



RESEARCH ARTICLE

The Implementation of Land Banks in Land Procurement for Public Interest in Indonesia: A Normative Juridical Analysis

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ABSTRACT

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many obstacles when acquiring land, especially regarding the release of land/lands needed for development in the public interest. For this reason, the Indonesian Government established a land bank to collect and distribute land for the public interest. This type of research uses normative juridical research, namely researching secondary data in the legal field that exists as library data using deductive thinking methods. The results show that land banks in Indonesia have been officially established, where land banks acquire land, one of which is ex-title land obtained through government stipulation. The land bank is run by three structures: a Committee, a Supervisory Board, and an Executive Body, the main essence of which lies in its function: planning, acquiring, procuring, managing, utilizing, and distributing land for the public interest.

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INTRODUCTION

The state is obliged to ensure order and prosperity for its citizens. This state obligation is mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia (from now on referred to as the 1945 Constitution) that the state is obliged to protect the entire Indonesian nation and all of Indonesia's blood, promote general welfare and implement world order based on social justice. It was then emphasized in Article 33, paragraph (3) of the 1945 Constitution that the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people. Based on *the preamble* and the phrases "earth" and "prosperity" above, the state is obliged to guarantee that every inch of the earth, water, and natural resources of Indonesia must be able to fulfill the basic rights of its citizens, whether in the form of food, shelter, place of business (work that decent), places of worship, and various other basic fulfillments.

The state's authority to guarantee the basic rights of its citizens is an implication of Article 33, paragraph 3 of the 1945 Constitution, which gives the state the authority to manage the earth, water, and other natural resources in the form of state control rights. This right is then explained and emphasized in Article 2, paragraphs 1 and 2 of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), which states that the authority for the right to control the state is:

- 1) regulate and administer the allocation, use, supply, and maintenance of the earth, water, and space;
- 2) determine and regulate legal relationships between people and the earth, water, and space,
- 3) and determine and regulate legal relationships between people and legal actions concerning earth, water, and space.

Referring to the state's right to control above, land is one of the most important things that requires good management by the state. The importance of land for human life causes land to have value, especially for those who use land as a livelihood through agricultural and plantation businesses (Nur, 2009). So important is land about human life. Ter Haar explains that land is a place to live, provides life and livelihood, is where humans are buried, and the relationship is magical-religious (Haar, 1991).

Patrick Mc. Auslan revealed that land can mean investment, a source of economic profit, which can be translated in an abstract sense, namely as sweat that flows from the human body along with all the consequences of the outlook on life that grows from there. The land also gives its color to the structure of society. In Indonesia, where the majority of the population is still involved in the agricultural sector, the majority's form of life is supported by the land. With the land, their deepest consciousness is also realized, whether in the form of productive work or forms of art or ritual. Religion and culture reflect social movements that depart from the dialectic of human awareness of land (Auslan, 1986).

The urgency of land values mentioned by Ter Haar and Patrick Mc. The explanation above means that land availability in Indonesia must be managed optimally. Good management is needed, especially about land availability. The availability of land tends to remain constant while the population continues to increase, resulting in land becoming an important and strategic object (Trisna & Sandela, 2021). The increasing intensity of the need for land and the increasingly limited availability of land simultaneously result in increasingly difficult optimization of land use, especially for implementing development for the public interest, resulting in conflicts of interest between parties over the same plot of land (Ganindha, 2016). Especially when it comes to land acquisition for public purposes or national strategic development such as roads, dams, etc., which require large-scale land, this will give rise to even more complex land problems.

Nowadays, land disputes are unavoidable due to the increasing population, so the need for land also increases while the available land is limited. It requires improvements in the arrangement and use of land for the community's welfare, especially in terms of legal certainty, including a dispute resolution process. Therefore, various efforts have been made by the government to resolve land disputes quickly to avoid the accumulation of land disputes that can harm the community; for example land cannot be used because it is in the process of conflicts (Arisaputra et al., 2023). The Central Statistics Agency released that in 2016, the population reached 258,496,500 people. Then, it continued to increase; in 2019, it reached 266,911,900 people. Then, in 2022, it will reach 275,773,800 people and continue to increase. Likewise, with the world population rate, it can be seen from World Bank data that the world population in 1963 was recorded at 3.195 billion people, increasing to 7.125 billion people in 2013. Another reference that illustrates the rapid growth of the world population can be seen in the report published by Headquarters UN in *New York* entitled "World Population Prospects: 2012 Revision," which states that the world population will increase to 8.1 billion people in 2025 from approximately 7.2 billion people in 2015, it is estimated that the world population will reach 9.6 billion people in 2050 (Puspita et al., 2021). In equilibrium theory (balance of demand and supply), the amount of land supply does not increase while the demand for land increases, so the price of land will increase. Likewise, if analyzed based on land location. Budi Harjanto and Edi Rianto researched the influence of accessibility location factors on land values. According to their research, land value

is influenced by variables such as distance to the city center, road width, distance to universities, and the condition of the asphalt road (Harjanto & Rianto, 1999). Adrian stated that land values become expensive, especially near the city center (Sutawijaya, 2004).

Apart from the causes above, another cause of difficulty in obtaining land is the shift in the political economy from a people's economy to a neoliberal capitalist economy. As a result, land has become a commodity, which has triggered land liberalization, and land prices have soared due to the actions of land speculators. The further consequence is that physical development in all areas is stalled, and land acquisition could be faster and more active (Mochtar, 2013). The practice of land neoliberalism begins with controlling land on a large scale for future use. This is a speculative model of land reserves, which, if analyzed, falls into the category of land abandonment. This speculation is carried out to seek profit by getting the difference between the price when purchased and when resold, calculated over a certain period, usually 5-10 years.

In fact, during that time, the land could be used for more productive things. This type of liberalization of asset control can flourish if the existing land is managed poorly. Besides that, leaving the land for that long can cause it to become neglected or not be used optimally.

Meanwhile, people or legal entities with land rights do not use the land properly and optimally. The government has revoked 2,078 permits for mineral and coal mining (Minerva) companies because they still need to submit/draw up work plans. This means that the company has been given a land use permit but has not implemented it according to the license, so it is held hostage to the use of its natural resources. The government has also revoked 192 forestry sector permits covering an area of 3,126,439 hectares. The revoked permits relate to inactive companies, companies that have not prepared work plans, and abandoned land. There are also abandoned plantation cultivation rights (HGU) covering an area of 34,448 hectares, and permits have been revoked. Of the existing area, 25,128 hectares are owned by 12 (twelve) legal entities; the remaining 9,320 hectares are HGU abandoned by 24 (twenty-four) legal entities.

According to Benhard, this has an effect on land procurement for public purposes which needs to be improved in obtaining land and increasingly complicated in the release of land rights by land rights holders whose land is required for public purposes recently. When examined, it is rooted in three problems as follows: (1) inadequate regulations both from a formal juridical perspective and from a material juridical perspective; (2) Unfair compensation (compensation) received by communities holding land rights; (3) Weak law enforcement and human rights protection (Limbong, 2011).

The Journal of the Directorate and Spatial Planning of BAPPENAS also stated that the desired land is yet to be available when the government wants to carry out development in the public interest or national strategic development. The practical consequence is that the government experiences difficulties in carrying out the land acquisition process, especially regarding the execution of land acquisition procurement and its financing, which becomes very expensive. This condition resulted in a protracted procurement process (Noor, 2014).

The complexity of the problem of land availability for public development requires strategies and methods to be resolved in a fundamental, systematic, effective, and long-term manner (meeting demands far into the future) (Limbong, 2014). To fulfill these efforts, the government established a Land Bank.

Land Banks in Indonesia are normatively present after revising Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest (from now on referred to as Law No. 2/2012) by issuing Law Number 11 of 2020 concerning Job Creation (from now on referred to as Law -Job Creation Law), which is also the legal basis for the formation of land banking bodies. The reference lies in Articles 125-147 of the Job Creation Law.

It needs to be understood beforehand that the Job Creation Law was subjected to a *judicial review* at the Constitutional Court during its journey. As a result, the Constitutional Court Decision Number 91/PUU-XVIII/2020 was issued, resulting in the Job Creation Law having to improve its drafting procedures because it was considered formally flawed. This formal defect was caused because the omnibus technique used to draft the Job Creation Law was not regulated in Law Number 12 of 2011 concerning the Establishment of a follow-up to the Constitutional Court's decision; the government then issued Government Regulation instead of Law (PERPPU) Number 2 of 2022 concerning Job Creation. This was followed by the DPR RI's policy of revising Law Number 12 of 2011 to add omnibuslaw techniques to drafting laws. After that, Law Number 6 of 2023 stipulated, PERPPU 2/2023 conthat cerning Job C,reation as law.

Neither, wasRthe PPU Number 2 of 2022 nor Law 6/2023 changes the substance, only corrects some of the writing, and improves the formal formation of the law, as determined by the Constitutional Court through the *a quo decision*. As a result, the reference articles and substance of the articles establishing the Land Bank remain the same.

Generally, a land bank is intended as any government activity to provide land which will be allocated for use later (Sumardjono, 2005).

The concept and benefits of land banks have been coined in Western countries since the 1900s. It started in Amsterdam in 1890 to acquire land and then reserve it for development land. Methods like this were then adopted by other European countries until later in the 1970s. They were adopted in several cities in America and in several cities in Asia such as Singapore, China, and Hong Kong (Noegroho, 2012).

In Indonesia, the legal existence of land banks only came into existence with the issuance of the Job Creation Law. Previously, the government, through the Ministry of Agrarian Affairs/National Land Agency (BPN), only carried out an inventory of abandoned land, maximum excess land and new absences through Instruction of the Minister of Agraria/BPN Number 2 of 1995, and control and utilization of abandoned land through PP Number 36 of 1988, then controlling abandoned areas and land through PP Number 20 of 2021. However, the land being inventoried is not specifically intended for land acquisition for the public interest, unlike the Land Bank.

According to the former Minister of Agrarian and Spatial Planning (ATR)/National Land Agency (BPN), Sofyan A. Djalil, in practice so far, BPN only functions as a *land regulator*. If you look abroad, BPN, or what is usually called *land authority*, has two functions: *land regulator* and *land manager* (land manager). This is not without reason; BPN, as the body that manages the land sector, does not have land stock. So far, land provision has always been through land acquisition mechanisms, which have also given rise to endless polemics, such as compensation and exorbitant land prices (Djalil, 2022). So far, the Ministry of ATR/BPN, which holds the function of *land regulator*, has yet to be accompanied by a *land manager*. The presence of the Job Creation Law, PP 64/2021, and Perpes 113/2021 indicates that *the land bank* will hold the land manager.

Indeed, before the existence of land banks, the Ministry of ATR/BPN could provide land for the public interest through land procurement using *land consolidation* and *land readjustment mechanisms*. However, the drawback of these two instruments is that the arrangement through the release of rights or sale and purchase of land is only carried out when development activities are to be carried out, causing the land acquisition process to not proceed according to the planned time. Apart from these two instruments, land banks can be used as a low-conflict method of land acquisition. The difference between the land bank concept and the two previously existing instruments is that land banks 'save' land before development activities occur.

The Chairman of the DPR RI Legislative Body explained that, in general, there are several important points regulated in the Job Creation Law relating to land banks, including accelerating agrarian

reform, the government will accelerate agricultural reform and land redistribution which will be carried out by land banks (Agtas, 2020).

This land bank has two sides, the implications of which can have a bad or good impact on Indonesia. This depends on the character and *political will* of the government in office. Suppose we refer to the regulation which is the basis for the amendment, namely Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest. In that case, the direction of this land bank policy is in the public interest, including investment in the land sector which is directed towards the public interest. The public interest in question is that the land bank will provide land within the framework of a just economy for:

1. Public interest
2. Social interests,
3. National development interests,
4. economic equality,
5. Land consolidation, and
6. Agrarian reform

However, monopolistic practices on land still have the potential to occur in Indonesia, and the issue of land monopoly by the Land Bank could occur. Based on the results of the author's identification of the Academic Text of the Job Creation Bill, at least, the reasons for establishing the Job Creation Law include encouraging investment, accelerating economic transformation, and providing ease of doing business. The indications are that this Land Bank may later side with the capital owners who invest in the land without considering the people's interests. Moreover, regarding land control in terms of arranging business permits, the Land Bank can also make things easier for investors, namely referring to Article 23 letter b and Article 25 PP 64 of 2021; land banks will help provide ease of business permits or approvals.

Apart from that, regarding regulations, land banks through PP 64 of 2021 will clash with norms with PP Number 19 of 2021 concerning the Implementation of Land Acquisition for Development in the Public Interest, where the Ministry of ATR/BPN carries out land procurement. The results of the author's pre-research at the Regional Office (Kanwil) of the South Sulawesi Province National Land Agency and the Regency/City Land Office (Kantah) show that land acquisition for public purposes is carried out by Sector 4 of Land Acquisition and Development. Then, at the Regency/City level, it is carried out by Section 4, Land Acquisition and Development. This means that until this Land Bank regulation is in place, the structure at the regional office or at the district/city land office will still exist and operate.

Based on the brief description above, this land bank plays a strategic role in the sustainability of land ownership, land prices, and land use for the public interest. This fact makes the author conduct an in-depth theoretical and scientific discussion regarding the essence of land banks in managing ex-titile land assets. The study begins with understanding the nature of land banks, the principle of transparency in land management by land banks, and forms of fair land bank regulation.

RESEARCH METHODS

This type of research uses *normative juridical* research, namely researching secondary data in the legal field *that* exists as library data using deductive thinking methods (Sedarmayanti & Hidayat, 2002). To answer the problems in this research, it will be carried out comprehensively, so this research uses several approaches, namely a conceptual approach (*conceptual* approach) and a statutory regulatory approach (*statute approach*).

RESULTS AND DISCUSSION

Since land and development are interdependent, there cannot be development without land. The speed at which the nation has developed over the past 20 (twenty) years has had an impact on the need for land availability as one of the essential tools for carrying out development projects for the benefit of the government and the community, making land an increasingly important component of development from both a socioeconomic and political standpoint.[1] The idea that food is a basic necessity and should be provided for as a human right is strongly tied to the issue of food sustainability (Office of the Minister of Food, 1997). Given that food is a component of human rights, it follows that the State is obligated to provide for the needs of its citizens at all times and a reasonable cost, given its purchasing power. Sustainability here refers to both production and consumption, not just consumption alone (Nur et al., 2023). In the era of increasingly rapid development and increasingly limited land availability, land has become a highly complex issue in Indonesia's implementation of land law. There are at least 8 (eight) land issues that often occur based on their frequency, namely (Sanjaya & Djaja, 2021)

- a) conflict over forest land ownership due to ownership of separate maps by government agencies;
- b) conflicts in determining land rights and registration caused by data errors from applicants or inaccuracies from land registration officials, which cause confusion in land title certificates;
- c) conflict over land layout or boundaries due to land measurement errors;
- d) disputes over land acquisition for the public interest, particularly relating to compensation for land acquisition objects;
- e) conflict over land subject to land reform/agrarian reform due to an error in registering the name of a farmer who turns out not to be a farmer or an error occurs to the party to whom the compensation should have been paid or land reform program land has not been paid compensation for releasing its rights to the land owner;
- f) conflict over compensation claims for private land;
- g) conflicts over customary land are recognized as long as there are regional regulations governing its existence, And
- h) Conflict is related to implementing court decisions whose decisions are different or in conflict with each other regarding the same land rights object.

The land problems mentioned above occur repeatedly, becoming latent dangers in the land sector. In the era of President Joko Widodo's leadership, the phenomenon that occurred most frequently was obstacles to implementing infrastructure development for the public interest. It has become a daily occurrence for us to hear news of delays or even halts in development projects for the public interest due to difficulties in the land acquisition process (Mangkasa, 2020). Addressing the above problems, the government then formed the Land Bank Agency.

Definition of Land Bank

Normatively, the Land Bank is mandated by Article 33 of the 1945 Constitution *in conjunction with* Article 2 of the UUPA, which states that land must be used optimally for the greatest prosperity of the people. To encourage this goal, the government revised Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest through the Job Creation Law as contained in Articles 125-147. This means that the Land Bank is intended for the public interest. So, it is in line with the mandate of the 1945 Constitution and UUPA. The Land Bank in Indonesia is named "Indonesian Land Bank or *Indonesia Land Authority*." However, long before that, land banks existed and were implemented by several countries around the world.

Conceptually, land banking comes from two phrases: land bank and land banking. A land bank or land bank is defined as an institution or collaboration between institutions that have objectives related to land acquisition for national development. Meanwhile, land banking is defined as an instrument used to explain activities related to land banking (Zahra, 2017). The concept of a land bank is similar to that of a conventional bank; these two institutions have the same intermediation function: collectors and distributors of public funds. If traditional banks collect funds from the community through savings and current accounts, land banks collect abandoned land in the community. In conventional banks, funds are distributed through loans (credit), while land banks distribute land to the community for public purposes (Ganindha, 2016).

The Land Bank was first initiated and implemented by the Netherlands in 1890, followed by several cities in Europe in the 1970s, and then implemented by several cities in the United States, China, and Singapore. Conceptually, the Land Bank aims to provide guarantees for the availability of land or land aimed at sustainable public infrastructure (Puspita et al., 2021). The following are several definitions of Land Bank according to experts (Puspita et al., 2021)

- a) According to Annaningsih (2007), land banking is a technique for buying and selling land and property to meet the future needs of each individual, group, or company that can purchase land or land with real value at that time. Then, the land or land is developed for certain needs to add value and increase the economic value of the land or land.
- b) According to Alexander (2011), land banking is a process or policy by which local governments acquire surplus properties and convert them into productive use or hold them for long-term strategic public purposes " *the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long-term strategic public purposes.* "
- c) According to Limbong (2013), a land bank is one of the media in land governance to increase land use so that it becomes more profitable and provide guarantees for the availability of land or land for various kinds of infrastructure needs in the future, therefore reducing the impact. The bad things that happen in land liberalization, reduce multiple problems in the process of land release and the efficiency of the APBN/APBD.

Meanwhile, Maria SW Sumardjono explained that a land bank is generally any government activity providing land whose use will be allocated later (Sumardjono, 2005). Thus, land banks have functions, among others, as land collectors (*land keepers*) or land reserves, as land security for various development needs in the future (*land warrantee*), as land controllers (*land purchasers*), and as land distribution for various development needs. (*land distributor*) (Mochtar, 2013).

Meanwhile, according to the Job Creation Perppu, the definition of a Land Bank is similar to the opinions of the experts above. According to Article 125 of the Job Creation Perppu *in conjunction with* Article 1 of the Land Bank Agency PP, the Land Bank is a special agency (*sui generis*) that manages land established by the central government whose function is to carry out planning, acquisition, procurement, management, utilization, and distribution of land.

In substance, the most important thing about the Land Bank is to guarantee the availability of land intended for a) Public interests, b) Social interests, c) National development interests, d) Economic equality, e) Land consolidation, and agrarian reform. The availability of land is obtained through:

- 1) Government Determination, in the form of:
 - a) Ex-title land
 - b) Abandoned areas and land
 - c) Land release Forest area

- d) Soil arises
- e) Reclamation of land
- f) Ex-mining land
- g) Land of small islands
- h) Land affected by spatial planning change policies, and
- i) Land that has no control over it.
- 2) Land from other parties, in the form of:
 - a) Central government
 - b) Local government
 - c) State-Owned Enterprises (BUMN)
 - d) Regional Owned Enterprises (BUMD)
 - e) Business Entity
 - f) Legal entity
 - g) Public

It needs to be understood that land control (land rights) by the Land Bank is not ownership of Ownership Rights (HM) but in the form of Management Rights (HPL), through which HPL can be granted Business Use Rights (HGU), Building Use Rights (HGB). And Use Rights (HP) to other parties through agreements. However, land used for housing for low-income people, agriculture, and plantations, which is controlled for a minimum of 10 (10) years, can be given/released to the community in the form of Ownership Rights (HM).

As a comparison, the following is the Land Bank concept implemented by several countries (Mutia, 2004).

1) Guatemala

Management of land banks in this country is carried out by the state or government, which provides tax breaks to every landowner who sells their land to the state, whereas if they do not sell to the state, they will be subject to high taxes. Next, the government regulates the management of the land.

2) Japan

The Japanese government has determined a policy that people who buy land and then resell the land within less than 10 years of the land being purchased are categorized as land speculation activities, so they are subject to very high taxes.

3) Dutch

The practice of land banking in the Netherlands is more inclined towards general land banking activities, namely that the government carries out activities to provide, mature, and distribute public land and private land with their use determined in advance.

Land banking in Indonesia is still very new. Currently, it is not working at all. However, regulations already exist. The Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Ministry of ATR/BPN), down to the District/City Land Office level, continues to socialize the existence of Land Banks massively.

Land banks in Indonesia are transparent, accountable, and non-profit, and their existence is directly responsible to the President. Therefore, the role and function of the Land Bank are very dependent on the President in power at that time. Whether land banks carry out their tasks and roles well or badly will depend on the Government's policies at that time.

Land Bank Structure in Indonesia

The structure of land banks in Indonesia is specifically regulated by Presidential Regulation Number 113 of 2021 concerning the structure and implementation of land bank bodies. The Presidential Decree states that the Land Bank structure comprises a Committee, Supervisory Board, and Executive Body. Regarding these 3 (three) structures, if within the membership of the Committee, Supervisory Board, or Executive Body, there is a conflict of personal interest either directly or indirectly, the member is obliged to notify/disclose the condition so that they will automatically lose their voting rights in decision making, to Avoid interference in decision making.

Committee

The Committee is tasked with determining the Land Bank's strategic policies. The committee consists of at least 3 ministers, namely the Minister of ATR/BPN, the Minister of Finance, and the Minister of Public Works and Public Housing (PUPR), who have the authority to:

- 1) Determine the number of deputies of the Executive Body
- 2) Appoint and dismiss the Head and Deputy of the Implementing Body
- 3) Provide approval and ratify long-term plans, medium-term plans, and the Land Bank's Annual Work Plan and Budget
- 4) receive and evaluate accountability and performance reports from the Supervisory Board and Executive Body
- 5) ratify the annual report and performance of the Supervisory Board and Executive Body
- 6) submit the annual report and performance of the Supervisory Board and Executive Body to the President
- 7) proposing additional Land Bank capital to the minister who handles government affairs in the financial sector
- 8) provide approval for the formation of a business entity or legal entity to support Land Bank development activities;
- 9) provide approval for loans in the context of financing the increase in the Land Bank's asset management capacity as outlined in the Annual Work Plan and Budget
- 10) approve policies and/or Regulations of the Head of the Implementing Agency that have a significant impact on the development of the Land Bank
- 11) determine land utilization tariff formulation based on the Implementing Agency's proposal
- 12) establish Committee Regulations.

The committee itself is appointed and dismissed by the President. To maximize its functions, the Committee is assisted by a Committee Secretariat drawn from the Ministry of ATR/BPN, tasked with providing technical, administrative, and analytical support to the Committee.

Supervisory Board

The Supervisory Board is an organ of the Land Bank, which supervises all Land Bank activities and provides recommendations on implementing Land Bank implementation policies. The Supervisory

Board is appointed and dismissed based on the recommendation of the Committee stipulated in the Presidential Decree. In carrying out its duties, the Supervisory Board has the authority to:

- 1) supervising the performance achievements of the Implementing Agency
- 2) provide input and advice to the Implementing Body regarding the implementation of the Land Bank
- 3) submit a proposal for temporary dismissal and temporary replacement of the Head and Deputy of the Executive Body to the Chair of the Committee if there is a loss or risk that endangers the Land Bank
- 4) appoint an independent Land Bank Public Accountant on the recommendation of the Implementing Body
- 5) agree on the exchange payment mechanism in the land utilization process
- 6) provide loan approval with a value of more than Rp. 1,000,000,000,000,- (one trillion rupiah)
- 7) provide consideration for revision of the Annual Work Plan and Budget;
- 8) give consideration to the Committee regarding proposals for additional capital
- 9) access information data related to the Land Bank and communicate directly with employees
- 10) provide consideration for granting financial rights and facilities
- 11) provide approval for temporary capital investments and transfers
- 12) ensure the implementation of transparency and accountability in financial and non-financial reports and good governance
- 13) monitor and ensure the effectiveness of governance, including handling conflicts of interest and
- 14) carry out the authority delegated by the Committee.

Several things that the Supervisory Board can and must do in carrying out its duties and authority are:

- 1) following developments in the implementation of the Land Bank
- 2) provide opinions and suggestions to the Implementing Body;
- 3) make supervisory reports to the Committee regarding the performance of the Land Bank
- 4) provide recommendations to the Committee on the Implementing Body's proposals in terms of long-term, medium, and annual strategic work plan policies
- 5) reporting assets before and after serving on the Supervisory Board, and
- 6) may involve independent parties.

To support the implementation of its duties, the Supervisory Board is assisted by a secretary and supporting organs consisting of the Audit Committee, Risk Monitoring Committee, and other committees as needed.

Implementing agencies

The Managing Body is an organ of the Land Bank consisting of a Head and Deputy who have full authority and responsibility for the administration of the Land Bank, who a secretary and an internal supervisory unit assist. The duties of the Implementing Body are:

- 1) carry out independent operational activities in managing assets, finances, and business activities
- 2) realizing a thematic map of land and areas that are potential assets belonging to the Land Bank
- 3) carry out personnel management, including appointment, dismissal, rights, and obligations for employees
- 4) carry out effective governance, risk management, and internal control systems
- 5) prepare long-term plans, medium-term plans, and the Land Bank's Annual Work Plan and Budget
- 6) responsible for wealth management and development of the Land Bank's operational activities, which are reported periodically
- 7) create a strategic plan for Land Bank activities
- 8) prepare, review, or amend the Master Plan
- 9) help provide ease of business/approval in implementing land use agreements
- 10) carry out land acquisition either directly or through land acquisition stages
- 11) determine the extent of agrarian reform and social interests
- 12) providing land for agricultural reform and housing for low-income people
- 13) carrying out Land Bank business activities in the form of:
 - a) transfer of inventory assets to other parties
 - b) provide recommendations for the imposition of mortgage rights on inventory assets proposed by land rights holders
 - c) provide recommendations for the extension and renewal of land rights submitted by land rights holders
 - d) other business activities related to Land Bank operations
 - e) carry out investment activities.
- 14) carry out Land Bank operations with the principles of ethics, responsibility, integrity, and sustainability
- 15) representing the Land Bank inside and outside the Court
- 16) carry out Executive Board meetings in decision-making; And
- 17) carry out other tasks assigned by the Committee and Supervisory Board.

Meanwhile, the authority of the Implementing Body is:

- 1) Establish personnel and organizational management regulations

- 2) establish regulations for the procurement of goods and services in the context of carrying out the duties of the Land Bank by taking into account the principles of transparency, accountability, efficiency, and effectiveness
- 3) establish business governance regulations for planning, land acquisition, land acquisition, land management, land utilization, land distribution, and cooperation
- 4) determine regulations on land utilization rates and forms of cooperation
- 5) form a business entity or legal entity to support the implementation of the Land Bank
- 6) establish financial governance and reporting system regulations
- 7) formulate and develop a financial accounting system
- 8) establish rules related to investment activities
- 9) prepare a loan proposal plan
- 10) determine the mechanism for extending and renewing land rights, which can be granted simultaneously by the land utilization cooperation agreement
- 11) specifically, regulate utilization rates in the case of extension and renewal of land rights.

In carrying out its duties and authority, the Implementing Body can collaborate with ministries/institutions, Regional Government, state institutions, state-owned enterprises, regional-owned enterprises, business entities, state-owned legal entities, private legal entities, communities, cooperatives, etc., or other authorized parties. As with other organs, the Executive Body is assisted by a Secretary and an Internal Supervisory Unit.

Types of Land Banks

Referring to Flechner's opinion, Land Banks are divided into 2 (two), namely (Flechner, 1974)

1) Public Land Bank

A public land bank is a land bank whose management involves public institutions. This land bank can be run by a public institution or several public legal entities, an independent body with purely public service duties and responsibility entirely in the hands of the government. Public land banks, when viewed from their objectives, are differentiated into:

a) General Land Bank (general land banking)

These are activities carried out by government bodies to acquire undeveloped or abandoned land, collect land to carry out the provision, development, and distribution of land for all types of public or private land use, without prior determination of the use, to monitor development patterns urban areas and regulate land prices and obtain *capital gains* from surplus value as a result of public innovation and regulate land use, including regarding the time, location, type and scale of development. Public land banks can also be intended for the development needs of the public interest in the future, even though at the time of land acquisition/or at the time of collecting the land, it has not been determined exactly what the land will be used for.

b) Special Land Bank (project or special land banking)

It is a land bank activity that focuses more on certain functional areas to provide for urban renewal, industrial development, construction of medium or simple and very simple housing, construction of various public facilities, and providing land for green open spaces. However, this special land bank is more aimed at development interests whose purpose and implementation time have been determined, so this special land bank is also called a project land bank. The characteristics of this special land bank include that its future use has been determined, the purpose of using the land is for

certain public purposes, the time for land use has been planned with a short or medium-term grace period, and the project plan, including financing, has also been made.

2) Private Land Bank

Private individuals run private land banks. Private legal entities will become land bank shareholders or funders in the land bank. Individuals or private companies can run these private land banks. This private land bank has been implemented in Indonesia. Indeed, this private land banking institution is conceptually yet to be widely known in Indonesia. Still, it is already running, whether it is a local, national, or even international private company.

Bernhard explained that in this case, national private companies are mainly engaged in the property sector, building shophouses, offices, recreation facilities, supermarkets, apartments, trade centers, and *real estate development*. For investors who need land for investment, the land acquisition mechanism for private land banks is carried out using a buying and selling or swapping system. It can also be done by purchasing land through auction from the state wealth services office and auction (Limbing, 2013).

In this type of land bank, the private party is fully responsible, so the state cannot influence land purchases. The main motives for private actors here in land banking are profit and the availability of land, which, in the long term, is expected to increase land value (Mochtar, 2013).

In contrast to the Land Bank, as stipulated in the Job Creation Perppu and its implementing regulations, it is divided into a variety of ways. It could be said that the Land Bank adheres to a monoistic ideology. It is handed over to the Land Bank for public and private purposes. Starting from planning to distribution is carried out by the Land Bank. In Indonesia itself, based on Article 2, paragraph 1, paragraph 5, and paragraph 6 of the Land Bank Agency PP, Land Banks are legal entities domiciled in the National Capital but can establish representative offices throughout the territory of the Republic of Indonesia.

The function of a land bank is integrated and starts from land planning, land acquisition, land acquisition, land management, land utilization, and land distribution/

First, land planning. With the Committee's approval of the Implementing Body, the Head of the Implementing Body prepares a long-term land plan for 25 years, a medium-term for 5 years and a short-term for 1 year, which is adjusted to the national medium-term development plan and spatial planning.

Second, land acquisition. The Land Bank acquires land from 1) Government determination in the form of ex-rights land, abandoned areas, and land, land released from forest areas, emergent land, reclaimed land, ex-mining land, land on small islands, and land affected by spatial planning change policies. , and land over which there is no control. 2) Land from other parties, in the form of the Central Government, Regional Government, State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), Business Entities, Legal Entities and the Community. The land is processed through the process of: purchase, grant, exchange, release of rights and other legal forms.

Third, land acquisition. Land procurement is carried out through a staged mechanism for land procurement for development in the public interest or direct land procurement which refers to Law Number 2 of 2012 concerning Land Acquisition for Development in the Public Interest, PP Number 19 of 2021 concerning Implementation of Land Acquisition for Development in the Public Interest General and ATR/KBPN Ministerial Regulation Number 19 of 2021 concerning Provisions for Implementing PP Number 19 of 2021 concerning Implementation of Land Acquisition for Development in the Public Interest.

Fourth, land management. The Land Bank manages land in the form of: 1) land development intended for: a) housing and residential areas, urban rejuvenation, integrated area development, land consolidation, infrastructure development, development of facilities and other infrastructure, land preparation for preparation of Land Bank business governance , national strategic projects; 2) maintenance and security of land in the form of a) legal aspects including legal certainty of land rights and actively maintaining that legal certainty, b) physical aspects including maintenance and physical security of land; and 3) land control in the form of controlling land tenure, identifying land use and controlling land value.

Fifth, land use. Land banks can utilize land in the form of buying and selling, renting, business cooperation, grants, exchanges and other agreed forms, while still paying attention to the principles of benefit and priority.

Sixth, distribution of land. The Land Bank distributes land in the form of land provision and land distribution aimed at Ministries/institutions, Regional Governments, Social and Religious Organizations, and/or communities determined by the Central Government.

The 6 (six) functions above are carried out by the Land Bank through the structures formed, namely the Committee, Supervisory Board and Implementing Body.

Land Bank Urgency

The urgency of implementing the Land Bank concept in Indonesia can be seen from several positive implications that will occur after implementing the land bank concept, including (Limbong, 2013): (Erdiana et al., 2021)

First , the availability of land stock for the Government. The presence of a land bank is very beneficial for the availability of state (government) land. A land bank can be an institution that holds government land reserves for various purposes, especially for development purposes. As with its function as a land collecting and storing institution, land banks can provide land that can be used by the government at any time. The government should indeed have a stock of land, this is to facilitate the implementation of development in various fields in the future, especially for the public interest.

Second , reducing land acquisition conflicts. One of the functions of land bank institutions is to collect and provide land for development purposes. This function, of course, ensures the availability of land for carrying out development activities. Experience so far is that the implementation of development activities, whether infrastructure or other public facilities, is often hampered by land acquisition. Land acquisition conflicts often occur because land rights holders generally refuse to hand over land for development activities due to the large amount of compensation which is considered unfair. On the one hand, the government, through the land procurement committee, pays compensation in accordance with the NJOP. Meanwhile, on the other hand, people who hold land rights want the amount of compensation to be according to market prices, even several times the market price due to the games of speculators and land brokers who buy land at land procurement locations in quite large amounts. Through the presence of a Land Bank, we can guarantee the availability of land to accommodate development activities, especially for the public interest. The Land Bank acquires land long before there is a need for development. In this way, the land that has been collected by the land bank can be used as a container for development activities.

Third , the efficiency of the APBN budget. Referring to the concept, the Land Bank provides an alternative for the government to obtain land (at low prices) before the need arises. With land stock that is always available, APBN or APBD funds can be saved because the government no longer needs to acquire land. Even if land has to be acquired, at least the government has land stock to relocate residents affected by land acquisition. In accordance with its function as land controller, the Land

Bank can also be used as a tool to control the land market. The presence of land bank institutions certainly provides efficiency in the APBN and APBD because land bank institutions can provide land for future development purposes, even though the purpose of using the land has not yet been determined. The government can buy land cheaply because the use of the land has not been determined. This is different from the land acquisition policy that is already known to the public for certain development projects. It was information about the government's project plans that triggered land prices to soar due to the games of land speculators.

Fourth, reduce the negative impact of land liberalization. One of the main causes of land acquisition problems is the liberalization of the land market coupled with the presence of land speculators. Land prices rose very sharply around the land acquisition location. As a result, the government experienced difficulties when it came to paying compensation to landowners. In other countries, institutions that manage land banks function to monitor land price movements systematically and strictly, especially those caused by the actions of land speculators (Ganindha, 2016). The practice of land liberalization also provides opportunities for inequality in land ownership. Land ownership can also be concentrated in the hands of large capital owners. With its function as a means of controlling land, land banks can also reduce and prevent land speculation and land liberalization. Land Banks can also reduce the structure of inequality in land ownership because they have the authority to regulate the allocation, control and use of land.

CONCLUSION

The Land Bank is a special agency (*sui generis*) formed by the central government to manage land, where the land bank obtains land through: 1) government stipulations in the form of: Ex-title land, abandoned areas and land, land released in forest areas, emerging land, land reclamation results, ex-mining land, land on small islands, land affected by spatial planning change policies, and land where there is no control over it. 2) other parties, namely the Central Government, Regional Government, State-Owned Enterprises (BUMN), Regional-Owned Enterprises (BUMD), Business Entities, Legal Entities, the Community.

This land bank is run by 3 (three) structures consisting of a Committee, Supervisory Board and Implementing Body, the main essence of which lies in its function, namely planning, acquiring, procuring, managing, utilizing and distributing land.

BIBLIOGRAPHY

- Agtas, S.A. (2020). *Report from the DPR RI Legislative Body in the context of Level II Discussions/Decision Making Results of Discussions on the Bill on Job Creation which have been completed by the Legislative Body in the Plenary Session of the DPR RI*.
- Arisaputra, MI, Ashri, M., Aspan, Z., & Yunus, A. (2023). Special Land Court : Land Resolution With Legal Certainty. *Journal of Pharmaceutical Negative Results*, 14 (1), 402–406. <https://doi.org/10.47750/pnr.2023.14.S01.45>
- Auslan, P. M. (1986). *Urban Land and Protection of Common People Translated by WahanaEnvironment*. Jakarta: PT Gramedia.
- Djalil, S. (2022). *There is a Land Bank in the Job Creation Law, this is its function*. CNBC Indonesia. <https://youtu.be/p8ELfGs10LE>
- Erdiana, N., Santoso, B., & Prasetyo, MH (2021). Existence of Land Banks Related to Land Acquisition Based on the Job Creation Law. *Notarius*, 14 (2), 930–942. <https://doi.org/10.14710/nts.v14i2.43784>
- Flechner. (1974). *Land Banking in the Control of Urban Development*. New York: Praeger Publishers.
- Ganindha, R. (2016). The Urgency of Establishing a Land Bank Institution as an Alternative to Providing Land to the Community for Public Interest. *Legal Arena*, 9 (3), 442–462. <https://doi.org/10.21776/ub.arena.Hukum.2016.00903.8>
- Haar, T. (1991). *Principles and Structure of Customary Law*. Jakarta: PT Pradya Paramita.

- Harjanto, B., & Rianto, E. (1999). LPM Analysis of the Influence of Accessibility Location Factors in Affecting Land Value. *Journal of Property Surveying and Appraisal* , 14 , 31–39.
- Limbing, B. (2013). *Land Bank* . Jakarta: MB Graphics.
- Limbong, B. (2011). *Land Acquisition for Development* . Jakarta: Margaretha Pustaka.
- Limbong, B. (2014). *Agrarian Policy Opinion* . Jakarta: Margareta Library.
- Mangkasa, O. (2020). Land Banks as an Alternative to Land Acquisition for Development in the Public Interest. *Agrarian Magazine Edition I* , 2 .
- Mochtar, H. (2013). The existence of a land bank in procuring land for development. *Journal of Legal Horizons* , 18 (2).
- Mutia, CL (2004). Land Bank: Between Ideals and Utopia. *Lex Journalica* , 1 (2).
- Noegroho, N. (2012). Application of the Land Banking Concept in Indonesia in Urban Areas. *ComTech: Computer, Mathematics and Engineering Applications* , 3 (2), 961–965.
- Noor, R. (2014). Land Bank Management. *Journal of the Directorate and Spatial Planning of BAPPENAS* , 1 .
- Nur, SS (2009). Legal Aspects of Providing Urban Land in the Form of Land to Support Sustainable City Development. *Dissertation* . Hasanuddin University.
- Nur, SS, Lahae, K., & Ningsih, R. (2023). Legal Aspects of Implementing the Concept of Land Bank Agency on Sustainable Agricultural Land in Indonesia. *In 3rd International Conference on Law, Governance, and Social Justice (ICoLGaS 2023)* , 561–569. https://doi.org/10.2991/978-2-38476-164-7_51
- Puspita, FF, Latifah, FN, & Krisnaningsih, D. (2021). The Urgency of the Presence of Land Banks as an Alternative to Restore the Economy in Indonesia. *Scientific Journal of Islamic Economics* , 7 (3).
- Sanjaya, D., & Djaja, B. (2021). Land Bank Regulations in the Job Creation Law and the Implications of the Existence of Land Banks for Land Law in Indonesia. *Estuary Journal of Social Sciences, Humanities and Arts* , 5 (2), 462. <https://doi.org/10.24912/jmishumsen.v5i2.11387.2021>
- Sedarmayanti, & Hidayat, S. (2002). *Research methodology* . Bandung: Mandar Maju.
- Sumardjono, MS (2005). *Land Policy Between Regulation and Implementation* . Jakarta: Kompas Books.
- Sutawijaya, A. (2004). Land as a Basis for Valuing the Sales Value of UN Tax Objects (Njop) in the City of Semarang. *Journal of Development Economics* , 9 (1), 65–78.
- Trisna, N., & Sandela, I. (2021). THE EXISTENCE OF LAND BANK IN AGRARIAN LAW IN INDONESIA. *Journal of Ius Civile* , 5 (1).
- Zahra, F.A. (2017). Legal Construction of Land Bank Regulations to Realize Fair Management of State Land Assets. *Legal Arena Journal* , 10 (3).