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Land Tenure and Utilisation Challenges of The Land Bank Concept in Indonesia

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Abstract: The existence of the Land Bank is arguably redundant, as the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency could be optimised in seeking balance and justice in the distribution of land, including to indigenous peoples. Then, the model of open cooperation in land utilisation by not determining the priority scale from the Land Bank to business entities, individuals, or community groups, can open space for abuse of power and conflicts of interest. This type of research is normative juridical with a conceptual approach and a statutory approach. The results of the study show that the Government should form policies by striving to protect the livelihoods of indigenous peoples, the issuance of PP No.64 of 2021 concerning the Land Bank Agency can cause conflicts of interest between the community and the government, so the government needs to conduct a review and master the real land issues of land tenure in the Land Bank policy.

Keywords: Land Bank; concept; challenges

1. Introduction

The politics of Indonesian land law as stipulated in Article 33 paragraph (3) of the 1945 Constitution that land is used for the greatest prosperity of the Indonesian people without exception.[1] Law No. 5/1960 on the Basic Regulation of Agrarian Principles has considered that national agrarian law is required to be able to create the function of the earth, water, and space as for the benefit of the people.[2] Indonesia is currently facing the availability of land in realising development in various fields that are constrained in its procurement, which is influenced by the difficulty of obtaining land that is needed at any time and development obstacles with a long time.[3] While the land owned by the state directly is limited in number and almost non-existent, so that the way to travel that can

[1] Marulak Pardede, "Hak Menguasai Negara Dalam Jaminan Kepastian Hukum Kepemilikan Hak Atas Tanah Dan Peruntukannya," *Jurnal Penelitian Hukum De Jure* 19, no. 4 (2019): 405–20, https://doi.org/10.30641/dejure.2019.v19.405-420.
[2] I Gusti Ayu Widiadnyani, "Penerapan Sistem Pemanfaatan Dan Penggunaan Tanah Dalam Perspektif Hukum Investasi Berwawasan Lingkungan Untuk Kemakmuran Rakyat," *Journal Law and Government* 1, no. 1 (2023): 72–87, http://repository.warmadewa.ac.id/id/eprint/434/.
[3] Herlindah Herlindah, Moh Anas Kholish, and Andi Muhammad Galib, "Suing the Oligarchy of Ownership and Control of Agricultural Land in Indonesia: A Maqashid Sharia Review of the Land of Agrarian Reform Objects (TORA) Exceeding the Maximum Boundary," *Media Syari'ah : Wahana Kajian Hukum Islam Dan Pranata Sosial* 24, no. 2 (2022): 222–39, https://doi.org/10.22373/jms.v24i2.12960.

be done by freeing land that is in the control of the people, either in the control of customary law or other rights by the government made the concept of Land Bank.[4]

The concept of Land Bank is basically applied in many countries in an effort to control the availability of land for development such as the Netherlands, Colombia and South Korea. Land banks are considered successful in consolidating land in order to expedite and facilitate land acquisition. This concept was then adopted in Indonesia to be used in the management of unused lands which are not small in number and with their own problems that cannot be managed by the government due to the lack of human resources with the intended expertise. However, it cannot be denied that the Land Bank system in various countries that implement it, is organised by creating an authorised and non-profit institution that is not intended to seek profit, and a national council is applied which includes several ministries or institutions with the task and function of a mutually agreed development plan.[5]

The history of the establishment of the Land Bank in Indonesia is different. This institution was established on the basis of anticipating economic liberalisation which caused land prices to soar due to speculators. This issue has an impact on government projects in an effort to build constrained infrastructure related to land compensation. Then there are commodities that trade in urban land that are very difficult to control, so this situation clearly complicates the provision and procurement for the public interest.[6] The idea of a Land Bank started in the 1980s and continued in the 1990s, the functions and tasks of the Land Bank are a manifestation of the state's right to control with the meaning of organising the designation, use, supply and maintenance of the earth, water, space and the wealth contained therein as support for the economic, political, social and religious sectors, then also includes the procurement of land for the public interest.[7]

The lands collected through the Land Bank provide many benefits in the administration of the country in the short and long term. Central and local governments can acquire undeveloped land, abandoned or vacant land and land with potential.[8] Land that has been collected can be utilised when needed in many fields in the future, especially for social and public facilities such as schools, hospitals, green open spaces and so on. In addition, the value of the benefits can reduce conflicts over land acquisition that often occur and reduce the occurrence of the land mafia and close the movement of

[4] Diyan Isnaeni, "Konsep Hukum Pengadaan Tanah Untuk Pembangunan Jalan Tol Dalam Perspektif Hak Menguasai Negara," *Yurispruden* 3, no. 1 (2020): 93, https://doi.org/10.33474/yur.v3i1.5014.

[5] Muhaimin Muhammad Agung Rojiun, Arba, "Eksistensi Bank Tanah Dalam Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja Demi Pelaksanaan Pembangunan Kepentingan Umum," *Jurnal Education and Development* 10, no. 2 (2022): 738–48.

[6] Rosdalina Bukido, Hasyim Sofyan Lahilote, and Irwansyah Irwansyah, "Pengawasan Terhadap Bank Tanah: Urgensi, Kewenangan, Dan Mekanisme," *Undang: Jurnal Hukum* 4, no. 1 (2021): 191–211, https://doi.org/10.22437/ujh.4.1.191-211.

[7] dan I Nyoman Putu Budiartha I. Made Pria Dharsana, Indrasari Kresnadjaja, "Urgensi Bank Tanah Dan Penguasaan Negara Atas Tanah Menurut Landasan Konstitusional Indonesia," *Lex Publica* 5, no. 2 (2018): 31–37.

[8] Betty Rubiati Muqtariba, Yani Pujiwatib, "Mekanisme Pengadaan Tanah Melalui Bank Tanah Dalam Mendukung Pembangunan Untuk Kepentingan Umum," *Bina Hukum Lingkungan* 7, no. 3 (2023): 310–33, https://doi.org/10.24970/bhl.v7i3.352.

speculators.[9] The concept of a Land Bank can be as beneficial as other countries such as the Netherlands, Sweden, and the United States that focus on welfare, with goals to be achieved for public interest, social interest, national development interest, economic equality and land consolidation.[10]

However, even though it was established with good intentions and prioritises the public interest, in its implementation there are still problems,[11] people feel that the Land Bank does not ideally settle agrarian conflicts and organise agrarian reform programmes, but instead facilitates land tenure for business entities and investors who are part of government projects. The Land Bank policy revives the principle of domein verklaring (stateisation of land) and abuses the state's right to control. The concept is evidenced by the Land Bank's method of positioning land as state property, which is even further disallowed as government property. The practice of domein verklaring was once applied by the Dutch East Indies government with the intention of controlling community land and this principle has been eliminated by Law No. 5 of 1960 concerning Basic Agrarian Principles. The principle of domein verklaring argues that land that cannot be proven to be under the control of the owner is considered to have no rights to it, so it is automatically called state land. This principle is distorted because it is as if the state and government have absolute ownership rights over land. The philosophy and legal construction of the Land Bank is unclear, the Job Creation Law does not provide a description of the philosophy, legal basis, principles, conception, and legal construction of the Land Bank.

The Land Bank originally stemmed from the substance of the Land Bill that ran aground in 2019 because it was not accepted by elements of society. The substance was then copied and pasted in the Job Creation Law to create new norms. The establishment of the Land Bank automatically overrides the goals and values that have been realised in the Agrarian Reform program to rearrange the structure of control, ownership, use and utilisation of land by promoting a sense of justice through structuring assets and access for the prosperity of the Indonesian people. Thus, it is necessary to review the policy in PP No.64 of 2021 concerning the Land Bank Agency by not causing problems of conflict of interest between the community and the government.

2. Method

This research uses the normative juridical research method, which is a research based on principles, legal concepts, legal norms owned by a legislation. [12] The approach used is a statutory approach, namely an approach based on new and / or current laws and regulations as related positive law and a concept approach, namely an approach that is carried out based on forms and concepts that can be obtained in the views of scholars or

[9] Maharani Nurdin, "Urgensi Pembentukan Bank Tanah Di Indonesia," *Gorontalo Law Review* 5, no. 2 (2022): 385–90, https://doi.org/https://doi.org/10.32662/golrev.v5i2.2383.

[10] Kafrawi dan Rachman Maulana Kafrawi, "Kajian Yuridis Badan Bank Tanah Dalam Hukum Gararia Indonesia," *Perspektif Hukum* 22, no. 1 (2022): 109–38, https://doi.org/https://perspektif-hukum.hangtuah.ac.id/index.php/jurnal/article/view/119.

[11] Iwan Permadi and Irsyadul Muttaqin, "Potensi Sengketa Hak Atas Tanah Di Indonesia," *JUSTISI* 9, no. 2 (2023): 201–16, https://doi.org/https://doi.org/10.33506/jurnaljustisi.v9i2.2345.

[12] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenada Media, 2005).

legal doctrines related to related legal issues. Data collection techniques are carried out through literature studies. The types of legal materials used include primary and secondary legal materials. Primary legal materials are the 1945 Constitution of the Republic of Indonesia, Law No. 6 of 2023 on Job Creation and Government Regulation No. 64 of 2021 on the Land Bank Agency. Secondary legal materials are taken from law books, legal journals, legal expert opinions relevant to this research. The analysis technique used is qualitative descriptive analysis

3. Discussion

The Concept of the Right to Control Land by the State

The concept of the right to control land by the state is contained in Article 33 paragraph (3) of the 1945 Constitution that the earth, water and natural resources contained therein shall be controlled by the state and utilised as widely as possible for the prosperity of the people. In the general explanation of the UUPA, the word "controlled" does not mean "owned" but the authority of the state as an organisation with the power of the Indonesian Nation to regulate and administer the allocation, use, supply and maintenance of rights owned by the Earth, Water and Space with the aim of achieving the widest possible prosperity for the people. If the concept of the right to control is examined in its regulation, 2 (two) important things are known to be mutually sustainable, namely the right to control the state and the control intended to create prosperity/welfare for the people. This right is clarified by Article 34 of the 1945 Constitution that the state's obligation in organising welfare in terms of care for the poor and abandoned children, the expansion of social security and health facilities and public facilities that are deemed appropriate.[13]

As for the idea conveyed by Soepomo that the concept of an integralistic state has the basis of unity, which means that the state as the sole actor determines the interests of the state and the interests of the people, so that the state will determine where, in what period or what company will be handed over in managing the Earth, Water, and other natural resources which the state essentially controls.[14] Juridically, the mandate to the state is contained in Article 2 of Law Number 5 of 1960 concerning the Basic Agrarian Regulations, which authorises the state to:

a) regulate and organise the allocation, use, supply and maintenance of the earth, water and airspace;
b) determine and regulate legal relations between people and the earth, water and space;
c) determine and regulate legal relations between persons and legal acts concerning the earth, water and airspace.

[13] Sahrina Safiuddin, "Hak Ulayat Masyarakat Hukum Adat Dan Hak Menguasai Negara Di Taman Nasional Rawa Aopa Watumohai," *Mimbar Hukum* 30, no. 1 (2018): 64–77, https://doi.org/https://doi.org/10.22146/jmh.16681.

[14] Anna Triningsih and Zaka Firma Aditya, "Pembaharuan Penguasaan Hak Atas Tanah Dalam Perspektif Konstitusi," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 3 (2019): 329–49, https://doi.org/10.33331/rechtsvinding.v8i3.355.

Then in Article 2 paragraph (3) that the authority of the right to control from the state is achieved for the prosperity of the people in terms of nationality, welfare and independence in a society and state of law that is independent, sovereign, just and prosperous, the implementation of which is channeled to regions and indigenous peoples without defending the national interest according to government regulations. However, the implementation of the UUPA is not in accordance with its formation.

The concept of state control rights in the 1945 Constitution and UUPA is fundamentally different from the Domeinverklaring principle that was established during the Dutch colonial period in the Dutch East Indies Administrative Land Law, which was later revoked with the formation of the UUPA. This principle goes against the legal consciousness of the Indonesian people and the principle of an independent state as stated in the Indonesian Constitution, which seeks prosperity from the natural resources it manages, therefore the right to control the state is limited by law in its realisation.[15] Moreover, scholars have also argued against the notion of state control rights in limiting state authority in two ways:

a. the limitations provided by the Constitution, which stipulates that it must not result in and deny the basic human rights that have been guaranteed by the Constitution.
b. Substantive restrictions such as Article 2 paragraph (3) of the UUPA, so that all legal regulations related to land are limited by Article 2 paragraph (2) of the UUPA. Therefore, the authority in policy formation should not be given to private organisations, because rules regarding public welfare have service requirements, and the private sector is part of the community whose interests are also represented and limit the existence of conflicts of interest.

Pancasila as the state philosophy and ideology of Indonesia must be upheld and developed in accordance with human nature. One of the precepts in Pancasila, namely the 5th precept, states that "Social Justice for All Indonesian People", so that the meaning of the precept is that in managing the entire territory of Indonesia there must be a sense of justice for its citizens, especially the right to control and manage land. The concept of the Land Bank aspired by the government to control land by the state must be in accordance with the principles of control and stewardship of the land so as to realise welfare and prosperity for the people of Indonesia. Social justice in the Land Bank concept must be imbued with a sense of fairness that is without ethnic, racial or group qualifications, so it is fair to oneself, fair to God, fair to others and fair to other groups that have the same rights as citizens.[16]

Government Regulation No. 64 of 2021 makes the Land Bank a new concept that aims to be a body authorised by the government to provide clear regulation of land in Indonesia. The institution is expected to reduce objections to the value of land compensation or consignment for the public interest that occur in land issues in court. The concept of a

[15] Ni Luh Ariningsih Sari, "Konsep Hak Menguasai Negara Terhadap Tanah Dalam Hukum Tanah (UUPA) Dan Konstitusi," *Ganec Swara* 15, no. 1 (2021): 991–98, https://doi.org/10.35327/gara.v15i1.202.
[16] Luthfi Marfungah et al., "Internalisasi Nilai-Nilai Pancasila Terhadap Penertiban Kawasan Dan Tanah Terlantar," *Pancasila: Jurnal Keindonesiaan* 02, no. 01 (2022): 49–61, https://doi.org/10.52738/pjk.v2i1.56.

land bank as the ruler and manager of state-owned land is considered to revive the land transfer events that had occurred during the Dutch colonial period. If we go back to its history, the main function of domein verklaring is as a legal basis for the Dutch government to grant western rights, making it easier for the Dutch government to take over people's land with valid evidence.[17] Basically, the UUPA has revoked the concept of domain verklaring and has been clearly abolished. In number 2 letters a to e "...Domeinverklaring, Algemene Domeinverklaring, Domeinverklaring untuk Sumatera, Domeinverklaring untuk keresidenan Manado, dan Domeinverklaring untuk residentie Zuider en Oosterafdeling van Borneo..."(UU No. 5/1960). With the concept of the Land Bank, it has the potential and opportunity for the government to bring back the application of the concept of domain verklaring, namely the government arbitrarily managing land according to its will. Because in essence the concept is interpreted as the concept of controlling land by the state against all land that cannot be proven by the owner or other parties.

Indigenous Land Issues after the Establishment of the Land Bank Regulation

The constitutional guarantee for the existence of indigenous peoples and their rights is contained in Article 18B Paragraph (2): "the state recognises and respects the unity of customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated by law", and Article 28I Paragraph (3): "the cultural identity and rights of traditional communities shall be respected in accordance with the development of the times and civilisation".

Furthermore, the interpretation of the provisions of Article 18B Paragraph (2) above, can be seen in the Constitutional Court Decision Number 31/PUU/2007, which establishes benchmarks to assess the existence of customary law communities:

1. Still alive:
    - There are communities with citizens who have in-group feeling
    - There are customary governance institutions
    - There is customary property and/or objects
    - There is a set of customary law norms
    - If territorial, there is a certain area
2. In accordance with the development of society:
    - Its existence has been recognised under applicable laws as a reflection of the development of values that are considered ideal in today's society, both general and sectoral laws, such as in the fields of agrarian, forestry, fisheries, and others as well as in regional regulations;

[17] M. Roem Syibly and Muhammad Farhan Ahsani, "Pengadaan Tanah Dalam Peraturan Pemerintah No. 64 Tahun 2021 Menurut Perpektif Fikih Agraria," *Al-Mawarid Jurnal Syariah Dan Hukum (JSYH)* 4, no. 1 (2022): 1–14, https://doi.org/10.20885/mawarid.vol4.iss1.art1.

- The substance of these traditional rights is recognised and respected by members of the community concerned and the wider community, and does not conflict with human rights.

3. In accordance with the principles of the Unitary State of the Republic of Indonesia (NKRI):
    - Its existence does not threaten the sovereignty and integrity of the Unitary State of the Republic of Indonesia;
    - The substance of its customary law norms is in accordance with and does not conflict with the laws and regulations..
4. Set out in law.

Through the guarantee of the constitutional articles above, Rachmat Syafa'at stated; "in line with these provisions, it must always contain the soul and spirit of populism, justice and sustainability. Recognition of the existence of indigenous peoples does not stop at the constitutional realm. A number of laws further regulate their existence."[18] Law No. 5 of 1960 on Basic Agrarian Principles (UUPA) Article 3 states: "That the Indonesian National Land recognises the existence of Ulayat Rights and the like from customary law communities as long as in reality they still exist". In terms of terminology, the phrase hak ulayat can be referred to in the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency No. 5 of 1999 concerning Guidelines for Resolving the Problem of Customary Land Rights of Indigenous Peoples, Article 1 Paragraph 1 reads; "Ulayat rights and similar rights of indigenous peoples are defined as: The authority which according to customary law is possessed by certain customary law communities over certain areas which constitute the living environment of their citizens to take advantage of natural resources, including the land of the area, for their survival and life, arising from outward and inward relationships which are hereditary and uninterrupted between the customary law community and the area concerned."

It can be concluded that the constitutional guarantees and laws and regulations on the existence of indigenous peoples and their rights are very strong. However, this is not a guarantee that problems will not arise in the future, in the context of the presence of the Land Bank through the issuance of PP No. 64 of 2021, there is potential for conflict of interest, recognition of customary land can be easily ignored under the pretext of stateisation (domein verklaring). This is certainly not justifiable if it harms indigenous peoples, because we know that even the constitution provides the highest guarantee for the recognition and protection of customary rights including customary land in it. So, if in the future PP 64/2021 is used as a tool to circumcise the land rights of indigenous peoples, it should be in the framework of a state of law that upholds the supremacy of

[18] Rachmat Syafa'at, *Negara, Masyarakat Adat Dan Kearifan Lokal* (Jakarta: Intrans Publishing, 2008).

law, higher laws and regulations must be prioritised to be obeyed by all parties as a form of commitment to upholding the rule of law.

The Government of Indonesia has guaranteed and recognised the existence of customary law communities and customary laws as long as they are still alive and valid as mandated in Article 18B paragraph (2) of the 1945 Constitution. In addition, respect for customary law is also regulated in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA). Article 3 of the UUPA states that "In view of the provisions in Article 1 and Article 2, the implementation of customary rights and similar rights of customary law communities, as long as according to reality they still exist, must be in such a way that it is in accordance with the national and state interests, which are based on national unity, and must not conflict with other laws and regulations that are higher. "Article 5 of UUPA states that "The agrarian law applicable to the earth, water and airspace is adat law, insofar as it does not conflict with the national and state interests, which are based on national unity, with Indonesian socialism and with the regulations contained in this law and with other laws and regulations, all with due regard to the elements that rely on religious law".

Basically, the position of customary law in national law has a very important role in the national agrarian legal order. In addition, the position of customary law can help and support legal development in Indonesia, so that in certain contexts it can be placed in an urgent position in the development and development of national law by taking into account the social and cultural values that develop in society.[19] However, this is far from the reality where the existence of customary law has resulted in many problems in determining and actualising customary law as the basis of national agrarian law. The UUPA and its implementing regulations, in their formation, use customary law as the main basis. In addition, customary law can also be used to resolve several land-related issues that have not been regulated and contained in national land legislation. The establishment of the Basic Agrarian Law in the process of legal unification does not necessarily shift the provisions of customary law completely and its rights that grow and develop. However, the existence of customary law and rights to customary land must be adjusted to the needs and interests of the nation and state as well as other applicable regulations.

As it is known that land has a strategic role and position for the development of the nation and state, therefore the basic regulation on land has been regulated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. In the context of development and economic improvement, the government provides convenience and

[19] Suharyo Suharyo Suharyo, "Perlindungan Hukum Pertanahan Adat Di Papua Dalam Negara Kesejahteraan," *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional* 8, no. 3 (2019): 461–76, https://doi.org/10.33331/rechtsvinding.v8i3.330.

smoothness in terms of land acquisition through Law Number 6 of 2023 concerning Job Creation (Job Creation Law). The existence of the Land Bank is one of the breakthroughs for the government to achieve the smoothness of these interests. The regulation of the Land Bank is regulated in Article 125 to Article 135 of the Job Creation Law, and the implementing rules of the law are regulated in Government Regulation Number 64 of 2021 concerning the Land Bank Agency (PP Bank Tanah). The government's efforts in realising the Land Bank are in line with the ideals of the state's objectives as contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the UUPA, which states that the Land Bank has a very strategic role intended as an instrument in national land management, especially regarding land tenure and stewardship so as to realise welfare and prosperity for the Indonesian people.

The implementation of the Land Bank itself can be learnt through the Government Regulation on Land Bank. The regulation is expected to provide a sense of justice, expediency and legal certainty to the community. Fulfilment of these values aims to create balance and equal rights among citizens. The Land Bank is established as a body that specifically manages land and carries out planning, acquisition, procurement, management, utilisation and distribution of land. So that land management in Indonesia can be an optimal strategy in developing its use.[20] This strategic role is expected to systematically deal with land problems such as utilising undeveloped land, abandoned land or land left vacant and land that is estimated to have great potential so that it turns into productive land. The acquisition process is one of the reasons for the existence of the Land Bank to develop unproductive lands into productive ones as mandated by Article 33 paragraph (3) of the 1945 Constitution.

However, the existence of land banks needs to be studied more deeply. This is a form of public attention to all forms of new rules made by the government which will ultimately bind and affect all its citizens, especially indigenous peoples. As a country that adheres to the rule of law, such actions help the government in providing welfare and legal protection to the community as widely as possible. Among the articles that need to be studied more deeply in the Government Regulation on the Land Bank, one of them is related to the Land Bank which adheres to the principle of domein verklaring (land nationalisation).

The application of this principle can lead to abuse of control rights by the state, facilitate foreign commercial entities to control land, and take over community land which results in inequality and opens opportunities for conflict between communities over ownership of land, especially on customary land or ulayat land. Considering that the purpose of the

[20] Celline Gabriella Tampi, "Pembentukan Bank Tanah Berdasarkan Undang-Undang No 11 Tahun 2020 Dalam Rangka Menjamin Kesejahteraan Masyarakat," *Jurnal Lex Crimen* 1, no. 1 (2021): 174–200, https://doi.org/https://ejournal.unsrat.ac.id/index.php/lexcrimen/article/view/38410.

land bank is a manifestation of the work copyright law, namely to open up investment market opportunities as much as possible, one of which is land acquisition for the benefit of investors, it is prone to abuse of the right to control land by the state. This stems from the assumption that land that cannot be proven ownership is considered to have no control over it, so that the land can be recognised as state land. Thus, it is feared that irregularities will occur because the state is considered to have absolute rights to the land.[21] The above argumentation gives a strong signal that the Government of Indonesia has recently, seriously and aggressively carried out infrastructure development in an effort to improve the economic sector in Indonesia.[22]

The government's ideals with investments that are expected to create jobs and absorb as many workers as possible on the one hand eliminate the living areas and livelihoods of indigenous peoples. Of course, the formation of the Land Bank makes it difficult for indigenous peoples to fulfil their most basic needs, especially food. This has caused legal uncertainty that can threaten indigenous peoples in protecting their customary rights. This is certainly not in line with the spirit of the Constitution, which recognises and respects the existence of customary law communities

4. Conclusion

The Indonesian government has guaranteed and recognised the existence of customary law communities as long as they are alive and valid as mandated in Article 18B paragraph (2) of the 1945 Constitution and Article 3 of the UUPA. The government should form policies that can protect the interests of indigenous peoples, the issuance of PP No.64 of 2021 concerning the Land Bank Agency can lead to conflicts of interest between the community and the government. The Land Bank has the potential for conflict of interest and recognition of customary land can be easily ignored under the pretext of stateisation. The existence of the Land Bank is arguably redundant, because the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency can be optimised in its task of seeking balance and justice in land distribution, including for indigenous peoples. Furthermore, the model of open cooperation in land utilisation without determining the priority scale from the Land Bank to business entities, individuals, or community groups, can open up space for abuse of power and conflicts of interest

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