

ABSTRACT

Arifin, Ratih Putriani, 11220093, Vacant Land Property Rights (Comparison of the Basic Agrarian Law No. 5 Year 1960 and Islamic Law), Thesis, Department of Sharia Business Law, Faculty of Sharia, The State Islamic University of Maulana Malik Ibrahim Malang. Supervisor: H. Musleh Herry, S.H., M. Hum.

Keywords: Vacant Land, Basic Agrarian Law, Islamic Law

Land is a gift from God Almighty to the Indonesian people. According to the mandate of Article 33 paragraph (3) of the 1945 Constitution which reads: "Earth, water and natural resources contained in it are controlled by the State and used for the welfare of the people. Thus, each individual has the right to manage and take an advantage of existing land on this earth by being good faith toward the ground. In the Basic Agrarian Law regulates the acquisition of land with good faith, Islamic law also recommends that people can take advantage of the natural wealth.

In this study, there are two formulations of the problem: 1) How is the arrangement of the land property rights for people who open (work on) vacant land in the Basic Agrarian Law and Islamic Law? 2) What are the similarities and differences in land property rights for people who open (work on) vacant land in the Basic Agrarian Law and Islamic Law? This study is a normative research by using statute approach, by reviewing legislation relating to vacant land. This study also uses conceptual approach, by reviewing the concepts of vacant land in the Basic Agrarian Law and the Law of Islam.

The results of this study indicate that the concept of opening or working on vacant land in the Basic Agrarian Law has the same concept as Ihya al-Mawat in Islamic Law. It is given that the ownership arrangement based on the Basic Agrarian Law has the similarities with the ownership arrangements according to Islamic law, which both have privileges for the owner of the right, but it still cannot ignore the social function of the land and consider the benefit for the people. In addition, regarding the similarities and differences in the concept of working on (opening) vacant land under the Basic Agrarian Law and Legal Islam are from the terms of registration, processing time period.