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Legal Political Reform of the Establishment of A Land Bank as A Legal Instrument in Land Acquisition for Development

Erdi Sutanto Chandra, M Iman Santoso, Hartanto, Saefullah*
Universitas Krisnadwipayana, Indonesia
Email: saefullah1980@gmail.com*

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Abstract

Land acquisition for development in Indonesia faces persistent challenges, including limited land availability, land speculation, overlapping institutional responsibilities, and disputes concerning community land rights. The establishment of the Land Bank Agency (Badan Bank Tanah) represents an institutional response to these challenges; however, its legal framework requires critical examination to ensure consistency between development objectives and the principles of agrarian justice. This study examined the legal policy underlying the establishment of the Land Bank Agency, its legal status, its role in land acquisition for development, and the normative reforms necessary to strengthen its contribution to public welfare. The study employed a normative juridical research method incorporating statutory, conceptual, case, and historical approaches. Primary, secondary, and tertiary legal materials were collected through library research and analyzed qualitatively using descriptive and prescriptive legal reasoning. The findings indicated a shift in land governance policy from reactive land acquisition toward proactive, planned, and sustainable land reserve management. The Land Bank Agency was identified as a special legal entity established by the central government to manage land in accordance with its statutory mandate and the state's right of control over land, rather than as an institution exercising unrestricted ownership rights. However, overlapping institutional mandates, insufficiently defined boundaries of authority, limitations in oversight mechanisms, and inadequate safeguards for community land rights presented challenges to the coherence and effectiveness of its legal framework. These findings suggested that institutional innovation alone was insufficient to ensure equitable land governance without regulatory consistency, institutional accountability, and enforceable protections for affected communities. The study concluded that legal and institutional reforms should prioritize regulatory harmonization, clarification of institutional responsibilities, stronger supervision, meaningful public participation, fair compensation where legally applicable, and effective protection of land rights. Such reforms were considered essential to aligning the Land Bank Agency's operations with the constitutional principles of social justice and the greatest possible prosperity of the people under Article 33(3) of the 1945 Constitution of the Republic of Indonesia.

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INTRODUCTION

Within the Indonesian nation's worldview, collective consciousness, and legal ideals grounded in Pancasila, land is regarded as a gift from God Almighty that must be managed responsibly for the welfare and development of all Indonesian people (Septyanun & Yuliani, 2020; Sudirta et al., 2025). As a state governed by the rule of law, Indonesia must establish a legal framework for land governance that accommodates

diverse cultural traditions and customary legal systems while upholding democratic principles, including economic democracy. The constitutional foundation of land governance is Article 33(3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that land, water, and the natural resources contained therein are controlled by the state and utilized for the greatest possible prosperity of the people (Republik Indonesia, 1945). This constitutional mandate is further implemented through Law No. 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Pokok Agraria, UUPA), particularly Article 2, which establishes the state's authority to regulate the allocation, use, availability, and maintenance of land, water, and airspace (Republik Indonesia, 1960). Accordingly, Indonesian agrarian law must prioritize national interests and public welfare while recognizing the legally protected rights and interests of other parties, including foreign investors, within the limitations established by applicable legislation.

The concept of land banking has been examined by various scholars from different institutional and policy perspectives. Generally, land banking refers to the acquisition, management, and subsequent allocation or disposition of land by public institutions or designated organizations to achieve specific development objectives. Damen (2004) emphasized the acquisition and management of rural land by an independent public institution for subsequent redistribution or leasing to improve agricultural structures and advance the public interest. Sumardjono (2005) described land banking as governmental activities intended to secure land for future allocation and utilization, whereas Evans (2004) and Alexander (2008) emphasized the strategic acquisition of land before development to support long-term public objectives. These perspectives suggest that land banking constitutes a policy instrument through which the state, acting through an authorized institution, acquires or secures land, manages it according to established purposes, and allocates it to support public development programs. According to Limbong (2013), land banking offers potential benefits by improving land availability for development, increasing investment certainty, and reducing the time and costs associated with conventional land acquisition procedures. Similarly, other studies identified its potential contributions to balancing land supply and demand, moderating speculative land price increases, and integrating land-related policies, implementation strategies, and evaluation mechanisms (Ganindha, 2016; Mochtar, 2013). However, the realization of these benefits depends on the institution's legal authority, operational capacity, and accountability.

The need for a land banking institution in Indonesia emerged partly from persistent difficulties in acquiring land for infrastructure development. According to the Head of the Construction Development Agency (Badan Pembinaan Konstruksi, BP Konstruksi), land acquisition constituted a major obstacle to infrastructure implementation (Kementerian Pekerjaan Umum dan Perumahan Rakyat, n.d.). The 2015–2019 Strategic Plan estimated that approximately 133,657 hectares of land would be required, comprising 21,172 hectares for road infrastructure, 111,437 hectares for water resources, 592 hectares for human settlements and public works infrastructure (Cipta Karya), and 456 hectares for public housing. The estimated land acquisition budget reached IDR 82.8 trillion, including IDR 33.76 trillion for road infrastructure, IDR 46.67

trillion for water resources, IDR 1.5 trillion for Cipta Karya, and IDR 931 billion for public housing (Kementerian Perencanaan Pembangunan Nasional/Badan Perencanaan Pembangunan Nasional, 2014a, 2014b). Infrastructure planning also required land acquisition to be completed sufficiently in advance of project operations, with a two-year preparation period identified in the relevant planning context. Common obstacles included overlapping land ownership claims, resistance from affected landholders, land located within forest areas or controlled by state-owned plantation enterprises and other institutions, disagreements over compensation, differences in land tenure status, speculative transactions, and buildings constructed on land owned by other parties. The government introduced several regulatory instruments to address these challenges, including Presidential Regulation No. 36 of 2005 concerning Land Acquisition for Development in the Public Interest, Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, and Presidential Regulations No. 40 and No. 99 of 2014 concerning amendments to the implementing framework for land acquisition (Republik Indonesia, 2012). Nevertheless, the implementation of these regulations continued to face challenges, particularly when development projects required extensive land areas. Land speculation, fragmented ownership, and the underutilization of available land further complicated acquisition procedures and increased development costs (Subekti, 2016; Sutedi, 2006).

In response to these challenges, the Indonesian government established the Land Bank Agency (Badan Bank Tanah) through the Job Creation legal framework, initially regulated under Articles 125–135 of Law No. 11 of 2020 concerning Job Creation and further implemented through Government Regulation No. 64 of 2021 concerning the Land Bank Agency. Following subsequent developments in the Job Creation legislative framework, the Agency's statutory basis must also be interpreted in conjunction with Law No. 6 of 2023 concerning the Enactment of Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation into Law (Republik Indonesia, 2020b, 2021a, 2023). The Land Bank Agency was established as a special legal entity (sui generis) by the central government, with responsibilities encompassing land planning, acquisition, procurement, management, utilization, and distribution. Its statutory operations were intended to follow principles of transparency, accountability, and nonprofit management. The Agency was established to support land availability for public and social interests, national development, economic equity, land consolidation, and agrarian reform. Its regulatory framework also required the allocation of at least 30% of the land designated for the Land Bank Agency to support agrarian reform. Land managed by the Agency could be subject to Management Rights (Hak Pengelolaan, HPL), under which certain derivative land rights, including the Right to Cultivate (Hak Guna Usaha, HGU), Right to Build (Hak Guna Bangunan, HGB), and Right to Use (Hak Pakai), could be granted in accordance with applicable regulations. Management Rights could also be granted to eligible governmental institutions, state-owned enterprises, regional-owned enterprises, state legal entities, and designated legal entities under the relevant statutory framework. Holders of Management Rights possessed specified authority to prepare land allocation plans, utilize land directly or through cooperation with third parties, and determine

applicable tariffs or receive income from authorized land utilization arrangements. Within these legal parameters, the Land Bank Agency was expected to support development and investment activities, including opportunities for micro, small, and medium enterprises (MSMEs), through coordinated land planning, land availability, and legally regulated utilization arrangements (Aini et al., 2024; Mahardika & Suyanto, 2022).

Despite its intended institutional benefits, the establishment of the Land Bank Agency generated substantial debate concerning its legal foundation, institutional authority, and potential implications for community land rights. Critics argued that the institution's regulatory design required further development, particularly because aspects of the land banking concept had previously appeared in legislative proposals that had not been enacted. Dewi Kartika, Secretary-General of the Agrarian Reform Consortium (Konsorsium Pembaruan Agraria, KPA), expressed opposition to the establishment of the Agency, reflecting concerns among civil society organizations regarding its potential consequences for agrarian justice (Hukumonline, 2021). The Agency's nonprofit status also raised questions about whether land allocation and utilization arrangements could disproportionately benefit large corporations or investors without adequately protecting public interests, concerns similarly expressed by researchers at the Institute for Development of Economics and Finance (INDEF) (Bisnis.com, 2020). Furthermore, the expansion of Management Rights prompted debate regarding the legal implications of derivative land rights, including rights associated with apartment ownership by foreign nationals, and their consistency with the principles of the UUPA (Wardhani, 2020). Potential overlaps between the Agency's responsibilities and those of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional, ATR/BPN), whose institutional arrangements were addressed in Presidential Regulation No. 47 of 2020, also raised questions about administrative coordination and the boundaries of regulatory authority (Republik Indonesia, 2020a). Some critics associated the Agency's extensive land management powers with concerns about the revival of the colonial domeinverklaring doctrine, although the legal distinction between contemporary state control and colonial assertions of state ownership requires careful examination (Putrazta et al., 2024). Additional concerns involved the clarity of land acquisition criteria, the identification of land eligible for management, compensation mechanisms, and safeguards for affected communities. Although Law No. 2 of 2012 established requirements concerning fair and appropriate compensation for land acquisition in the public interest, the relationship between these requirements and the Land Bank Agency's various land acquisition mechanisms required further legal clarification. These issues highlighted potential risks of institutional overlap, administrative discretion, inadequate legal protection, and additional fiscal burdens associated with establishing and operating a new public institution through the State Revenue and Expenditure Budget (Anggaran Pendapatan dan Belanja Negara, APBN) (Sofyan et al., 2021).

Research on land banking in Indonesia has examined several dimensions of the Land Bank Agency, including the urgency of its establishment, the legal policy underlying its formation, its institutional status, its land acquisition functions under the state's right

of control, land procurement mechanisms, and the construction of its legal framework (Fadilah et al., 2021; Ganindha, 2016; Herni et al., 2014; Meliala et al., 2025; Trisna & Sandela, 2021). Nevertheless, these perspectives indicate several areas requiring more integrated normative examination. First, existing discussions of the legal policy underlying the Agency's establishment have not consistently integrated development objectives, the state's right of control over land, legal certainty, justice, legal utility, and public welfare into a comprehensive framework for institutional reform. Second, the Agency's sui generis legal status requires further clarification concerning the sources, scope, and limitations of its authority, its relationships with other governmental institutions, its legal responsibilities, and its supervisory mechanisms. Third, the distinct legal characteristics and institutional contributions of the Land Bank Agency need to be examined in relation to existing land acquisition procedures to determine how its functions can be integrated into Indonesia's broader land governance system without creating unnecessary institutional duplication. Fourth, a more coherent normative framework is needed to connect the Agency's objectives, legal status, institutional authority, land acquisition procedures, land management and utilization, land distribution, community rights protection, and oversight mechanisms. Addressing these issues would provide a foundation for examining legal policy reforms aimed at strengthening the Land Bank Agency as an instrument of land acquisition for development while maintaining consistency with constitutional principles, agrarian justice, and public welfare.

METHOD

This study employed a descriptive-analytical normative juridical research method to examine the legal framework governing the establishment and operation of the Land Bank Agency in Indonesia. The research applied statutory, conceptual, case, and historical approaches to analyze relevant legislation, legal principles, judicial decisions, and the regulatory development of land banking. The analysis focused on identifying inconsistencies, overlapping institutional authority, and gaps in legal protection, as well as formulating recommendations for legal policy reform. The study relied exclusively on secondary data obtained through library research (Marzuki, 2008; Soekanto, 1984).

The research materials comprised primary, secondary, and tertiary legal sources. Primary legal materials included Article 33(3) of the 1945 Constitution of the Republic of Indonesia; Law No. 5 of 1960 concerning Basic Agrarian Principles (Undang-Undang Pokok Agraria, UUPA); Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest; Law No. 11 of 2020 concerning Job Creation, considered alongside its subsequent legislative developments under Law No. 6 of 2023; Government Regulation No. 64 of 2021 concerning the Land Bank Agency; Government Regulation No. 18 of 2021 concerning Management Rights, Land Rights, Strata Title Units, and Land Registration; Presidential Regulation No. 113 of 2021 concerning the Structure and Administration of the Land Bank Agency (Republik Indonesia, 2021b); relevant regulations issued by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (Agraria dan Tata Ruang/Badan Pertanahan Nasional, ATR/BPN);

and relevant Constitutional Court decisions. Secondary legal materials included scholarly books, journal articles, previous research, legal doctrines, academic papers, and official government publications. Tertiary legal materials included legal dictionaries, the Kamus Besar Bahasa Indonesia (KBBI), and legal encyclopedias. Legal materials were collected through systematic identification, inventory, classification, and documentary examination. The collected materials were analyzed qualitatively using statutory interpretation, conceptual analysis, and descriptive-prescriptive legal reasoning. The analysis examined regulatory coherence, institutional authority, legal safeguards, and potential normative gaps to formulate recommendations for strengthening legal certainty, accountability, and community rights protection within the Land Bank Agency's regulatory framework.

To establish the study's originality, a comparative review of nine previous dissertations was conducted. Winahyu Erwiningsih (UII, 2009) examined the implementation of the state's right of control over land and identified inconsistencies between its normative foundations and regulatory implementation, recommending amendments to the UUPA. Muhammad Ilham Arisaputra (Unair, 2015) investigated access reform within agrarian reform and proposed the establishment of land banks and agricultural financing institutions. Michael Josef Widijatmoko (UNS, 2019) examined land tenure by plantation companies in the context of foreign investment and proposed a government-managed land banking institution. Mohammad Asep Suharna (Unpas, 2025) investigated the Land Bank Agency's role in equitable land asset management for economic development, while Andi Evy Anggraeni (Unhas, 2025) examined its legal characteristics in managing land formerly subject to land rights. Four additional dissertations addressed land acquisition and agrarian justice from different perspectives: Arie Ventje Sendow (Unhas, 2023) examined reflective justice; Fifik Wiryani (UGM, 2016) investigated participatory principles and social justice; Dewa K. G. Astika (Unair) examined respect for land rights; and Djono Sumardi Gozali (Unair, 2017) analyzed the principle of agreement in land acquisition. This comparative review identified the need for a more integrated normative examination of the Land Bank Agency's legal status, institutional authority, land acquisition functions, accountability mechanisms, and protection of community land rights. Accordingly, the present study focused on formulating a coherent legal policy reform framework that aligned the Agency's institutional functions with constitutional principles, agrarian justice, and public welfare.

RESULTS AND DISCUSSION

Research Results on Legal Political Reform in Land Acquisition for Development through the Establishment of Land Bank Bodies

Based on the results of research on the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, Law Number 2 of 2012 concerning Land Acquisition for Development for the Public Interest, Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, Government Regulation Number 64 of 2021 concerning Land Bank Bodies, Constitutional Court

decisions, as well as legal political theory, state theory of law, welfare state theory, and authority theory, it was found that the establishment of the Land Bank Agency is a form of land law political reform that changes the paradigm of land acquisition in Indonesia.

Prior to the establishment of the Land Bank Agency, the land acquisition system focused more on the mechanism of land supply after the need for development. The model puts the state in a reactive position, namely acquiring land when a development project has been planned. As a result, the land acquisition process often faces obstacles in the form of limited state land, increasing land values due to speculation, conflicts between the government and the community, and the length of the land acquisition process.

Through the establishment of the Land Bank Agency, the politics of land law underwent a fundamental change. The state no longer only plays the role of the party that acquires land for the sake of development, but also as an institution that systematically plans, procures, manages, utilizes, and distributes land. Thus, there is a shift from the land acquisition system to the land management system.

The results of the study show that the change is the implementation of the national development legal policy which aims to ensure the availability of land for development, increase the effectiveness of land acquisition implementation, support investment, and provide land for agrarian reform and public interest. The legal politics reflect the change in the orientation of land policy from an administrative approach to an institutional approach through the establishment of the Land Bank Agency as a special legal entity.

From the perspective of the theory of the state of law (Rechtsstaat) (Wahjono, 1986), the establishment of the Land Bank Agency shows that there are efforts by the state to build legal certainty in the provision of land through the establishment of institutions that have a clear legal basis. However, the results of the study also found that the expansion of the authority of the Land Bank Agency has the potential to cause problems if it is not balanced with regulations regarding the limits of authority, supervision mechanisms, transparency, and accountability. In the state of law, any use of authority must be subject to the principles of legality and protection of human rights so that the authority to manage land by the state should not reduce the constitutional rights of the community to land.

Judging from the theory of the welfare state (Marilang, 2012; Panjaitan, 2012; Risnain, 2016), the establishment of the Land Bank Agency is a form of implementing state functions in realizing community welfare through the management of agrarian resources. The state not only carries out the functions of regulation (regelendaad), but also the functions of management (bestuursdaad), management (beheersdaad), and supervision (toezichthoudensdaad) as interpreted by the Constitutional Court in Decision Number 001-021-022/PUU-I/2003. Therefore, the existence of the Land Bank Agency in principle has constitutional legitimacy as long as the exercise of its authority is directed to the greatest prosperity of the people as mandated by Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

However, the results of the study show that political and legal reform through the establishment of the Land Bank Agency still leaves several normative problems. First,

there is a potential overlap of authority between the Land Bank Agency and the Ministry of Agrarian and Spatial Planning/National Land Agency in the aspect of state land management. Second, the regulation of land use priorities managed by the Land Bank Agency has not fully provided certainty regarding the balance between the interests of investment, development, and agrarian reform. Third, there is no supervisory mechanism that comprehensively ensures accountability in the management of land assets by the Land Bank Agency.

The results of the study also show that substantially the establishment of the Land Bank Agency does not change the basic principle of the Right to Control the State as stipulated in Article 2 of the UUPA. What has changed is the institutional form and mechanism for the implementation of state functions in land management. Thus, the Land Bank Agency is not a legal subject that has ownership rights to land, but a state instrument that carries out part of the function of the Right to Control the State based on the authority granted by law. Based on an analysis of political and legal theory, the establishment of the Land Bank Agency shows a shift in the political orientation of land law from the administrative service model to the national land asset management model. This shift is a response to the increasing need for land for national development, urbanization, infrastructure development, and investment. However, the political and legal reform must still be guided by the principles of the social function of land, agrarian justice, protection of people's rights, and legal certainty so that it does not shift into an instrument that prioritizes economic interests rather than the constitutional goal of state control over land.

Based on the results of the analysis, this study found the following findings:

1. Political reform of land acquisition laws through the establishment of the Land Bank Agency is a paradigm shift from a reactive land acquisition system to a proactive, planned, and sustainable land reserve management system.
2. The establishment of the Land Bank Agency is a political implementation of state law in strengthening the state's function as a manager of agrarian resources in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, but its implementation still requires strengthening the principle of the state of law through regulations regarding the limits of authority, accountability, and supervision mechanisms.
3. Political reform of land law through the Land Bank Agency has not fully integrated the goals of economic development, legal certainty, and agrarian justice in a balanced manner, so it is still necessary to improve the construction of norms to prevent conflicts of authority and provide stronger protection for people's rights to land.

The results of the study concluded that the establishment of the Land Bank Agency is a form of legal political reform that is conceptually in accordance with the development of the modern legal state and the welfare state because it strengthens the role of the state in ensuring the availability of land for development. However, the reform has not fully resulted in an ideal land management system because there are still weaknesses in the aspects of norm synchronization, restriction of authority, institutional supervision, and protection of people's rights. Therefore, it is necessary to reconstruct the legal politics of

the Land Bank Agency so that the function of land management by the state is truly oriented to the maximum prosperity of the people in accordance with the principles of the state of law, the welfare state, and the legal ideals of Pancasila.

Results of Research on the Legal Position of Land Bank Entities as Legal Instruments in Land Acquisition for Development

Based on the results of research on laws and regulations, legal theory, Constitutional Court decisions, and the doctrine of experts, it was found that the legal position of the Land Bank Agency is a public legal entity established by the state as an instrument for the implementation of the State Control Rights (HMN) in the field of management and provision of land for national development. This position shows that the Land Bank Agency is not a holder of land rights in the civil sense, but a special legal entity that carries out government functions in the land sector based on the authority granted by law.

Normatively, the position of the Land Bank Agency is regulated in Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law and Government Regulation Number 64 of 2021 concerning Land Bank Bodies. These two regulations provide a legal basis for the establishment of the Land Bank Agency as an Indonesian legal entity that is tasked with planning, acquisition, procurement, management, utilization, and distribution of land.

The results of the study show that the establishment of the Land Bank Agency is a form of institutionalization of state functions in land management. Prior to the existence of the Land Bank Agency, these functions were spread across various agencies, especially the Ministry of Agrarian and Spatial Planning/National Land Agency, local governments, and other technical ministries. With the establishment of the Land Bank Agency, some of these functions were consolidated into one institution that had a special mandate to ensure the availability of land for development.

Judging from the Theory of Authority, the results of the study show that the authority of the Land Bank Agency is the authority of attribution, which is the authority given directly by the lawmakers. According to Hadjon (1993), attribution is the granting of new authority by the constitution or law to a government organ so that the organ has the competence to act on its own behalf. The authority of attribution can be seen from the arrangement that explicitly gives the task to the Land Bank Agency to:

1. preparing land planning;
2. acquiring land;
3. carry out land acquisition;
4. managing land assets;
5. utilize the land as planned;
6. distributing land for public interest, national development, agrarian reform, and other strategic interests.

Thus, the authority of the Land Bank Agency is not an authority born from administrative delegation alone, but is an authority directly established by law. Consequently, every action of the Land Bank Agency must be carried out in accordance with the principle of legality and can be legally accounted for. However, the study found

that the regulation of the authority of the Land Bank Agency still has the potential to cause an overlap of competencies with the authority of the Ministry of ATR/BPN, especially in the aspects of procurement, management, and utilization of state land. This condition shows the need to harmonize norms so as not to cause legal uncertainty or institutional conflicts.

In the perspective of the Theory of the State of Law (Rechtsstaat), the establishment of the Land Bank Agency is a form of implementing state functions that must be subject to the principles of legality, legal certainty, human rights protection, and supervision of the use of authority. Research shows that formally the establishment of the Land Bank Agency has fulfilled the principle of legality because it is formed based on the law and has further regulation through government regulations. However, from the aspect of the substance of the state of law, there are still several problems, including:

1. the lack of optimal supervision mechanisms for the use of the authority of the Land Bank Agency;
2. there is no more detailed regulation on accountability mechanisms in the management of land assets;
3. there is no firm limit on the relationship of authority of the Land Bank Agency with other land agencies.

In the state of law, every public authority must be accompanied by an effective supervision mechanism so as not to cause abuse of authority (detournement de pouvoir) or arbitrary actions (willekeur) (Muchsan, 1992). Therefore, strengthening the mechanism of administrative control, judicial supervision, and institutional transparency is an important condition for the legitimacy of the Land Bank Agency. Based on the Theory of the Right to Control the State (Harsono, 2018), the results of the study show that the position of the Land Bank Agency is a manifestation of the state's function in exercising control over land as stipulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and Article 2 of the UUPA. The Right to Control the State gives the state the authority to regulate, manage, manage, and supervise the use of land for the maximum prosperity of the people. Thus, the Land Bank Agency does not acquire ownership rights over the land it manages, but carries out some state functions within the framework of the State Control Right.

The results of the study also show that the Constitutional Court Decision No. 001-021-022/PUU-I/2003 expands the understanding of the Right to Control the State through the concepts of regelendaad, bestuursdaad, beheersdaad, and toezichthoudensdaad. The authority of the Land Bank Agency is basically in the realm of bestuursdaad and beheersdaad, which is the function of land management and management by the state. However, the research found that it is necessary to formulate more clearly the boundary between the management functions carried out by the Land Bank Agency and the regulatory functions that remain the authority of the state through the government. This clarity is important to prevent the interpretation that the Land Bank Agency is the holder of land rights in a private sense.

From the perspective of Legal Political Theory (Mahfud MD, 2006), the establishment of the Land Bank Agency shows a change in the state's strategy in

managing agrarian resources. Legal politics that was previously oriented towards solving land needs in a caustic manner has shifted to legal politics that emphasizes the establishment of national land reserve management institutions. These changes show that the state is trying to build a more planned, effective, and sustainable land management system. However, the research also found that the policy orientation needs to be balanced with the strengthening of the social function of land as stipulated in Article 6 of the UUPA (Foster & Bonilla, 2011; Sumardjono, 2008). If the orientation of land management focuses more on providing land for investment without paying attention to the interests of the community, then the political goals of agrarian law as formulated in the UUPA have the potential to shift.

Based on various analyses, several key findings were presented:

1. The legal status of the Land Bank Agency is as a public legal entity that carries out part of the functions of the State Control Rights in the field of land management and provision, not as a holder of land ownership.
2. The authority of the Land Bank Agency is the attribution authority given directly by law so that every action of the institution must be subject to the principles of legality, the principle of proportionality, and the General Principles of Good Governance (AUPB).
3. The regulation of the position and authority of the Land Bank Agency still requires harmonization with the national land institutional system to avoid overlapping authority with the Ministry of ATR/BPN and other related agencies.
4. There are no adequate arrangements regarding the mechanism for supervision, accountability, and evaluation of the implementation of the authority of the Land Bank Agency, which has the potential to cause legal uncertainty in practice.

Based on the results of the research, it can be concluded that the Land Bank Agency is a state legal instrument formed to carry out the function of managing and providing land as part of the implementation of the State Control Right. Its position as a public legal entity provides legitimacy to exercise attributive authority, but this legitimacy must be balanced with clear regulations regarding the limits of authority, institutional relationships, supervisory mechanisms, and protection of community rights.

In the perspective of this study, the legal position of the Land Bank Agency has not fully reached the ideal institutional model, because there are still weaknesses in the aspects of authority coordination, accountability, and norm synchronization. Therefore, it is necessary to reconstruct the institutional arrangement of the Land Bank Agency which affirms the institution's position as a public land manager that works within the framework of the Right to Control the State, with a strong supervisory mechanism and a consistent orientation to the greatest possible prosperity of the people. This reconstruction is one of the conceptual contributions that can be the novelty of this dissertation research.

In addition to what has been stated, it is also stated that the construction of the legal norms of Land Banks in land acquisition is as follows: that based on the results of a study of the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Principles (UUPA), Law Number 2 of 2012

concerning Land Acquisition for Development for the Public Interest, Law Number 6 of 2023 concerning the Stipulation of Substitute Government Regulations Law Number 2 of 2022 concerning Job Creation becomes Law, Government Regulation Number 64 of 2021 concerning the Land Bank Agency, the decision of the Constitutional Court, as well as the doctrine of administrative law and agrarian law, it was found that the construction of the legal norm of the Land Bank was built as an institutional norm that integrates the function of state control over land with the function of providing land for development.

In contrast to the previous land arrangement which focused more on the regulation of land rights and land acquisition mechanisms, the norm regarding the Land Bank Agency introduced a new model in the form of land reserve management. Thus, the construction of the norm not only regulates land acquisition procedures, but also regulates the institution, function, authority, management, utilization, and distribution of land in one integrated system.

Based on Hans Kelsen's theory of legal norms and the theory of norm hierarchy (Stufenbau Theory), the construction of Land Bank norms can be analyzed at three levels.

First, at the constitutional level, the basis for the establishment of a Land Bank is sourced from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which gives the state the authority to control the land, water, and natural resources contained in it to be used as much as possible for the prosperity of the people. The constitutional norm is a constitutional norm that becomes the legitimacy for the formation of national land policy.

Second, at the legal level, the construction of the Land Bank norm is realized through Law Number 6 of 2023 which provides a legal basis for the establishment of a special legal entity to carry out land management functions. This norm is an attribution norm that gives authority to the Land Bank Agency as a subject of public law.

Third, at the level of implementing regulations, Government Regulation Number 64 of 2021 administratively regulates the organization, functions, authorities, governance, management of land assets, and land distribution mechanisms. This norm functions as an administrative norm that implements the provisions of the law. Thus, hierarchically the construction of the Land Bank norm has met the principles of the formation of laws and regulations. However, the results of the study show that hierarchical conformity has not been fully followed by substantive alignment.

Research shows that the norm regarding the Land Bank Agency is a concrete form of implementing the Right to Control the State as stipulated in Article 2 of the UUPA. However, there is a shift in orientation from the norm that originally focused on regulating legal relations over land to a norm that also emphasizes the management of state land assets. The change expands the function of the state from a regulator to a regulator as well as a land manager. From the perspective of administrative law, the expansion of these functions is a consequence of the development of the concept of a welfare state. However, from the perspective of agrarian law, the expansion must still be limited by the social function of land as stipulated in Article 6 of the UUPA.

The results of the study also show that norms regarding the social function of land have not been explicitly integrated into the operational mechanism of the Land Bank

Agency, especially in determining the priority of land use and distribution. This creates a space for interpretation that can shift the orientation of land management from public interest to economic interests if it is not accompanied by more detailed arrangements.

Based on the overall analysis, this study produced several main findings as follows.

1. The construction of the legal norms of the Land Bank is an institutional norm that integrates the functions of state control, land management, and land provision in one national institutional system.
2. Hierarchically, the norm of the Land Bank has constitutional and juridical legitimacy, but substantively there is still disharmony with the principles of national agrarian law, especially regarding the social function of land, certainty of authority, and protection of community rights.
3. The norm regarding the Land Bank Agency emphasizes the strengthening of land management functions rather than the strengthening of supervision and accountability mechanisms, so that it has the potential to cause legal uncertainty in its implementation.
4. The current normative construction has not fully integrated the principles of the state of law, the welfare state, the right to control the State, the social function of land, and agrarian justice in a complete regulatory system. The results of the study conclude that the construction of legal norms of the Land Bank Agency has provided a new legal basis for the implementation of national land reserve management, but the construction has not fully reflected the integration between the principles of the state of law, the welfare state, the Right to Control the State, the social function of the land, and agrarian justice. Therefore, it is necessary to reconstruct legal norms that affirm the limits of authority, strengthen the supervisory mechanism, integrate the social functions of the land into every stage of management, and ensure that all the authority of the Land Bank Agency is directed to the greatest prosperity of the people as mandated by Article 33 paragraph (3) of the Constitution of the Republic of Indonesia in 1945.

Other findings are that: In the development of agrarian law through the reconstruction of political law and the construction of norms of the Land Bank Agency as an instrument for the implementation of the Right to Control the State oriented towards agrarian justice and the welfare state. The novelty is based on the findings that the regulation of the Land Bank Agency in Law Number 6 of 2023 and Government Regulation Number 64 of 2021 is still oriented towards strengthening institutional functions and providing land for development, but has not built a complete normative relationship between the principles of the Right to Control the State, the social function of land, the state of law, the welfare state, and the protection of people's rights. Based on these findings, the study proposes a model for the reconstruction of the legal norms of the Land Bank Agency which is built on five main principles, namely: 1. The Principle of Integration of the Right to Control the State, which is to place the Land Bank Agency as the executor of the state's public function, not as the holder of civil rights over land. The Principle of Certainty of Authority, which is to build a firm division of authority between

the Land Bank Agency, the Ministry of Agrarian and Spatial Planning/National Land Agency, local governments, and other institutions so that there is no overlap of authority. 2. The Principle of Land Social Function, which requires all policies for the management, utilization, and distribution of land by the Land Bank Agency to be oriented towards the public interest, agrarian reform, and community protection. 3. The Principle of Accountability in Land Management, which is to strengthen the mechanism of administrative supervision, public supervision, and judicial supervision of all actions of the Land Bank Agency. The principle of Sustainable Agrarian Justice is to make equitable distribution of land tenure the main indicator of the success of land management, not solely an increase in investment and economic growth. Thus, this research produces a new concept in the form of the Welfare Rechtsstaat Land Bank Model, which is a land management model that integrates the principles of the state of law, the welfare state, the right to control the State, the social function of land, legal certainty, and agrarian justice into one integrated institutional system. This model is different from the construction of the current norms because it not only places the Land Bank Agency as an instrument for providing land for development, but also as a constitutional instrument to realize agrarian justice and the greatest prosperity of the people as mandated by Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

With the renewal of the Land Bank research, the highest achievement of the state of the art from the novelty that the Land Bank realizes the distribution of land for those in need, the use of fair laws, and with the complete land data in Indonesia carried out by the legal entity of the Land Bank, it is hoped that there will be no more disputes about land between the government and the community.

CONCLUSION

The establishment of the Land Bank Agency is part of the political reform of national land law, which changes the paradigm of land acquisition from a pattern that is reactive, individualized, and oriented toward specific projects into one that is planned, organized, and sustainable, serving development interests and social benefit. The Land Bank is a state policy instrument for systematically planning, acquiring, procuring, managing, utilizing, and distributing land, so that land acquisition shifts from a mere mechanism for obtaining land into a strategic agrarian resource management policy. However, this reform has not yet produced a balance between development interests, legal certainty, community interests, and agrarian justice. Problems that remain include potential overlapping authority, unclear boundaries between public functions and management functions, suboptimal protection of community rights, and a tendency for the Land Bank to serve investment more than the social function of land. The reform should therefore be placed within the framework of the welfare state and the principle of state control over land under Article 33 paragraph (3) of the 1945 Constitution, with development, legal certainty, utility, and social justice treated as a single goal.

In terms of legal position, the Land Bank Agency is a legal entity established by the state, serving as both a legal instrument and an instrument of state policy in the land sector. Its authority is limited by the 1945 Constitution, national agrarian law, the social

function of land rights, the public interest, the protection of community rights, and the principle of justice. In land acquisition for development, its role lies mainly in the planned provision and management of land, so that acquisition does not always have to be carried out directly with rights holders once a project has been determined. With managed land reserves, the state has the means to reduce conflict, curb speculation, improve efficiency, and provide certainty of land availability. Even so, its position must be strictly limited so that its authority does not expand in ways that displace government institutions in the land sector or weaken the protection of community rights. This calls for harmonizing and synchronizing authority among the Land Bank, the ministries and agencies handling land affairs, local governments, and other related institutions.

The construction of the Land Bank's legal norms for land acquisition for development must rest on three foundations. Philosophically, the norms must be oriented toward the state's goals in the Preamble of the 1945 Constitution, namely public welfare and social justice, as well as the principle that the earth, water, and natural resources are controlled by the state for the greatest prosperity of the people. Juridically, the norms must guarantee certainty of authority, land objects, procedures, and legal relations, along with protection of land rights, transparency, accountability, and mechanisms for supervision and dispute resolution, and must be consistent with regulations on land acquisition, land rights, spatial planning, local government, and national development. Sociologically, the norms must take into account the social reality of communities, especially those whose land is the object of acquisition or management, by making community participation, protection of vulnerable groups, fair compensation, and guarantees for the continuity of livelihoods integral parts of the construction.

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