literature studies. The collected data were then analyzed qualitatively through the stages of data reduction, data presentation, and drawing conclusions to examine the conformity between normative provisions and field practices and identify legal obstacles that arise due to the absence of Village Regulations as a basis for the utilization of bengkok land.

Result and Discussion

1. Utilization of bengkok land as cultivated land in Undaan Tengah Village without Village Regulations

The implementation of the utilization of bengkok land as cultivation land in Undaan Tengah Village is practically carried out through an auction mechanism. Auction in Dutch is called veiling, which in the book *Dictionary of Law Complete Edition* by M. Marwan and Jimmy P. is defined as a form of public sale of goods led by an auction official and carried out through verbal or written price offers to prospective buyers to obtain the highest

price.¹⁸ This mechanism was implemented by the Undaan Tengah Village Government as a way to utilize village assets to be useful for the village, especially the government and the community.

From a defense law perspective, cultivated land is land that is used by a person or group to be cultivated or planted in order to obtain economic results.¹⁹ The status of cultivated land itself can be classified into several types, namely state land that has not been granted certain rights and can be utilized as long as it does not conflict with legal provisions; land with the right of ownership of others that has been certified so that its cultivation must be based on the owner's permission; customary land whose control is based on norms and provisions of customary law recognized by the state; and disputed land whose ownership status is still in the process of legal resolution so that the cultivator's rights are temporary.²⁰ In this case, the bengkok land in Undaan Tengah Village is not included in the category of free state land or privately owned land, but is customary land that is recognized as part of village assets or village treasury land that is under the control of the village government and its use follows the provisions of applicable laws and regulations..

Based on an interview with Mr. Dedy Arisanto, Head of Undaan Tengah Village, the auction of vacant bengkok land is conducted annually at the village office by a committee appointed by the Village Head. The land, which consists of productive rice fields, is auctioned to residents through a bidding process, with the highest bidder declared the winner. The winner is required to pay 25% of the rental price upfront and the remaining 75% within a specified period, formalized through a lease agreement with the Village

¹⁸ Rachmadi Usman, *Hukum Lelang*, 1st ed. (Perpustakaan Nasional : Katalog Dalam Terbitan (KDT): Sinar Grafika, 2015).

¹⁹ Cipto Surya Pramesti et al., "Socio-Ecological Conservation in the Architecture of Kampung Adat Dukuh: A Critical Study Approach Based on Lawrence And," *JAMASAN: Jurnal Mahasiswa Pendidikan Sejarah* 1, no. 1 (2025): 1–18, <https://doi.org/10.25157/jamasan.v1i1.5331>.

²⁰ Kania Eka Firdiana, "PERSPEKTIF HUKUM AGRARIA TERHADAP HAK MILIK TANAH GARAPAN BERDASARKAN HUKUM POSITIF DI INDONESIA," *Juwara Law*, 2025, <https://juwaralaw.com/perspektif-hukum-agraria-terhadap-hak-milik-tanah-garapan-berdasarkan-hukum-positif-di-indonesia/>.

Government. The auctioned bengkok land is then cultivated by the tenant for agricultural purposes. This practice reflects a temporary transfer of land utilization rights, creating a legal relationship between the Village Government as the controller of village assets and the tenant as the holder of cultivation rights.

This relationship reflects a form of symbiotic interaction, namely a reciprocal relationship in which neither party is harmed and both even gain benefits.²¹ Although the term symbiosis is generally used in the context of relationships between living things, such as animals and plants, in biology or environmental law, the concept can analogously be used to describe the legal relationship between a village government and a tenant of bengkok land. In this case, the village receives income or revenue from auctions as part of the management of village assets, while the tenant benefits economically from the cultivation of the land under its management. Thus, this legal relationship is not merely administrative in nature, but also provides mutual benefits that support the interests of both parties.²²

The utilization of bengkok land in Undaan Tengah Village is not only carried out through auction mechanisms but also directly by the Village Head and village officials as part of their allowances during their term of office. Some officials cultivate the land themselves, while others delegate its management to third parties through private agreements, showing varied management practices despite the absence of specific Village Regulations. According to Mr. Supriyanto, as one of the village officials, there have been no legal violations in this practice since the land is generally managed directly by the officials, thus not causing any issues.

²¹ N.H.T.Siahaan, *Hukum Lingkungan Dan Ekologi Pembangunan*, ed. Herman Sinaga and Yati Sumiharti, 2nd ed. (Erlangga, 2004).

²² Studi Kasus, Putusan Pengadilan, and Negeri Jepara, "TINJAUAN YURIDIS PERJANJIAN SEWA-MENYEWA TANAH BENGKOK DESA PAPASAN YANG DIANYATAKAN BATAL DEMI HUKUM (STUDI KASUS PUTUSAN PENGADILAN NEGERI JEPARA NOMOR: 36/PDT.G/2020/PN. JPA) M.," *DIPONEGORO LAW JOURNAL* 11, no. 2 (2022): 1–21, <https://doi.org/10.14710/dlj.2022.33571>.

Bengkok Land cultivated by others has never resulted in any legal violations. This is because most of the people working on the land are known to or within the family circle of the Village Head or Village Officials. A high level of trust in someone also influences this. As Francis Fukuyama stated in *Trust: The Social Virtues and the Creation of Prosperity* (1995), "*Trust is the expectation that arises within a community of regular, honest, and cooperative behavior, based on commonly shared norms, on the part of other members of that community.*" This means that trust arises from the expectation of honest and cooperative behavior based on shared norms within a community.²³ In the context of Undaan Tengah Village, social closeness and family relationships form shared norms that encourage the parties to act honestly and responsibly, so that even though the cultivation of bengkok land is not always outlined in detailed formal agreements, the relationship remains orderly because it is based on strong moral and social expectations.

Referring back to the implementation of the annual auction in Undaan Tengah Village, the utilization of a village asset through an auction mechanism does indeed indicate a form of asset management that is structured and has administrative legitimacy in village government practices.²⁴ This is an implementation of the concept of utilizing village assets which is regulated in the legal framework of village governance. Auctions are indeed required to be held to utilize a village asset as stated in the provisions of Article 16 of Kudus Regent Regulation Number 62 of 2023 which states that the lease period for village treasury land for 1 (one) year is carried out through an open auction mechanism by a committee formed by the Decree of the Village Head, while for a period of more than 1 (one) year

²³ Francis Fukuyama, *Trust: The Social Virtues and the Creation of Prosperity*, 1st ed. (FREE PRESS PAPERBACKS, 1995).

²⁴ Magister Kenotariatan and Universitas Diponegoro, "PELAKSANAAN LELANG ASET DESA BERDASARKAN PERATURAN BUPATI KUDUS NOMOR 38 TAHUN 2017 TENTANG PEDOMAN PENGELOLAAN ASET DESA (KAJIAN DI DESA MEGAWON JATI KUDUS) IMPLEMENTATION," *Rewang Rencang : Jurnal Hukum Lex Generalis* 6, no. 8 (2025): 1–16, <https://doi.org/10.56370/jhlg.v6i8.2391>.

it is carried out through a lease agreement with annual payments, and the lease and auction mechanisms are further regulated in the Village Regulation.

Considering that the auction mechanism in Undaan Tengah Village has been implemented in accordance with Kudus Regent Regulation Number 62 of 2023, its procedural implementation can be said to have followed the regulatory framework applicable at the regency level. However, on the other hand, there is a lack of synchronization because, to date, a Village Regulation has not been established specifically governing the use of village assets as mandated by the provision. This situation indicates a normative inconsistency, where auction practices have been implemented, but further regulatory frameworks at the village level that should serve as a generally binding operational basis are not yet in place.

Understanding the importance of the existence of Village Regulations in this context, Village Regulations are a legal product stipulated by the Village Head after discussion and agreement with the Village Consultative Body (BPD).²⁵ This village regulation functions as a legal and policy basis for the implementation of village governance and development.²⁶ In essence, the basic principle is that Village Regulations must limit the authority of those in power while simultaneously providing protection to the community, potentially vulnerable to legal challenges. Village Regulations should also clearly define the accountability of the Village Government and the Village Consultative Body (BPD) in managing village governance, including village assets.²⁷ Thus, the existence of Village Regulations is not merely a regulatory

²⁵ Oktya Lipana, "Analisis Terhadap Kedudukan Peraturan Desa Dalam Sistem Peraturan Perundang-Undangan Di Indonesia," *Indragiri Law Review* 3, no. 1 (2025): 1–9, <https://doi.org/10.32520/ilr.v3i1.106>.

²⁶ Kiana Putri, *Buku Pintar Kewenangan Desa Dan Regulasi Desa* (Perpustakaan Nasional: Penerbit Desa Pustaka Indonesia, 2020).

²⁷ Mutmainah Nur Qoiri et al., *Hukum Pemerintahan Desa* (GET PRESS INDONESIA, 2023), https://www.researchgate.net/publication/374674204_HUKUM_PEMERINTAHAN_DESA.

formality, but is an instrument of normative supervision over the running of village government.

Law Number 6 of 2014 concerning Villages is present as a form of recognition of the original rights and traditional rights of villages in regulating and managing the interests of local communities in accordance with the mandate of the 1945 Constitution of the Republic of Indonesia.²⁸ The recognition of villages as entities that have autonomy provides a strategic role for villages in managing, empowering, and developing the potential of natural resources and human resources, thereby supporting the realization of sustainable village development through orderly governance based on legal certainty.²⁹

Based on an interview with Mr. Kholis, the head of the Undaan Tengah Village Consultative Body (BPD), the Undaan Tengah Village Government, along with the BPD, is currently in the process of drafting a Village Regulation concerning the utilization of village assets. The process is currently under discussion and is being adjusted to ensure it aligns with higher-level laws and regulations and the actual conditions in the village. As for technical regulations related to bengkok land, its implementation currently still refers to long-standing practices that have been adhered to by the community and village officials.

Furthermore, the local government, particularly the legal bureau of the Kudus Regency Regional Secretariat, has not imposed any sanctions or coercive affirmations to ensure the Village Regulation is ratified within a specific timeframe. This demonstrates that although there is a normative

²⁸ Wira Marizal, Ahmad Yamin, and Geatriana Dewi, "Membangun Desa Dengan Konsep Welfare Village (Kajian Undang-Undang Nomor 6 Tahun 2014 Tentang Desa)," *JIIIP - Jurnal Ilmiah Ilmu Pendidikan* 6, no. 2 (2023): 1242–50, <https://doi.org/10.54371/jiip.v6i2.1469>.

²⁹ Endi Arofa et al., "BIMBINGAN TEKNIS PEMBUATAN PERATURAN DESA," *Jurnal Pengabdian Kepada Masyarakat* 1, no. 1 (2021): 1–7, https://d1wqtxts1xzle7.cloudfront.net/98876810/389255179-libre.pdf?1676855970=&response-content-disposition=inline%3B+filename%3DBimbingan_Teknis_Pembuatan_Peraturan_Des.pdf&Expires=1772514279&Signature=Itw1JENkAJkcBG3wGnhZ69qvBCRbG4r-MeXWd8b5sVFdMgQ42i7j.

mandate to establish a Village Regulation, in practice, the process is still adjusted to the readiness and dynamics at the village level. Therefore, it is understandable that the absence of a Village Regulation is not merely a neglect of legal obligations, but rather a continuing administrative process that is adapting to the regulatory development stages at the village level.

The absence of a Village Regulation results in the utilization of bengkok land being largely based on the administrative policies of the Village Head and the decisions of the auction committee. Administratively, this policy allows for the continued use of bengkok land and its continued abandonment. However, given the lack of a legal instrument to translate the provisions of the Regent's Regulation into more technical and operational regulations tailored to the village's characteristics, this could lead to the suboptimal fulfillment of the principle of legal certainty.³⁰

Looking from the perspective of Prof. Mr. L.J. Van Apeldoorn regarding the theory of legal certainty, where legal certainty aims to realize justice, where legal certainty is reflected in real terms through the implementation and enforcement of the law against an action regardless of who the perpetrator is. Legal certainty has two aspects, namely certainty regarding the form of law in its application to concrete events, and legal certainty which means there is a guarantee of security and legal protection for the community.³¹

Van Apeldoorn's opinion defines legal certainty as the result of creating a just society through a balance between various conflicting interests, so that every individual can obtain their rights properly. This view can be understood as a meeting point or middle ground between two theories of the purpose of law, namely the *ethical* theory which views that the main purpose of law is to realize justice and the *utilitarian* theory which assumes

³⁰ Arifin Wahyuono et al., "Asas Kepastian Hukum Dalam Penyelenggaraan Pemerintahan Desa," *Jurnal Rechtsens* 14, no. 2 (2025): 373–96, <https://doi.org/10.56013/rechtsens.v14i2.4913>.

³¹ Rodiyah Tangwun, *Pemaknaan Konsep Dan Teori Hukum Dalam Analisis Penelitian-Penulisan Hukum*, vol. 01 (Semarang: h UNNES Press, 2023).

that the purpose of law is to provide the greatest benefit or happiness for the greatest number of people.³²

If law is viewed as a set of rules governing human relationships, then the provisions of the law are no longer interpreted as rigid normative texts. Legal articles are not merely formulas memorized by legal experts for use in formal processes, but rather are rules of life embodied and implemented by everyone in their daily lives, often without realizing it. Some of these rules are so old that they are deeply embedded in the collective consciousness of society and are carried out naturally without needing to be questioned. Meanwhile, some other rules are new, having emerged along with the development of social relations, which constantly give rise to new legal norms.³³

Legal certainty requires a clear written legal basis regulating subjects, objects, and mechanisms of land use. The utilization of bengkok land is governed by Kudus Regent Regulation No. 62 of 2023, which mandates that its use must be stipulated in a Village Regulation to ensure legal certainty at the village level.

The utilization of bengkok land in Undaan Tengah Village cannot be immediately declared unlawful, as it is still based on Kudus Regent Regulation Number 62 of 2023, which serves as the normative basis for the utilization of village treasury land through an auction mechanism. However, the absence of a Village Regulation has resulted in the lack of optimal legal certainty as desired by the legal system.

2. Obstacles that arise in the implementation of the use of bengkok land as cultivated land without a legal basis for Village Regulations in Undaan Tengah Village

³² R. Soeroso, *Pengantar Ilmu Hukum* (Perpustakaan Nasional : Katalog Dalam Terbitan (KDT): Sinar Grafika, 2002).

³³ Van Apeldoorn, *Pengantar Ilmu Hukum (Inleiding Tot de Studie van Het Nederlands Recht)* (Perpustakaan Nasional : Katalog Dalam Terbitan (KDT): PT Pradnya Paramita, 2001).

The continued use of bengkok land for cultivation in Undaan Tengah Village without a Village Regulation is not merely a delayed administrative issue, but rather reflects a gap between legal norms and village governance practices. In fact, auctions are still held annually and even refer to Kudus Regent Regulation No. 62 of 2023. However, normatively, this situation indicates that the village is implementing asset management practices without the operational legal instruments explicitly mandated by higher-level regulations.

Utilization as one of the village asset management processes must be guided by the relevant principles of state property management (BMN) applied to village property, namely the functional principles, legal certainty, openness, efficiency, accountability, and certainty of value.³⁴ In addition, Law Number 6 of 2014 concerning Villages, through Article 77 paragraph (1), emphasizes that the management of village assets is carried out based on the principle of public interest. This means that every policy and action in the management of village assets must prioritize the interests of the wider community, not the interests of certain individuals, groups, or classes, the implementation of which is guaranteed and protected by laws and regulations.³⁵

As part of village assets regulated by statutory provisions, bengkok land is considered a village asset within a binding and structured legal framework. However, its presence within the legal system does not necessarily guarantee smooth implementation. In the practice of governance, the management of any asset included in state property (BMN) still has the potential to face obstacles.³⁶ This shows that between legal

³⁴ Eva Nurdinawati, *Buku Pintar Pengelolaan Aset Desa* (Perpustakaan Nasional: Desa Pustaka Indonesia, 2020).

³⁵ Rahayu Utami Styaningsih et al., "Implementasi Pengelolaan Kekayaan Milik Desa Sebagaimana Yang Diamanatkan Dalam Pasal 77 Ayat (1) Undang-Undang Nomor 6 Tahun 2014," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 5, no. 2 (2023): 2205–24, <https://doi.org/10.37680/almanhaj.v5i2.3478>.

³⁶ Muhamad Rizky Adithya and Agus Budi Santoso, "Status Hak Pengelolaan Dalam Hukum Tanah Nasional Dalam Kaitannya Dengan Kepemilikan Barang Milik Negara," *Future Academia: The Journal of Multidisciplinary Research on Scientific and Advanced* 2, no. 4 (2024): 793–802, <https://doi.org/10.61579/future.v2i4.260>.

regulations and implementation there are often dynamics that require continuous adjustment and evaluation.³⁷

Regarding the obstacles that arose in the implementation of the utilization of bengkok land as cultivation land in Undaan Tengah Village which was carried out without village regulations, this obstacle was related to the utilization of bengkok land through the implementation of auctions. One of the obstacles that arose was the failure to fulfill the obligation to pay off the settlement by the auction winner within the specified time period. Although it was stipulated in the agreement that stipulated a down payment of 25% and repayment of the remaining 75% within a certain time limit, in practice there were auction winners who were unable to pay off their obligations until past the due date. This condition caused the land object to return to the control of the Village Government and had to be re-auctioned.

Based on the results of an interview with Mr. Busiri as the chairman of the Undaan Tengah Village bent land auction committee in 2025, one of the residents in Undaan Tengah Village who won the auction committed a breach of contract in leasing the bent land. The winner is named Mr. Zudi. He won the auction for one plot of empty bent land for service personnel with an area of 10,000 m² in the Larik Joyo block, plot 27 for Rp. 38,600,000.00 for a planting period of 2 times for 1 year. The details of the bent land are as follows:

TABEL 1. The Empty Village Apparatus Bengkok

BLOC	PLOT	WIDE	PRICE	WINNER
Larik Joyo	23	10.000	Rp 38.200.000,00	Muntafaan
Larik Joyo	23	10.000	Rp 36.600.000,00	Wondo
Larik Joyo	23	10.000	Rp 38.500.000,00	Wondo

³⁷ Rizka Erlyani, Pradipta Prihantono, and Taufiqurrohman Syahuri, "Dinamika Politik Hukum Dalam Konteks Perubahan Sosial," *Lex Sharia Pacta Sunt Servanda: Jurnal Hukum Islam Dan Kebijakan* 1, no. 3 (2024): 14–24, <https://journal.alshobar.or.id/index.php/lespass/article/view/287>.

Larik Joyo	27	10.000	Rp 38.200.000,00	Muntafaan
Larik Joyo	27	10.000	Rp 39.000.000,00	Yatikan
Larik Joyo	27	10.000	Rp 38.600.000,00	Zudi

Sources : Undaan Tengah Village Government, 2025

Based on the data in the table, the utilization of bengkok land in Undaan Tengah Village is reflected not only in the existence of vacant land but also in the management patterns by auction winners who have obtained cultivation rights. In practice, auction winners such as Mr. Muntafaan, Mr. Wondo, and Mr. Yatikan do not always manage the land directly, but instead cooperate with other parties in cultivating the bengkok land.

The commonly used cooperation pattern is a profit-sharing system, where the auction winner acts as the holder of cultivation rights, while another party works as the cultivator who directly manages the land. The harvest is divided based on mutual agreement, considering each party's contribution, including land provision and labor. In addition, some auction winners apply a wage labor system by employing farm workers on a daily or contract basis, where workers receive wages without participating in profit-sharing. This variation shows that bengkok land utilization develops flexibly at the community level. However, not all practices run in accordance with the agreed provisions. In reality, there are still issues related to the fulfillment of obligations by auction winners, resulting in defaults. One example is the case involving Mr. Zudi as an auction winner of bengkok land in Undaan Tengah Village.

Mr. Zudi won the above-mentioned land for a rental period of 1 year, planting period 1 from July to December 2025 and planting period 2 from January to June 2026. Mr. Zudi immediately paid a down payment of 25% of the final price after the auction to the auction treasurer in the amount of Rp. 9,650,000.00. With this, Mr. Zudi is required to pay the remaining 75% of the final price, which is Rp. 28,950,000.00.

Referring to the contents of the agreement letter Number 22/LBPK/2025 concerning the Rental/Auction of Empty Bengkok Alat Land between the Undaan Tengah Village Government and Mr. Zudi, it is stated that the Village Head represents the Village Government as the first party and Mr. Zudi as the second party. Article 1 of the agreement confirms that the second party states that it is renting the land that is the object of the agreement from the first party and the first party states that it agrees and accepts the rental.

Then in Article 4 of the Agreement above, it is stated that the second party is required to pay the remaining 75% no later than 10 days from the down payment. This is calculated from the auction on Saturday, June 14, 2025 at 22.50 WIB until June 23, 2025 at 10.00 WIB. Mr. Zudi as the second party, based on article 6 which states that if the second party after the payment due date cannot pay off the remaining rent, the object becomes the right of the first party and is auctioned again. However, in this case, Mr. Zudi violated the provisions of Article 4 and is considered to have defaulted.

Mr. Zudi's failure to pay the remaining balance within the agreed timeframe can be classified as a breach of contract. A breach of contract is a situation in which a debtor, due to negligence or fault, fails to fulfill an obligation as agreed, and the failure is not caused by force majeure.³⁸ Article 1243 of the Civil Code (KUHP) also regulates default, namely a situation where the debtor is unable or negligent in fulfilling the obligations that have been agreed upon.³⁹ Based on these provisions, if a debtor, after being declared negligent, still does not carry out his obligations, or if the

³⁸ Nur Azza Morlin Iwanti and Taun, "AKIBAT HUKUM WANPRESTASI SERTA UPAYA HUKUM WANPRESTASI BERDASARKAN UNDANG-UNDANG YANG BERLAKU," *Jurnal Ilmu Hukum "The Juris"* VI, no. 2 (2022): 346–51, <https://doi.org/10.56301/juris.v6i2.601>.

³⁹ Claresta Farrenina Embon and Anak Agung Angga Primantari, "Perjaanjan Utang Piutang Berdasarkan Kitab Undang-Undang Hukum Perdata Perjaanjan Utang Piutang Berdasarkan Kitab Undang-Undang Hukum Perdata," *Jurnal Media Akademik (Jma 3*, no. 10 (2025): 1–17, <https://doi.org/https://doi.org/10.62281/41ay1635>.

obligation can no longer be fulfilled because the specified time limit has passed, then the debtor is declared to have committed a breach of contract.⁴⁰

Default is basically based on the provisions of Article 1238 of the Civil Code (KUHP) which in the development of doctrine is divided into four forms, namely not carrying out what has been agreed upon, carrying out but not in accordance with the agreement, carrying out but exceeding the specified time limit, and doing something which is prohibited according to the agreement.⁴¹ These four forms serve as parameters for assessing the existence of a violation of a valid contract. When linked to the incident in Undaan Tengah Village, Mr. Zudi's actions in failing to pay the remaining 75% within the ten-day period as stipulated in Article 4 of the agreement can be qualified as a failure to fulfill his obligations and a delay in fulfilling his obligations. Therefore, legally, his actions fulfill the elements of breach of contract as referred to in Article 1238 and Article 1243 of the Civil Code (KUHP), which implies the emergence of the Village Government's right to repossess the leased object and auction it again in accordance with the provisions of the agreement.

Based on interviews with Mr. Zudi, his default was not simply based on a deliberate neglect of his obligations. The reason given was that he changed his mind about continuing to cultivate the rice field after considering the unpredictable weather conditions, particularly the high rainfall intensity during the designated planting months. According to him, these conditions had the potential to affect the harvest and pose a risk of economic loss, so he chose not to continue paying the loan and canceled his plan to cultivate the land.

⁴⁰ Sandrarina Hertanto and Gunawan Djajaputra, "Tinjauan Yuridis Terhadap Penyelesaian Wanprestasi Dalam Perjanjian Jual Beli," *UNES Law Review* 6, no. 4 (2024): 10368–80, <https://doi.org/10.31933/unesrev.v6i4>.

⁴¹ Fernanda Naulisa Situmorang Namira Diffany Nuzan and Kaniko Dyon Gerald, "Menelaah Lebih Dalam Perbedaan Perbuatan Melawan Hukum Dan Wanprestasi," *Jurnal Kewarganegaraan* 8, no. 1 (2024): 860–66, <https://doi.org/10.31316/jk.v8i1.6418>.

Following up on this situation, efforts have been made to resolve the matter through deliberation between Mr. Zudi, the Village Consultative Body (BPD), the Chairperson of the Auction Committee, and the Head of Undaan Tengah Village. In this forum, the Village Head acts as the first party representing the Village Government in the agreement and is responsible for managing village assets. The Chairperson of the Auction Committee explains the auction process and payment provisions as stated in the agreement, while the BPD carries out a supervisory function to ensure that the settlement is carried out in accordance with the principles of accountability and the interests of the village.⁴² Based on the results of the deliberation, it was agreed that because the payment obligation was not fulfilled within the specified time period, the agreement was declared null and void according to the provisions of Article 6 of the agreement, so that the object of the bengkok land returned to the rights of the Village Government to be auctioned again.

The deliberation resulted in the agreement being declared null and void, with Mr. Zudi's 25% down payment forfeited to the Village Government. However, the breach of contract also caused delays in the re-auction process, which postponed the planting season and hindered timely land utilization. This shows that the breach not only had legal consequences but also affected the effectiveness of village asset management and the optimal use of the land. The Village Government conducted a re-auction of bengkok land, but delays caused the first planting season to pass, limiting its use to only one planting period. To adjust to this condition, the rental price was reduced to half of the initial annual auction value so the land could still be utilized.

The re-auction for the above-mentioned bengkok land was ultimately won by a farmer from Undaan Tengah Village, Mr. Wondo, who had previously won another plot of land. Considering that the auction was only

⁴² David Prasetyo, *Mengenal Badan Permusyawaratan Desa (BPD)*, 1st ed. (Perpustakaan Nasional: CV. Derwati Press, 2019).

for one planting period, rather than a full two-planting period, the price offered was significantly adjusted. While the previous auction had priced the land at Rp 38,600,000.00 for two planting periods, the re-auction resulted in Mr. Wondo winning the land for Rp 17,500,000.00, which was less than half the initial auction price. This difference reflects a decrease in potential economic benefits due to the delay in cultivation, and also indicates that the previous default not only impacted the legal aspects of the agreement but also had implications for the economic value of the village assets being managed.

According to Mr. Wondo, his decision to participate in and win the re-auction was based on rational considerations as a farmer. Mr. Wondo understands that the land can only be used for one planting season, so the potential harvest is certainly not as large as for a full period. Therefore, he believes the price offered must be adjusted to the time conditions and existing agricultural risks. Mr. Wondo also stated that although the re-auction price was lower, he still considered weather factors, production costs, and potential harvest yields before determining the bid value. For him, the decision to participate in the re-auction was not solely for profit, but also to ensure that the village land would not continue to be neglected and could continue to be used productively.

Consistent with Mr. Wondo's view, the agricultural conditions in Undaan Tengah Village are also inextricably linked to the interconnected nature of the agricultural area. Villages within a single agricultural area generally have farming patterns and practices that influence each other.⁴³ One highly respected tradition is the simultaneous planting of the same crop during the growing season. This practice is carried out to reduce the potential for pest attacks, which are considered higher if the planting

⁴³ Ranga Ditya Yofa, Sri Hery Susilowati, and Sumedi, "Penguasaan Lahan Dan Pola Tanam: Implikasinya Pada Produktivitas Lahan Pertanian," *Analisis Kebijakan Pertanian* 23, no. 1 (2025): 77–92, <https://doi.org/10.21082/akp.v23n1.2025.77-92>.

pattern is not done simultaneously.⁴⁴ As a result, farmers in one area tend to have a uniform work ethic and rhythm, namely immediately working the land together when the planting season begins.⁴⁵

Rural communities largely depend on agriculture as their main livelihood, making their economy vulnerable to price fluctuations. However, not all farmers have sufficient or even any land, so some rely on cultivating land owned by others to sustain their livelihoods.⁴⁶ Agricultural activities create different types of farmers, such as tenant farmers, sharecroppers, and farm laborers who depend on others' land. This highlights the importance of agricultural land, including bengkok land, as an alternative resource for villagers without their own land.⁴⁷

Most residents of Undaan Tengah Village are farmers with a good understanding of agricultural land management, including bengkok land auctioned by the village government. According to Mr. Hanafi, as one of the farmers, stated that the community focuses on cultivating the land to meet their economic needs, but still lacks understanding of the legal aspects, including Village Regulations. Although they comply with the rules as long as the auction process is conducted transparently and by mutual agreement, Mr. Hanafi emphasized the importance of clear Village Regulations to ensure legal certainty, prevent disputes, and support orderly and beneficial land management for both the village government and the community.

Conclusion

⁴⁴ Anita, Muhanniah, and Nining Triani Thamrin, "Penerapan Sistem Intercropping Dalam Pengelolaan Hama Tanaman Jagung (*Zea Mays* L.)," *Agrivet : Jurnal Ilmu-Ilmu Pertanian Dan Peternakan (Journal of Agricultural Sciences and Veteriner)* 13, no. 2 (2025): 335–42, <https://doi.org/10.31949/agrivet.v13i2.15136>.

⁴⁵ Calya Dzafina, *Desa Maju, Negara Maju* (Perpustakaan Nasional: Penerbit Literasi Desa Mandiri, 2022).

⁴⁶ David Prasetyo, *Membangun Desa Mandiri*, 1st ed. (Perpustakaan Nasional: CV. Derwati Press, 2019).

⁴⁷ Filda Ashofa and Mei Santi, "Analisis Sistem Bagi Hasil Pada Kerjasama Pertanian Padi Antara Pemilik Lahan Dan Penggarap Dalam Perspektif Ekonomi Syariah," *Jurnal Ekonomi Syari'ah & Bisnis Islam* 12, no. 1 (2025): 50–70, <https://doi.org/10.54956/eksyar.v12i01.681>.

The utilization of bengkok land as cultivated land in Undaan Tengah Village shows that village asset management practices can still operate even without specific Village Regulations governing such use. However, this condition creates a gap between normative provisions and actual practice, resulting in a lack of optimal legal certainty in managing bengkok land as part of village assets. In this context, Kudus Regent Regulation No. 62 of 2023 on Guidelines for Village Asset Management emphasizes that the utilization of village assets, including bengkok land as cultivated land, must be carried out in an orderly, accountable manner, with a clear legal basis, and established through a Village Regulation as an operational instrument at the village level.

Therefore, the establishment of a Village Regulation on the utilization of bengkok land is an urgent necessity, not only to fulfill normative obligations but also to translate the Regent Regulation into technical rules that align with local conditions. Such a regulation is expected to clearly govern utilization mechanisms, the rights and obligations of the parties, and dispute resolution in cases of default, so that the management of bengkok land can be more orderly, provide legal certainty, and enhance economic benefits for both the community and the village government.

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