

Land of Building Rights Title On Management Rights In The Indonesian Land Law System And The Perspective of Islamic Law Administration

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Abstract

Background - In Indonesian Legal System, Building Rights Title (HGB) on Management Rights (HPL) still has many problems starting from the many cases that occurred such as one of them is the Sultan Hotel dispute case or the land dispute case between PT. Roda Kencana Mandiri against the General Port Company II Tanjung Priok (now PT. (Persero) Pelabuhan Indonesia II Tanjung Priok Branch) and PT. Maju Terus Jaya and many other cases. Purpose – The purpose of this research is to analyze the legal politics of the extension of HGB on HPL land in the Indonesian Law system, as well as to see how the extension of HGB on HPL land in the Islamic perspective or Islamic Law administration. Design/methodology/approach – This research uses normative juridical reasearch methods supported by simple empirical juridical studies. The approach used in this legal research is first a statutory approach and conceptual approach. This research uses literature study. Findings – The results of the research conducted found that the legal politics of the extension of HGB on HPL land in the Indonesian legal system has not been well regulated, the fact of disharmonization between laws and regulations such as related to the time of enactment of HGB on HPL land as referred to in Article 29 paragraph (3) No. 27 of 2014 is contrary to UUPA Article 35 which ultimately makes legal uncertainty and low justice and there is also disharmony between other regulations related to land. The presence of the Job Creation Law and derivative regulations in the agrarian sector has not supported agrarian reform and can actually exacerbate agrarian conflicts. Furthermore, in the Islamic perspective or from the administration of Islamic Law, the extension of HGB on HPL land is a muamalah practice that is very possible to do, this can be based on the principle of its usefulness in it. The connection between the two is that both in the national legal system and in the Islamic perspective carry the principle of the usefulness of the land itself where in the national agrarian law UUPA it is explained that land management must realize the incarnation of the principle of Belief in the one and only God. Research limitations– Penelitian ini dibatasi pada sudut pandang hukum positif dan hukum islam saja, kedepan dianggap perlu juga mencari tau hukum pertanahan terkait HGB diatas HLP dalam sudut pandang hukum hokum ada di Indonesia, mengingat hukum adat juga menjadi sumber hukum bagi hokum di Indonesia. Originality/value – This research is limited to the point of view of positive law

and Islamic law only, in the future it is considered necessary to also find out land law related to HGB above HLP in the perspective of existing legal law in Indonesia, considering that customary law is also a source of law for law in Indonesia.

Keywords: *Building Rights Title, Management Rights, Land law, Islamic Law.*

I. INTRODUCTION

Scientific works that discuss land issues or problems are not new because they have been studied by various academics. Including many parties have discussed the Right to Build on Management Rights in the Indonesian Land Law System, but we try to look at it from the other side, namely from the point of view or perspective of Islamic Law Administration. This is certainly a differentiator and will have its own benefits and outcomes, where Islam as the majority religion is embraced by the Indonesian people.

Islam is a religion that has a very detailed legal system or rules, in all aspects of human life, starting from the rules that govern between fellow humans, human relations with God and even human relations with nature. One of them is in the economic aspect or property rights are also regulated in the Islamic legal system.

The existence of human creation in Islam is facilitated by the perfection of the universe and even humans are given the authority to prosper this universe even though many of them human behavior actually destroys it. even though Allah has entrusted this world to humans as stated in the Qur'an Surah Hud (11) verse 61 as follows:

﴿وَالِى تَمُودَ أَخَاهُمْ صَالِحًا قَالَ يَا قَوْمِ اعْبُدُوا اللَّهَ مَا لَكُمْ مِنْ إِلَهٍ غَيْرُهُ هُوَ أَنشَأَكُمْ مِنَ الْأَرْضِ وَاسْتَعْمَرَكُمْ فِيهَا فَاسْتَغْفِرُوهُ ثُمَّ تَوْبُوا إِلَيْهِ إِنَّ رَبِّي قَرِيبٌ مُجِيبٌ﴾

Artinya:

And to the people of Samud (We sent) their brother Saleh. He said, "O my people, worship Allah; there is no god for you but Him. He has created you from the earth and made you its caretakers, so seek His forgiveness and repent to Him. Verily my Lord is very near (to His mercy) and accepts (the prayer of His servant)."

The verse or proposition as above means that humans are asked to manage the environment properly by carrying out development or utilizing and processing the earth. Therefore, nature must certainly be maintained and preserved so that it does not become extinct and can be used by the next generation. This is widely contained in the Quran as another example in QS. al-Hijr verses 19-20, explained that mountains, rocks, water and air, all of which are natural resources. The earth and all that is in it were created by Allah for man, both in the heavens and the earth, the land and the seas and

the rivers, the sun and the moon, night and day, plants and fruits, creeping animals and farm animals. Or as in other evidence such as in the following hadith:

"Hadith Jabir bin Abdullah r.a. he said: There were some people from us who had land deposits. Then they said: We will rent the land (to cultivate it) with one-third of the yield, one-fourth and one-half. The Messenger of Allah S.a.w. said: Whoever has land, let him cultivate it or give it to his brother (to utilize), then if he is reluctant, let him look after the land himself. If he is reluctant, he should take care of it himself." (narrated by Imam al-Bukhori in al-Hibbah).

Humans have a very important position, because humans are the front guard in protecting the balance of the ecosystem and preserving the carrying capacity of the environment. Thus, in managing the environment, humans essentially act as God's mandate or as an extension of God.

Therefore, Islam explains that the utilization of land as the argument or hadith above is very firm that every human or legal entity that owns land if it cannot manage it is asked to hand it over to someone else or even just rent it out to be utilized and utilized. The problem is what about the Islamic view of Building Rights on Management Rights in the Perspective of Islamic Law Administration.

In addition, in the Indonesian State Legal System, Building Rights Title on Management Rights until now still has many problems, starting from the many cases that have occurred, such as one of them is the Sultan Hotel dispute case or the land dispute case between PT Roda Kencana Mandiri against the General Port Company II Tanjung Priok (now PT. (Persero) Pelabuhan Indonesia II Tanjung Priok Branch) and PT Maju Terus Jaya and many other cases.

Responding to the problems as mentioned above, we feel challenged and interested in conducting a simple study with the title "*Law Politics on Land Use Rights Building on Management Rights in the Land Law System in Indonesia and in the Perspective of Islamic Law Administration*".

II. LITERATURE REVIEW

A. Land Law Regulation in Indonesia

There have been many laws and regulations that have been made by the government related to land, some of which are as follows:

1. Law No. 5 of 1960: Basic Regulation of Agrarian Principles, which was published on September 24, 1960, commonly referred to as UUPA.
2. Law No. 1999: Forestry, issued on September 30, 1999
3. Law No. 22 Year 2001: Oil and Gas, published on November 23, 2001

4. Law No. 7 Year 2004: Water Resources, published on March 18, 2004
5. Law No. 18 Year 2004: Plantations, published on August 11, 2004
6. Law No 32 Year 2004: Regional Government, published on October 15, 2004
7. Law No. 25 Year 2007: Capital Investment, issued on April 26, 2007
8. Law No. UU 26 Year 2007: Spatial Planning, published on April 26, 2007
9. Law No. UU 27 Year 2007: Management of Coastal Areas and Small Islands, published on July 17, 2007
10. Law No. 4 of 2009: Mineral and Coal Mining, published on January 12, 2009
11. MPR Decree number IX/MPR/2001: Agrarian Reform and Natural Resource Management
12. Presidential Regulation of the Republic of Indonesia No. 86 of 2018: Agrarian Reform.

B. Politic Law on Land Use Rights Over Management Rights in Indonesia's Land Law System

Land rights are control rights over land that have the authority, obligations and/or restrictions for the right holder to do something about the land owned, while Management Rights are control rights from the state whose implementation authority is partially delegated to the holder of the Management Right and the granting can be given by the state to individuals or legal entities with a Land Right according to their designation and needs, or give it with Management Rights.

In state practice, the state is the ruler of the land. This is as stated in Article 33 of the 1945 Constitution¹ which authorizes the Government to empower the status of control over land in the territory of the Unitary State of the Republic of Indonesia (NKRI). With this control, it is hoped that the State can utilize the land in order to achieve the ideals of the State.

Efforts to optimize land utilization can be carried out by various methods, one of which is with the status of Management Rights land specifically designated to Government Agencies both at the central and regional levels, including agencies such as the Police/TNI, State-Owned Enterprises (BUMN) or Regional-Owned Enterprises (BUMD) with the intention that it can be utilized in supporting the vision of the institution. Although the right to land utilization rests with the Government Institution, BUMN or BUMD.² In practice, the utilization is often

¹ The land and water and the natural resources contained therein shall be under the control of the state and shall be used for the greatest prosperity of the people. 1945 Constitution Article 33 (3).

² Cahyaningsih, S. (2022). *Juridical Analysis of the Granting of Building Rights Title on Land Management Rights of the Tegal City Government (Case Study of Afternoon Market on Land*

carried out by cooperating the utilization of the land with third parties with various utilization transaction models.

In the implementation as above, the State can revoke the Management Rights at any time if the utilization is not in accordance with the applicable laws and regulations. The meaning of this understanding is that the state has the authority as a regulator, planner, implementer, and at the same time as a supervisor of the management, use and utilization of national natural resources including land in it.³ This concept is sometimes a problem in the practice of cooperation between third parties and management parties, including the State.

The transfer of authority from the State to State agencies or institutions is specifically intended to be used to support the implementation of good performance of these agencies or institutions. In its implementation, the management right holder can also grant building use rights or use rights to third parties by of course making a written agreement that clearly explains the rights and obligations of each party.

Henceforth, anyone, including the State, must recognize and respect the existence of holders of management rights and holders of building use rights so that it is also necessary to guarantee legal protection for the utilization of their rights from each right holder.

Related to the above, in terms of policy so far it has not been regulated and has not been enforced clearly, well and seriously. This can be concluded from various facts of conflicting laws and regulations or commonly called disharmonization, besides that there are other problems such as, often the occurrence of methods or practices that are not good and do not guarantee justice and legal certainty, especially if they must be interfered with by political interests and the realm of KKN practices in the process of using the authority of management rights owned by agencies or State institutions.

For example, the disharmony between Government Regulation No. 27/2014 on the contents of Article 29 paragraph 3 according to our response results in injustice for the owner of the Building Rights Title on the Land Management Rights land considering the length of time of the enforcement of the Building Rights Title on the Land Management Rights land in Government Regulation No. 27/2014 Article

Management Rights Number 1 Tegalsari Tegal City) (Doctoral dissertation, Sultan Agung Islamic University (Indonesia)). Page. 2

³ Winahyu Erwiningsih, 2009, *The State's Right to Control Land*, Total Media, Yogyakarta, pp. 101-102.

29 paragraph (3) reads "The lease period of State / Regional Property as referred to in paragraph (2) may be more than 5 (five) years and may be extended for:

- a. infrastructure cooperation;
- b. activities with business characteristics that require a lease period of more than 5 (five) years; or
- c. otherwise provided in the Act."

This is when compared to seeing Law No. 5 of 1960 Article 35 which reads as follows:

- Paragraph 1 A hak guna-bangunan is a right to construct and own buildings on land that is not one's own, for a maximum period of 30 years.
- Paragraph 2 At the request of the right holder and having regard to the needs and condition of the buildings, the period referred to in paragraph (1) may be extended for a maximum period of 20 years.
- Paragraph 3 Building-use rights may be transferred and assigned to other parties.

This has led to uncertainty and legal injustice for HGB holders on HPL land. The weaknesses in Article 29 paragraph (3) of PP No. 27 / 2014 are weaknesses from the regulatory aspect, namely in the form of disharmonization of Article 29 paragraph (3) of PP No. 27 / 2014 with Article 35 of the UUPA and Government Regulation No. 40 of 1996, resulting in disharmonization between Article 29 paragraph (3) of PP No. 27 / 2014 with the 1945 Constitution and Pancasila. In addition, from the sociological aspect, there is a paradigm of funneling laws by bureaucrats implementing provisions related to Article 29 paragraph (3) of PP No. 27 / 2014, resulting in injustice for the community, in the aspect of community culture, weaknesses in the form of insufficient information related to the dualism of determining the HGB period on HPL land, thus making the community increasingly lacking fair legal protection. So that it is necessary to reconstruct the provisions of Article 29 paragraph (3) of PP No. 27 of 2014 which reads "The length of validity of the HGB on HPL Land is in accordance with the provisions as referred to in Article 35 of the Basic Agrarian Law, namely for 30 years which can only be extended for 20 years on condition that the government approves it, so that after 50 years the HGB cannot be extended and automatically the HGB owned

by most property owners on HPL land cannot also be extended after the HGB is declared non-renewable".⁴

In addition to the disharmony of the above laws, there are still other problems caused by the incompatibility between the UUPA and other laws such as the Mining Law, Forestry Law, Spatial Planning Law, and so on, including the inconsistency between the laws as mentioned.⁵

Problems that arise such as in cases such as those that commonly occur in Perumnas activities, granting land rights in the form of Building Rights of Use on Management Rights land is usually carried out by Perumnas, but this has become a burden for land rights holders. The land rights holders cannot freely use or take legal actions on their land, so the increase of Building Rights Title on the Management Rights of Perum Perumnas to Property Rights becomes a desire for the land rights holders. Increasing the Building Rights Title on the Management Rights land is often still a problem considering the unclear existing regulations.

III. METHODOLOGY

Research methods are needed to collect a number of materials used to answer empirical juridical analysis. Starting from the problem, the method used is the empirical research method, namely law as a symptom of society, as a social institution or patterned behavior.

The type of research used in this legal research is descriptive legal research. Descriptive research is research intended to provide data that is as accurate as possible about humans, circumstances or other symptoms. The intention is to reinforce hypotheses, so that they can help in strengthening old theories, or in developing new theoretical frameworks.

In obtaining and collecting data in accordance with the problems that researchers examine and for the success of this legal writing, researchers use the following data collection methods:

- a. Literature Research. Literature study is a method of collecting data by reading and understanding literature, documents of previous research results and laws and regulations related to the problem under study.

⁴ Cahyaningsih, Santi. *Juridical Analysis of the Granting of Building Rights on Land Management Rights of Tegal City Government (Case Study of Afternoon Market on Land Management Rights Number 1 Tegalsari Tegal City)*. Diss. Sultan Agung Islamic University (Indonesia), 2022.

⁵ Susetio, W. (2013). Disharmony in agrarian legislation. *Lex Journalica*, 10(3), 18020.p 135

- b. Field Research. Field studies are data collection techniques by going directly to the object of research to obtain the desired and valid data about behavior at that time. The field study was carried out by interview. Interview is an oral question and answer process, in which two or more people face to face directly with data sources related to or competent with the object of research.
- c. Tertiary legal materials, namely materials that provide information about primary legal materials and secondary legal materials.⁶

Data analysis is the process of collecting and processing data into patterns, categories, and basic description units so that the analysis will describe and solve the problems studied based on the data obtained. In this study, researchers used qualitative analysis, namely by analyzing data in the form of concepts, opinions, opinions obtained from *library research* and field research, then processed, generalized and analyzed to answer problems, then a conclusion was drawn.

IV. RESULT AND DISCUSSION

A. Legal Politics of Land Use Rights on Management Rights in the Perspective of Islamic Legal Administration

In Islamic history, agrarian problems have existed since the time of the Prophet, and have always occurred among Muslims in the generation after the Prophet or during the time of the Companions. Starting from the social facts in Mecca as reviewed above, in the form of inequality of land ownership and social class inequality between the wealthy Arab elites and the slaves who had no ownership, the boycott of the Prophet and his followers and his expulsion from Mecca, migration to Abyssenia (Ethiopia), to the great event of the Hijrah to Medina and the formation of the early Islamic community (al-sabiqun al-awwalun) among the Muhajirin and Anshor, the landless and the landed, and the transfer of ownership between the Muslims and the indigenous inhabitants of Medina from the Ahlul Kitab (Jews and Christians). This configuration continued to be more dynamic and turbulent as Muslim territory expanded, raising issues of land distribution, land utilization, the role of government in agrarian management, and the ever-emerging and recurring land inequality caused by the concentration of ownership by new elites in Islamic society.⁷

⁶Rachmat Trijono, *Legal Dictionary*, Depok: Kemang Studio Aksara, 2016.

⁷ Anggraini, G. (2016). *Islam and Agrarian. Normative and Historical Analysis of Islamic Struggle in Overhauling Agrarian Injustice*. STPN Press.

Islam with its teachings of justice will be the solution to the problem of land tenure and ownership, especially considering the economic conditions between the rich or the nobility are very unequal compared to the poor. The nobles lived luxuriously and were reluctant to share with the poor. Slaves were forced to work without being paid. They no longer had human dignity. In addition, the practice of usury was rampant. Many people were trapped in debt because of usury. The practice of middlemen also occurred. These conditions deepened the gap between the poor and the rich.⁸

In the Al-Quran Surah Al-Maun told when the Prophet Muhammad SAW preached in Makah, the condition of the people in Makah at that time was indeed a lot that did not accept the preaching of the Rosul, especially in the rich, because at that time there was a social problem, namely in Makah the fact that wealth or the economy was not well distributed, the rich were getting richer and the poor were getting poorer including in terms of land ownership or land. The rich people did not care about the poor or the poor, so the Prophet's preaching at that time conveyed that the rich people who did not care about the poor or the poor and orphans were equated with people who denied religion. Of course this gets opposition from many parties.

As mentioned above, it means that justice, care and distribution of wealth in Islam are highly upheld and of course also in accordance with the commitment of Islam as a religion of *Rahmatan Lil Alamin*. In addition, the Qur'an and Hadith as well as other derivative rules provide very comprehensive or complete guidance, including in terms of explanations related to land law.

In chapter 3, it will be discussed about the Right to Use Buildings on Land Management Rights in an Islamic perspective where it is a muamalah practice that is very possible to do in the view of Islam. This can be based on the principle of usefulness and justice in it, especially in practice it is a form of mutually beneficial business to utilize the potential of existing resources.

Some narrations that indicate the existence of land grants made by the Prophet Muhammad PBUH as revealed by Abu Ubaid in the Book of Al-Amwal, namely Ibn Sirin once said that the Prophet had plotted land to a man from Anshar named Sulaith.⁹ Furthermore, the land was also given to Zubair ra as the hadith conveyed from Asma 'bint Abu Bakar ra that the Messenger of Allah had given a plot of land

⁸ Al-Quran Surah Al-Balad

⁹ Abu Ubaid Al-Qasim, Kitab Al-Amwal, translated by Setiawan Budi Utomo (Jakarta: Gema Insani, 2006), p. 360

to Az-Zubair ra in Khaibar, in which there were trees and date palms.¹⁰ Likewise, against Abu Tsalabah al-Khusyani ra, the Prophet gave him land by accompanying it with a letter of land plotting.¹¹ The policy of giving land was also carried out by the Prophet Muhammad PBUH to people who had just converted to Islam. As the Prophet did to the leader of Bani Hanifah, Mujja'ah Al-Yamamah. To him the Prophet wrote a certificate of land granting, which reads: "In the Name of Allah, the Most Merciful and the Most Compassionate. This is the certificate that Muhammad the Messenger of Allah has written to Mujja'ah bin Murarah bin Sulma. Verily, I have given you a plot of land in the area of Ghaurah, Ghurabah, and Hubul. Whoever questions you about this matter, then come to me".¹²

B. The Relationship Between the Politics of Land Law in Indonesia and the Views of Islamic Law in Viewing the Status of Land Use Rights on Management Rights

In simple terms, it can be said that Islam as a perfect religion views everything that exists because of its existence and everything that does not exist because of its existence, it is the power and will of Allah SWT. Including the sky / outer space and what is on it as well as the earth or land also includes what is in between, as a matter of fact it all belongs to Allah SWT even including the soul and body of humans and all creatures essentially belong to Allah SWT alone.

Azizy revealed that Islamic Law is one of the sources of national law.¹³ Therefore, the UUPA as part of national law certainly has a relationship with Islam. If you look behind the scenes of the making of the UUPA, you will find the role of Muslims in it. The plenary sessions that discussed the draft UUPA were attended by groups, including the Islamic group. The Islamic group amounted to the most compared to other groups, namely 7 people. The representatives of the Islamic group were H.A Sjaichu, Maniuddin Brojotrano, Z. Imban, Nunung Kusnadi, Harsono Tjokroaminoto, Nja' Diwan, and K.H Muslich.¹⁴ The chairman of the DPR-GR himself was a cleric from NU, K.H. Zainul Arifin.¹⁵ Not only that, Pancasila as the legal basis for the formation of the UUPA is also the result of the formulation of the scholars.

¹⁰ *ibid*

¹¹ *Ibid* p 361

¹² *Ibid* 365

¹³ Qodry Azizy, "Eclecticism of National Law" (Yogyakarta: Gama Media, 2002), pp. xvii.

¹⁴ Boedi Harsono, Indonesian Agrarian Law "History of the formation of the UUPA, its contents and implementation" (Jakarta: Djambatan, 2008), p. 602. 602.

¹⁵ Abdul Mun'im DZ, "Ulama Movement and Agrarian Politics", 2008, pp. 10 and 49

The five concepts in Pancasila that were fought for by scholars such as Abdul Wahid Hasyim, Ki Bagus Hadi Kusumo, and other Islamic figures are Iman Syatibi's formulation of *adl-dlaruriyat al-khams*, namely *Maqashidus shari'ah* (the intentions of the sharia).¹⁶ The purposes of sharia are first, protecting religion (*hifzud din*) which was later adopted into the first principle with the meaning that we must prioritize divinity. Second, protecting the soul (*hifzun nafs*) became the second precept. Third, protecting offspring (*hifzun nasl*) which can be achieved by unity, so it is adopted as the third precept. Fourth, guarding the mind (*hifzul 'aql*) by means of wisdom, thus becoming the fourth precept. Fifth, protecting property or ownership (*hifzul mal*) becomes the fifth precept. Furthermore, looking at the contents of the UUPA, there will be a close connection with the principles of land management in Islam.

In Islamic law, the Earth belongs to God and it can be seen in Article 1 paragraph (2) Article 6 of the UUPA and in Islam the principles of giving land and or reviving dead land, dead land is given to people who cultivate, land that is revived does not belong to someone, prohibiting ownership in large quantities and preventing the monopoly of natural resources, it can be seen in Articles 7, 10, and Article 13 paragraph (2) of the UUPA.

Allah SWT as the real owner of everything including land, authorizes humans to manage it in accordance with the provisions made by Him.¹⁷ So thus speaking the origin of ownership is Allah SWTp the owner, humans only utilize and of course in accordance with the ways approved by Allah SWT. Therefore, it brings juridical consequences, that policies in the land sector should be implemented by applying the laws of Allah SWT into the policy.¹⁸

The justice taught by Islam in terms of organizing the control and ownership of land and water sources is that Islam recognizes private ownership, but rejects monopoly. This can be seen in Islamic *fiqh*, where land can be privately owned (*haquq al-tamlik*), in addition to lands that are regulated by the government for public use, called *al-Hima*.¹⁹

¹⁶ Processed from secondary data in the form of recorded lectures by Salim A Fillah with the theme 100% Islam 100% Nusantara. In Gita Anggraini, *Islam and agrarian* p. 59

¹⁷ Q.S. As-Sajdah: 27 explains that "And do they not see that We send down (clouds containing) water to the barren earth, then We grow with the rainwater plants from which their livestock and they themselves are nourished. So do they not see.

¹⁸ Nurhayati, A. (2017). Land Rights According to Islamic Law and the Basic Agrarian Law. *Al-Muqaranah Journal: Journal of Comparative Law and Mazhab*, 5(1). abstraction

¹⁹ Masdar F. Mas'udi (ed), *Theology of Land* (Jakarta: Association for the Development of Pesantren and Society (P3M), 1994), p.92

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Land ownership in Islamic law is religiously communalistic with control vested in the state by adding theological-religious weight and value to distinguish it from the Socialistic ownership system. To strengthen the above opinion, the author proposes two arguments; First, the normative-theological argument which states that the earth and its contents belong to Allah whose control is in the state. Second, historical argumentation by submitting historical evidences about the idea of legal reform of land ownership (land reform) which is reflected in various government policies from the time of the Prophet to the caliphs afterwards through the regulatory instruments of iqta' and hima. The legal concept of community ownership of land according to Indonesian Land Law, namely Law No. 5 of 1960 and Islamic Law has similarities at the level of legal principles, namely fair and equitable land ownership on the basis of equality before the law based on religious spiritual ethical values.²¹

The relationship between the Indonesian legal system and the Islamic perspective in looking at Building Rights on Management Rights land is that from both sides, both in the national legal system and in the Islamic perspective, conceptually both carry the principle of the usefulness of the land itself where in the national agrarian law UUPA it is explained that land management must embody the incarnation of the Almighty God. besides that, in the main consideration of the formation of the UUPA, it states that the earth, water and space, as a gift of God Almighty, have a very important function to build a just and prosperous society.

There is a close and important relationship between humans and land. Javanese culture records the expression: sadumuk bathuk senyari bumi, ditohi pecahing dodo lan wutahing lurido - which means that in matters of land, bloodshed is very possible. This points to a very fundamental problem. First. Land is directly related to human life and quality of life. It is on the land that humans develop culture, produce to fulfill their material needs. Secondly, the separation of human beings

²⁰ Masdar F. Mas'udi (ed), *Theology of Land* (Jakarta: Association for the Development of Pesantren and Society (P3M), 1994), p.92

²¹ Ridwan, R. (2013). Land Ownership Rights in the Perspective of Islamic Law and Indonesian Land Law. *Al-Manahij: Journal of Islamic Law Studies*, 7(2), 257-270. abstraction

from the land, will be the base of human misery or suffering - in the days of the kings it was very visible how the consequences of not controlling the land; some of them became slaves of other humans.²²

V. CONCLUSION

After discussing the previous chapter, the conclusions of this research are as follows:

1. Political law on land use rights over management rights in the land law system in Indonesia so far has not been regulated and enforced clearly, well and seriously, seeing various facts of disharmonization between laws and regulations as well as other problems such as, there are often ways or practices that are not good and guarantee justice and legal certainty, especially if they have to be interfered with by political interests and the realm of KKN practices. The birth of the Job Creation Law as well as its derivative regulations in the agrarian sector have not supported agrarian reform and may even lead to more severe agrarian conflicts.
2. In the Islamic perspective or from the administration of Islamic Law, the extension of Building Use Rights on Management Rights land is a muamalah practice that is very possible to do, this can be based on the principle of usefulness in it, especially in practice it is a form of mutually beneficial business to utilize the potential of existing resources.
3. The relationship between the Indonesian legal system and the Islamic perspective in looking at Building Rights on Management Rights land is that from both sides, both in the national legal system and in the Islamic perspective, conceptually both carry the principle of the usefulness of the land itself where in the national agrarian law UUPA it is explained that land management must embody the incarnation of the Almighty God. besides that, in the main consideration of the formation of the UUPA, it states that the earth, water and space, as a gift of God Almighty, have a very important function to build a just and prosperous society.

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²² Tri Hariyono (2013), *Reviving Dead Land for Farmers' Welfare: Learning from the History of Prophet Muhammad SAW*. In <https://spi.or.id/menghidupkan-tanah-mati-untuk-kesejahteraan-petani-belajar-dari-sejarah-nabi-muhammad-saw/>

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