

THE SHIFT IN THE FUNCTION OF THE STATE IN LAND CONTROL: A LEGAL ANALYSIS OF THE ROLE OF LAND BANKS AS SEMI-AUTONOMOUS ENTITIES

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Abstract: The Land Bank emerged as a juridical body entrusted with administering land resources for societal needs and developmental objectives. Nevertheless, its establishment signals a transformation in the state's role, from a purely regulative authority to a quasi-commercial actor that actively consolidates and governs agrarian assets. This paper scrutinizes the juridical standing of the Land Bank within Indonesia's land governance framework and interrogates its ramifications for the doctrine of the state as the custodian of public trusteeship as set forth in Article 33 paragraph (3) of the 1945 Constitution. The analysis shows that there has been a shift in the function of the state from being the holder of land sovereignty to an economic facilitator through a new institution that has the potential to deviate from the principle of agrarian justice. Thus, this institution has the potential to shift the function of the state and deviate from the principle of agrarian justice.

Keywords: Land Bank; State Functions; Land Control; Agrarian Affairs; Defence Law.

INTRODUCTION:

The development of human life in the contemporary era shows a significant shift when compared to life in the past. In this context, the problems faced today are often inseparable from the need for land, which serves as a fundamental component for human survival, both in terms of meeting basic needs and in the context of improving quality of life. Land plays a strategic role in meeting various human needs, thus requiring comprehensive regulations regarding land management and utilisation. These regulations are based on the recognition that land is an essential, limited, and non-renewable natural resource.

Consequently, the exploitation of land must not be oriented solely toward private gain, but should also accommodate the reallocation of land for collective societal advantage. Moreover, the deployment of land for public purposes is normatively governed with the overarching objective of realising the welfare of the population in its entirety (Antareksa & Dahana, 2022). Through a well-defined and systematic legal framework, it is expected that land management can be implemented in a sustainable manner, maintaining a balance between personal and collective interests, in order to realise the objective of socially just development.

The attainment of public welfare constitutes one of the core duties of the State as a governing entity vested with authority and power pursuant to the mandate of the 1945 Constitution of the Republic of Indonesia ('UUDNRI 1945'), explicitly promulgated in the fourth paragraph of its Preamble. This paragraph mandates the State to "...protect the whole nation and all of Indonesia's homeland, promote the general welfare, educate the life of the nation, and contribute to the creation of a world order based on freedom, lasting peace, and social justice." In this context, the substantive meaning of the fourth paragraph of the 1945 Constitution is further concretised in Article 33 paragraph (3), which regulates the administration of natural resources within Indonesia. The article stipulates that "The land, water, and natural resources therein shall be controlled by the state and utilised to the greatest possible extent for the prosperity of the people." This provision emphasises the State's authority as well as its obligation to manage the potential of Indonesia's natural resources in a manner that advances the common interest and ensures the optimisation of public welfare (Erwiningsih, 2009).

Land situated inside the territorial bounds of the Republic of Indonesia constitutes one of the nation's most vital strategic resources. Beyond its deep cultural and socioeconomic significance for the Indonesian populace, land occupies a pivotal position in accommodating the ever-expanding and increasingly heterogeneous needs of society, not only within the national sphere but also in the broader dynamics of international relations (Harsono, 2007b). A major and persistent complexity within Indonesia's land governance framework concerns the provision and redistribution of land to fulfil development imperatives, especially in densely

growing metropolitan territories (Flechner, 1974). The intensity of development needs is increasing, notwithstanding, the access to viable land is becoming increasingly limited, making it more difficult to optimise land use, especially for public development projects (Ganindha, 2016). Land constitutes a crucial element in development initiatives for the public interest, as such projects invariably require substantial land resources. A recurrent impediment arises when the government intends to implement development programmes but the targeted land is not yet obtainable. Consequently, the government is confronted with significant challenges in the land acquisition process and is often compelled to bear exceptionally high costs. It is this condition that causes the procurement process to be protracted (Noor, 2014). In addition to impacting economic, social, and legal aspects, land issues also have a significant psychological impact on communities. Land conflicts, limited access to land, uncertainty over ownership status, and protracted land acquisition processes often create mental pressure in the form of anxiety, stress, and insecurity. For low-income communities, the fear of losing land or shelter can cause emotional instability that affects their quality of life and productivity. This situation is exacerbated when agrarian disputes arise, where communities face not only material impacts but also psychological burdens due to feelings of injustice, uncertainty about the future, and loss of ownership of their living space.

In light of these circumstances, it becomes evident that land embodies a multidimensional conception, extending beyond its physical form to encompass economic, social, cultural, legal, political, and security dimensions. As such, land represents a strategic asset with the potential to actualise a just and prosperous Indonesian society. This is especially true given the fact that the livelihoods of most Indonesians depend on land, either individually or as farmers or farm labourers. It can be said that Indonesia depends on the proceeds from land and agriculture for its survival (Riyanto, 2022).

The bond between society and land is further embodied in the 1945 Constitution of the Republic of Indonesia. In relation to the 1945 Constitution, particularly Article 33, the government is conferred with the authority to regulate all matters concerning the territory of Indonesia, including land management. Given the strategic importance of land (both as a natural resource and as a foundation for development) and acknowledging that the need for land will continue to rise in the future, the creation of clear, transparent, and equitable regulations regarding land ownership, utilisation, and management becomes essential. Such regulation is designed to ensure legal certainty and provide protection for landholders. Under this legal framework, the state is granted the authority, pursuant to the Article 33 of the 1945 Constitution, to govern and regulate matters related to land. Further, Article 6 of the UUPA affirms that every parcel of land possesses a social function, meaning that land utilisation must generate benefits not only for individual interests but also for the broader community or public interest. The concept of public interest, as defined in the UUPA, encompasses the interests of the nation and the state along with the collective interests of society.

Article 9 paragraph (1) of the UUPA affirms that “Only Indonesian citizens may possess a complete legal relationship with the earth, water, and airspace...”. Additionally, paragraph (2) provides that every Indonesian citizen, regardless of gender, holds equal opportunities to obtain rights over land for the purpose of deriving benefits and gains, both for personal interests and for others. These provisions demonstrate that each citizen is entitled to land without any form of discrimination. This principle is a practical embodiment of Article 33 of the 1945 Constitution, which forms the foundation of the national economic system and regulates economic activities based on the objective of social welfare. Accordingly, the underlying purpose of state control over natural resources, particularly land, is to ensure social justice and to maximise the prosperity of the people (Zakie, 2013). The implications of this regulatory framework signify that the State may be characterised as an entity vested with authority over the governance, utilisation, and supervision of land. The Basic Agrarian Law does not position the State as the owner of land, but rather as the regulator and administrator of land rights, whose principal objective is to foster justice in the distribution and utilisation of land while addressing agrarian inequalities rooted in the colonial legacy (Harsono, 2008).

The numerous land issues or cases in Indonesia to date can be attributed to the lack of legal certainty and protection regarding the availability of land for development, which is extremely limited, resulting in land ownership inequality. Furthermore, land has become an object of speculation, causing land prices to spiral out of control and creating a gap between supply and demand for state-owned land. This situation has generated disorder, whereby various parties occupy, control, utilise, and exploit land without regard for statutory provisions governing spatial planning and land tenure. At the same time, the role of the National Land Agency as merely an administrator of land rights, rather than a land manager, has created a legal vacuum concerning the supervision and inventory of land with potential availability for structured management across Indonesia.

In response to these issues, the government, as the holder of authority, has established development priorities within the National Medium-Term Development Plan (RPJMN) as an effort to resolve land-related problems in Indonesia. One of the strategic matters highlighted in the 2020–2024 RPJMN is the formation of the Land Bank Agency to address challenges in land provision for public interests. Philosophically, the Land Bank Agency carries a complex mandate, as it must be capable of accommodating diverse interests in land allocation, which was initially intended solely for public purposes.

In the context of law and social sciences, the role of the land bank can be understood as an institution that functions to manage and distribute land assets for social purposes, especially in providing land for the construction of decent housing for low-income communities. The establishment of a land bank is very important

in guaranteeing land ownership for the community. Moreover, the existence of a land bank serves to secure public and social welfare, encourage national development, ensure fair economic distribution, organize land consolidation, and promote agrarian reform (Trisna & Sandela, 2021). This is consistent with the core principles of agrarian law, which govern the ownership and use of land for the collective benefit of society. Within the legal framework, Article 33 paragraph (3) of the 1945 Constitution shed light that the earth, water, and the natural resources within them are controlled by the State and must be utilised for the greatest welfare of the people. Hence, the formation of a Land Bank as an institution tasked with managing land for public objectives holds substantial significance in fulfilling this constitutional mandate.

The Land Bank Agency is charged with systematic procurement of undeveloped, abandoned, or idle land plots that are recognised as having development potential (Limbong, 2013). The formation of a land bank in Indonesia is intrinsically linked to the doctrine of State Control Rights (HMN) as enshrined in Article 33 of the 1945 Constitution, while upholding the principle of land's social function. HMN provides the state with the legitimacy to regulate, control, and manage land resources as an integral component of national land governance and utilisation. This authority is intended to guarantee legal certainty and promote fairness in the allocation of land rights. Meanwhile, the precept of the social function of land, affirmed across multiple statutory provisions, underscores that land must be utilised for the benefit of society, in accordance with the values of social justice and sustainability.

Currently, three typologies of Land Banks are generally recognised. The first is the Public Land Bank, which provides public services and operates entirely under governmental control, involving public institutions and functioning as an independent entity. Public Land Banks comprises of: (a) General Land Banks, which focus on the acquisition of undeveloped and abandoned land, exercise control over land, and distribute it for a wide range of uses without specifying predetermined zoning purposes. Such institutions are administered by public bodies with the objective of moderating urban expansion, regulating land prices, and managing land utilisation; and (b) Special Land Banks, which concentrate on particular sectors such as urban development, housing for low-income groups, public facilities, industrial development, and green open spaces.

The second type is the Private Land Bank, which involves private sector participation. Its principal motivation is the pursuit of profit through long-term leasing schemes and increases in land value. Examples include investment-based Land Banks, private developers, and organisations managing industrial estates. Mixed Land Bank is the third, established through collaboration among the government and the private sector. This model is developed to overcome capital limitations while simultaneously ensuring that the public interest continues to be prioritised (Limbong, 2013). Land banks serve as institutions that manage land ownership and utilisation in a planned manner, with the aim of meeting the community's need for land for housing, agriculture and infrastructure. Legally, land banks need to operate within a clear regulatory framework, including the Land Law and other derivative regulations, to enforce legal compliance across all land transactions and management activities. Thus, land banks are expected to function effectively as instruments in the equitable and sustainable management of land resources. On this basis, land banks can optimise the function of land as a national agricultural resource to benefit and improve the greater good of the Indonesian nation (Nur, 2010).

This condition prompted the emergence of the concept of forming a land bank, which had actually surfaced as early as the 1980s. In Indonesia, initiatives that may be regarded as the early form of a land bank include the Jakarta Industrial Estate Pulo Gadung (JIEP) (PT JIEP, 2024) in Jakarta and Surabaya Rangkut Industrial Estate (SIER) in Surabaya (PT SIER, 2019). The earliest implementation of a land bank was pioneered by the city of Amsterdam, the Netherlands, in 1890. Thereafter, a number of European cities adopted similar mechanisms during the 1970s, followed by the emergence of land bank practices in various regions across the globe, including the United States, China, and Singapore (Noegroho, 2012). Although it has been widely implemented in many countries, to date, the term land banking is still defined differently by many experts. For example, in the Netherlands, which utilises land banking to support the agricultural sector, there are at least two public institutions that define land banking differently. Dienst Landelijk Gebied (DLG) defines land banking as “*The structural acquisition and temporary management of land in rural areas by an impartial state agency with the purpose to redistribute and/or lease out this land with a view to improve the agricultural structure and/or reallocate the land for other purposes with a general public interest*”. Domeinen menyebutkan land banking sebagai *strategic land management* berupa kegiatan “*holding of land for strategic purposes like infrastructure and city extension*” (Dijk et al., 2005).

The establishment of a land bank under the provisions of the Job Creation Law carries significant implications for the architecture of land rights governance in Indonesia. Within the prevailing legal framework, this institution furnishes a constitutional and statutory foundation for the government to enhance the effectiveness of land administration, particularly in relation to land redistribution and the promotion of equitable and sustainable patterns of land use. The fundamental rationale behind the creation of a land bank is to recover land that has been neglected or abandoned so that it may be reallocated and utilised productively for the benefit of the community (Kusuma, 2020). In developed countries, land banks in the public sector are implemented as a strategy for urban renewal, preservation of open spaces and stabilisation of property and land values in certain areas (Levin, 2005). The Singaporean government has successfully implemented a land bank by creating many parks in the country (Kusuma, 2020). Meanwhile, in developing countries, land banking systems are often associated with the availability of land for public purposes, such as affordable housing, land market

management, infrastructure development, and economic development (Kirk et al., 1998). Land banks provide a means for the government to manage land requirements for public use well in advance of when they are needed. In this case, the method used is through land acquisition procedures. The establishment of this institution is expected to boost the economy in a regency/city, as well as contribute to increasing the sale value of land in the future, maintaining the stabilisation of land market prices, and ensuring the regular availability of land so as to reduce cost disparities in development for public purposes. This policy also provides opportunities for low-income communities to own government-subsidised housing, as well as maintaining the quality of the environment (Flechner, 1974).

In addition, land banks can serve as a strategic tool for resolving agrarian conflicts that often occur in Indonesia. In this context, land banks play a role in providing clear mechanisms for land acquisition, management, and redistribution, enabling the government to resolve land disputes more efficiently. The land bank operates within a framework encompassing the planning and provision of land for public, social, and development purposes, as well as the pursuit of economic equity, land consolidation, agrarian reform, and the realisation of land-related justice (Sutrisno, 2022). The acquisition of land bank assets is undertaken through government determinations as well as through transfers from other parties. In addition, land banks may obtain land through public-interest land procurement mechanisms and through direct land acquisition procedures (Sutrisno, 2022).

With structured regulations in place, land banks can identify unused or neglected land and allocate it to the community or rightful owners, thereby reducing overlapping ownership and clarifying the legal status of the land. In addition, an approach based on dialogue and community participation in land management can increase transparency and accountability, which in turn contributes to the peaceful resolution of conflicts. Thus, the existence of land banks not only serves as a technical solution in land resource management, but also as an instrument that supports social stability and sustainable agricultural development in Indonesia. Through the land bank, agrarian resources will be strictly regulated by the state with a focus on the greater good of the people, placing the interests of the people as the priority (Rahmah, 2023). It is known that between 2010 and 2020, Indonesia's average population growth rate reached 1.25%. Meanwhile, land resources will remain constant, meaning that the carrying capacity to support human needs will continue to decline. This applies to both the availability of land for food production and the availability of industrial land to support economic growth (Rahmah, 2023). Within the perspective of housing developers, since most developers, including developers of affordable and modest homes, refer to land as one of their sources of profit, developers essentially reap the maximum profit from land prices. There is suspicion among the public that this also needs to be proven, such as the skyrocketing price of land, which has overwhelmed the government in providing land for public development. There may be manipulation or control of land in violation of *latifundia* (land ownership exceeding the maximum limit). Therefore, the role of the government in this matter is crucial in ensuring the availability of such land (Mahardika & Suyanto, 2022).

Pursuant to Article 126 of the Job Creation Law, the Land Bank Agency is granted the authority to guarantee the availability of land to promote a fair economy for the public interest, social welfare, national development, economic equality, land consolidation, and agrarian reform. In furtherance of its mandate, the Land Bank must comply with several guiding principles. First, transparency, which relates to openness in decision-making and the timely and accurate disclosure of relevant and material information. Transparency serves to enhance accountability and to minimise the potential for abuse of authority by officials or organs of the Land Bank. Upholding this principle constitutes a critical foundation for safeguarding institutional integrity in land management. Second, accountability, which refers to the clarity of functions, implementation procedures, and responsibilities of the Committee, Land Bank Organs, and its employees, ensuring that the administration of the Land Bank operates effectively (Government Regulation on the Land Bank Agency, PP No. 64 of 2021, LN 109 TNL 6683). In this context, accountability signifies that each entity within the Land Bank management structure must possess clearly defined duties, authorities, and obligations so that they may be held answerable for their actions and foster public confidence that all policies are formulated drawing on the precepts of fairness and the public interest. Third, nonprofit orientation, meaning that revenue generated from the operations of the Land Bank must be allocated for the development of the institution rather than distributed as profit to its organs (Government Regulation on the Land Bank Agency, PP No. 64 of 2021, LN 109 TNL 6683). As a nonprofit entity, the Land Bank is therefore required to utilise its assets and income to aid in the execution of established policies, including the redistribution of land ownership, land consolidation, participation in land procurement for public interest projects, and the provision of services for the community.

However, in current practice, the state's role in land governance has experienced a significant transformation, particularly following the enactment of Law No. 11 of 2020 on Job Creation, which was later implemented through Government Regulation No. 64 of 2021 regarding the Land Bank Agency and Presidential Regulation No. 113 of 2021 on its organisational structure and duties. One of the most notable changes introduced by this regulatory framework is the creation of the Land Bank, a public legal entity granted broad authority over the management of state land.

In contrast to conventional administrative bodies, the Land Bank does not merely serve a regulatory or administrative function; rather, it assumes an active role as both manager and proprietor of land. Pursuant to Article 4 of Government Regulation No. 64 of 2021 and Article 7 of Presidential Regulation No. 113 of

2021, the Land Bank is authorised to acquire, manage, lease, transfer, and even revoke land rights, not only for public purposes but also to facilitate investment and national strategic development projects. This configuration represents a significant turning point in the correlation among the state, land, and society, wherein state land is no longer exclusively governed for social and redistributive objectives but is simultaneously transformed into an economic asset managed through a corporate-consumerist approach.

This phenomenon raises fundamental questions in agrarian law: Does the state still carry out its constitutional mandate as the bearer of the people's mandate in land control, or has it shifted to become a corporate actor that treats land as a commercial asset? In this context, the presence of the Land Bank needs to be critically analysed through a juridical and philosophical approach to ensure that this policy transformation does not deviate from the principles of agrarian justice that form the spirit of the 1960 Basic Agrarian Law.

Although many studies have been conducted on State Control Rights (HMN) and land issues, there are still several gaps that have not been addressed by previous research. Not many studies have specifically assessed the effectiveness of the Land Bank Agency as a new land manager, especially in the context of managing and controlling abandoned land. In addition, research linking HMN, Constitutional Court decisions, and the authority of the Land Bank Agency within a comprehensive analytical framework is still very limited. Critical evaluations of the implications of the establishment of the Land Bank on community rights are also rarely discussed in depth. There is also little research that makes substantive comparisons between Land Bank practices in Indonesia and in other countries. Therefore, this study aims to fill this gap and provide a more complete picture the evolving processes of land management in Indonesia.

The research questions in this study center on three core aspects. First, how the State Control Right (HMN) is applied in land management in Indonesia and to what extent this authority is exercised in alignment with the provisions of the UUPA and its derivative regulations. Second, how the process of supervising, utilising, and controlling abandoned land is conducted, including the challenges that contribute to the large proportion of land remaining underutilised. Third, how the Land Bank Agency contributes to establishing land governance that is more effective, equitable, and sustainable, and how its presence affects improvements in the national land management system.

In response to these issues, this study seeks to analyse the concept of State Control Rights and their application in land management in Indonesia, in order to demonstrate the extent to which state authority has been exercised in line with the principles of the UUPA. The study also aims to identify the principal challenges that have impeded the optimal utilisation and control of abandoned land. Additionally, it investigates the role of the Land Bank Agency in improving the efficiency of land management for public welfare, including how its powers and operational mechanisms can enhance land governance. Finally, the study assesses the legal and policy implications of establishing the Land Bank Agency for the national land system as a whole, providing a comprehensive overview of the prospective direction of land management in Indonesia.

METHODOLOGY

The research method employed in this study is the legal research method. Pater Mahmud Marzuki contends that normative legal research is a process of discovering legal rules and principles to answer legal questions. This type of research is conducted to produce arguments, theories, or new concepts as prescriptions (assessments) for the problems being examined (Marzuki, 2017). Legal research using a doctrinal or normative approach refers to a method used to explore the internal aspects of positive law with the aim of resolving legal issues within the legal system itself. According to the doctrinal view, law is seen as an autonomous and independent system, which has the ability to develop and operate within its framework without direct intervention from other social institutions. Therefore, in research using this approach, the main focus is on the analysis and understanding of applicable laws, existing rules, and the relationship between these legal norms within the legal system itself.

This study will only consider issues within positive law, without considering social, political, or economic aspects outside the law. This is based on the principle that law has characteristics and mechanisms that enable it to function independently within its system. In this approach, research is conducted by analysing written regulations, examining court decisions, and interpreting various existing legal doctrines to resolve specific legal issues. This approach makes an important contribution to understanding law as a structured system, independent of direct interaction with other social institutions. Therefore, the problem must be sought within the internal aspects of positive law itself. Law is an autonomous institution, isolated from influential relationships with other social institutions. The normative legal research method is understood as “a method of studying legal regulations, both with regard to the hierarchy of legislation (vertical) and the coherence or harmonisation of legislation (horizontal)” (Marzuki, 2016). Normative legal research utilises a normative legal approach. A normative legal approach is described as an approach that refers to the prevailing laws and regulations (Sunggono, 1997).

RESULTS

State Control Rights

Article 9 paragraph (1) of the UUPA stipulates that “Only Indonesian citizens are entitled to full rights over

land, water, and airspace...”. Furthermore, paragraph (2) affirms that every Indonesian citizen, both men and women, has equal opportunity to obtain land rights in order to benefit from and utilise the land, whether for personal purposes or for others. This provision confirms that every citizen has the right to land without discrimination. This aligns with Article 33 of the 1945 Constitution of the Republic of Indonesia, which governs the foundation of the economic system and economic activities in relation to social welfare. Based on this provision, the purpose of state control over natural resources, especially land, is to realise social justice and achieve the greatest possible prosperity for the people (Zakie, 2013). The relevance of this regulation is interpreted to mean that the State can be regarded as an entity that has the authority to regulate the management, utilisation and control of land.

Unmanaged, unused, neglected and unutilised land means that it is not being used in accordance with the plan for its use and utilisation as stipulated in the decision granting the rights, the inability of the rights holder to manage it properly, and it is left untouched until the rights expire. To overcome this situation, the idea arose that a special agency was needed to reduce the problems of land utilisation (Rafie et al., 2024). Referring to the 2021 Academic Paper on the Land Bank Agency, the Land Bank Agency is a new idea to manage unmanaged, unused, neglected and unutilised land that has been transferred to state ownership, so that it can be properly managed with the ultimate aim of enhancing communal well-being.

State Control Rights (HMN) represent a core principle in Indonesian agrarian law, as established in the Basic Agrarian Law (UUPA) Number 5 of 1960. Article 2 paragraph (1) of the UUPA sets forth that “the earth, water, and the natural resources contained therein are controlled at the highest level by the state as the organisation of the people’s power” (Harsono, 2007a). This concept provides the state with the authority to regulate, manage, and supervise the utilisation of agrarian resources to ensure the greatest public good. However, in practice, the application of HMN often leads to land ownership conflicts, particularly regarding the rights of indigenous communities and the granting of land use permits to the private sector.

According to research by Syamsudin and Basuki, around 72% of land disputes in Indonesia involve conflicts between the state and indigenous peoples. One prominent case is the land conflict in Central Kalimantan, where more than 150,000 hectares of customary land overlaps with oil palm plantation concessions granted by the local government. Cases such as this show that the state’s dominance in land control often ignores the interests and traditional rights of indigenous peoples, leading to their marginalisation (Syamsudin & Basuki, 2003).

The Constitutional Court (MK) has provided important interpretations regarding HMN through various rulings. In Decision Number 001-021-022/PUU-I/2003, the Constitutional Court emphasised that HMN does not mean that the state has absolute ownership of natural resources, but rather that the state only has the authority to regulate their use for the welfare of the people (Sari et al., 2019). This ruling emphasises that the state acts as a manager, not as the absolute owner, so that the use of natural resources must take into account the interests of local communities. A study reveal that people living on small islands face the threat of losing their land due to regulations that are not in their favour (Arnowo, 2022).

In addition, the UUPA also acknowledges various forms of land tenure rights, including the customary rights of indigenous communities and individual rights. However, the implementation of this recognition continues to encounter obstacles. Data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) indicates that, out of 8.2 million hectares of recorded customary land, only approximately 1.2 million hectares have been formally recognised through customary land certification (Budihardjo, 2009). This shows that there is still a large gap in the implementation of agrarian law in Indonesia.

With the growing urgency for fair and sustainable land management, the development of more inclusive agrarian policies has become essential. One approach that can be pursued is the reform of land governance that recognises and upholds the rights of indigenous peoples, along with greater transparency in the issuance of land use permits. Through a more equitable framework, it is expected that HMN can be genuinely implemented for the people’s greatest good, as ordained by the UUPA and reinforced by the Constitutional Court. According to Article 6 of the UUPA, which confirms that every land right carries a social function, land used solely for personal gain or left unproductive will ultimately have negative effects on the broader community. Consequently, land utilisation must correspond to its designated purpose and be directed toward providing benefits for public welfare. To prevent inefficient use of land, the Government enacted Government Regulation No. 11 of 2010 with regard to the Management and Utilisation of Abandoned Land (“PP 11/2010”). The utilisation, management, and exploitation of transferred land are measures intended to ensure that land is employed in accordance with the purpose and nature of the rights granted (Prasista et al., 2022). Thus, land abandonment must be avoided and regulated to reduce or eliminate its adverse effects. The regulation of abandoned land under the Basic Agrarian Law demonstrates the state’s position that land abandonment is forbidden. This highlights the expectation that land within the territory of the Republic of Indonesia should serve not only the interests of its owners but also those of the broader community.

The provisions of PP 11/2010 are considered inadequate in addressing problems related to the implementation, management, and utilisation of abandoned land. Consequently, Government Regulation Number 20 of 2021 concerning the Control of Abandoned Areas and Land (“PP 20/2021”) was enacted. Article 1 point 2 of PP 20/2021 defines abandoned land as land rights, land management rights, and land acquired under the Basis of Land Control that are deliberately left uncultivated, unused, unutilised, and/or unmaintained. The delegation of abandoned land management to ATR/BPN is regarded as ineffective, as observations in several

regions reveal that land use and utilisation remain suboptimal. This is evidenced by the high volume of abandoned land recorded in databases, the conversion of agricultural land, and rising costs in land acquisition activities. In addition to the problem of high numbers in the abandoned land database, a subsequent challenge to be resolved by the state in order to optimise the country is the increase in the conversion of agricultural land for road infrastructure development and the increase in land acquisition prices that always occurs during development activities due to speculators seeking to profit from infrastructure development projects.

The many land issues or cases in Indonesia to date can be attributed to the lack of legal certainty and protection regarding the availability of land for development, which is very limited, resulting in land ownership inequality. Furthermore, land has increasingly become an object of speculation, causing land prices to soar uncontrollably and creating an imbalance between supply and demand for state land. This condition has led to disorder, where individuals occupy, control, use, and exploit land without regard to statutory provisions on spatial planning and land rights. In addition, the mandate of the National Land Agency as merely an administrator rather than a land manager has created a legal vacuum in terms of the supervision and inventory of land that has the potential to be managed according to its availability in Indonesia.

The Role of the Land Bank Agency

According to Article 1 paragraph (1) of Government Regulation Number 64 of 2021, the Land Bank is designated as a special (*sui generis*) agency established by the central government and endowed with specific authority to regulate land. Referring to Law No. 6 of 2023 in relation of the Ratification of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law, it also governs the Land Bank Agency as a special (*sui generis*) institution created to manage land. The Land Bank operates as a land manager responsible for planning, acquisition, procurement, management, utilisation, and distribution of land. This is consistent with Law Number 6 of 2023 concerning the Ratification of Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation into Law, which confirms that the Land Bank guarantees the availability of land to achieve a fair economy for public interests, social welfare, national development, economic equity, land consolidation, and agrarian reform. It is anticipated that this institution will serve as one of the government's measures to realise equitable land ownership and a sustainable economy.

The formation of the land bank body as regulated in the Job Creation Law has major implications for the system of land rights management in Indonesia. From a legal standpoint, the presence of this institution provides constitutional and statutory justification for the government to enhance the efficiency of land governance, especially in relation to redistribution and the creation of a fairer and more sustainable pattern of land utilisation. The establishment of the land bank aims to recover land that has been neglected or abandoned so that it can be returned to productive use for the benefit of the community (Kusuma, 2020). In developed countries, land banks in the public sector are implemented as a strategy for urban renewal, preservation of open spaces and stabilisation of property and land values in certain areas (Levin, 2005). The Singaporean government has successfully implemented a land bank by creating many parks in the country (Kusuma, 2020). Meanwhile, in developing countries, land banking systems are often associated with the availability of land for public purposes, such as affordable housing, land market management, infrastructure development, and economic development (Kirk et al., 1998). Land banks provide a means for the government to manage land requirements for public use well in advance of when they are needed. In this case, the method used is through land acquisition procedures. The establishment of this institution is expected to boost the economy in a regency/city, as well as contribute to increasing the sale value of land in the future, maintaining the stabilisation of land market prices, and ensure the regular availability of land so as to reduce cost disparities in public interest development. This policy also provides opportunities for low-income communities to own government-subsidised housing, as well as maintaining environmental quality (Flechner, 1974).

Land conflicts arising from the inaccurate implementation of State Control Rights (HMN) not only have an impact on economic and social aspects, but also place significant psychological pressure on the affected communities. Various studies show that communities involved in land disputes experience increased levels of stress, anxiety, loss of security, and long-term uncertainty regarding their place of residence and livelihood. In indigenous communities, agrarian conflicts can even trigger collective trauma due to the loss of living spaces that historically have cultural significance and communal identity. Uncertainty over land ownership and the potential for repeated evictions create vulnerable psychological conditions that hinder productivity, family stability, and the sustainability of the local community's social structure.

Psychological Aspects in the Implementation of State Control Rights and Land Bank Policy

Land conflicts arising from the inaccurate implementation of State Control Rights (HMN) not only have an impact on economic and social aspects, but also place significant psychological pressure on the affected communities. Various studies show that communities involved in land disputes experience increased levels of stress, anxiety, loss of security, and long-term uncertainty regarding their place of residence and livelihoods. In indigenous communities, agrarian conflicts can even trigger collective trauma due to the loss of living spaces that historically have cultural significance and communal identity. Uncertainty over land ownership and the potential for repeated evictions create vulnerable psychological conditions that hinder productivity, family stability, and the sustainability of the local community's social structure.

The presence of the Land Bank Agency impacts agrarian governance not only from an administrative perspective but also carries psychological implications for the community. With greater legal certainty and access to transparently managed land, the public can experience reduced anxiety regarding the risk of land disputes and potential loss of land rights. This certainty contributes to a sense of security, enhances public trust in the government, and supports the mental well-being of individuals and communities. Conversely, if the process of land acquisition or distribution by the Land Bank is not carried out fairly and participatively, psychological pressures such as distrust, marginalisation, and horizontal conflicts are likely to arise. Therefore, a community-based psychological approach needs to be an important part of the implementation of Land Bank policies to ensure equitable and sustainable agrarian impacts.

CONCLUSION

The Land Bank Agency, as a *sui generis* institution, holds constitutional legitimacy grounded in Article 33 of the 1945 Constitution and is further reinforced by supporting regulations such as the Job Creation Law and Government Regulation No. 64 of 2021. This institution exemplifies a transition in the state's role from merely serving as a land administrator to functioning as an active land manager, with a social mandate to ensure the fair, sustainable, and equitable provision of land for the common good..

The existence of the Land Bank Agency has significant implications for the land management system in Indonesia. First, this institution has the potential to fill the legal void in land supervision and inventory, which has been a weakness in the land administration system. Second, with its authority as a land manager, this agency is expected to curb land speculation and stabilise market prices, particularly for the purposes of development and public housing. Third, the centralised approach through this special agency provides a stronger instrument for the state to manage abandoned land and redistribute it, which is a concrete step towards realising agrarian reform. However, these implications also pose challenges, namely how to maintain a balance between strong state authority and the protection of community rights, which includes the customary rights of indigenous peoples, so that land conflicts such as those that have occurred in the past do not recur. In addition, policies that are insensitive to the socio-psychological conditions of the community have the potential to cause anxiety, uncertainty, and a sense of loss of control over their living space, so a participatory and psychologically protective approach to the community is crucial in every implementation of the Land Bank Agency.

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