



# Land Management Rights By The Government For Investment Needs In Indonesia

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**Abstract:** Management rights are considered to be one of the Government's efforts to facilitate large entrepreneurs in investing in Indonesia. Of course, investment is expected to improve the community's economy. One of the efforts to improve the economy is done by creating jobs for the community. So it is necessary to map the land that is ready for business activities for investors. This article focuses on land management rights by the government for investment needs in Indonesia. The results show that the Management Rights (HPL) arrangement is not explicitly spelled out in Law Number 5 of 1960 concerning Basic Agrarian Regulations. that management rights are not purely from the state's control rights over land, but rather the delegation of the state's control rights to the subject or holder of management rights. The concept of a land bank in terms of its function becomes very important to consider as an instrument for land reserves in investment efforts for the prosperity of the people.

**Keywords:** : management rights, land, investment

## 1. Introduction

Land is one of the most important aspects of life, both socio-economic and socio-political. Land is also one of the elements of development in Indonesia.<sup>1</sup> Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI Tahun 1945) as the constitution of agrarian resource control states that "the earth and water, the natural resources contained therein, shall be under the control of the state and shall be used for the greatest prosperity of the people". The regulation on land in Indonesia contained in Law No. 5 of 1960 on the Basic Regulation of Agrarian Principles (UUPA) also regulates land tenure rights.<sup>2</sup> Boedi Harsono argues that tenure rights to land contain the authority, obligations, and/or prohibitions on the owner of the land rights in carrying out an action on the land to which he is entitled. The actions that are allowed or prohibited to be carried out, which are the contents of the right of tenure, are the criteria or basis for the differences between land ownership rights regulated in land regulations.<sup>3</sup> With the development of state life and the demands of legal needs in the implementation of agrarian law, especially in relation to the increasing need for land both for the running of the government and for development purposes. The UUPA has become the main legal umbrella as the legitimacy of the management of land rights in Indonesia. Article 2

<sup>1</sup> 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>.

<sup>2</sup> Nuyun Nurillah Baiq Riska Anggi Safitri, Kris Wardiansyah, "Perjalanan Politik Hukum Pertanahan Dalam Memberikan Perlindungan Terhadap Kepemilikan Hak Atas Tanah Masyarakat Indonesia," *Jurnal Ilmiah Wahana Pendidikan* 9, no. 9 (2023): 214–23, <https://doi.org/https://doi.org/10.5281/zenodo.7951706>.

<sup>3</sup> Boedi Harsono, *Hukum Agraria Indonesia Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi, Dan Pelaksanaannya* (Jakarta: Djambatan, 2007).

paragraph 1 of the UUPA implicitly explains that the land contained therein has been controlled by the state as an organization of power of all the people. The State's Right to Control (HMN) is the basis for the creation of Management Rights (HPL) over land in accordance with laws and regulations.<sup>4</sup>

The concept of land tenure as stipulated in the UUPA also recognizes the term hierarchy of land tenure rights in Indonesia, which places the rights of the Indonesian nation over its land as the highest tenure right.<sup>5</sup> This is inseparable from the meaning of an independent nation, so that it is fully sovereign over its land in a country. The right to control land after the Indonesian nation's right to its land is the right to control by the state or commonly known as HMN. HMN is a formal authority or authority found in the state and then the right is given to the state to act both actively and passively in the field of state governance, so that the state's authority is not limited to matters related to government authority alone, but also includes all authority in order to carry out its duties.<sup>6</sup> The regulation on HMN is contained in Article 2 of the UUPA.

The third land tenure right is ulayat right. Hak ulayat is a right owned by a legal community (village, tribe), in which members of the community (legal community) have the right to control the land and its implementation is regulated by the head of the community (tribal chief/head of the village concerned). The legal basis for ulayat rights is contained in Article 3 of the UUPA. The last land tenure right is the right to land. Article 4 paragraph (1) of the UUPA stipulates that "on the basis of the right to control from the State as referred to in Article 2, various kinds of rights over the surface of the earth, called land, are determined, which can be given to and owned by persons, either alone or together with other persons and legal entities." So in this case it can be seen that land rights are rights for legal subjects to use land.

In relation to HMN and land rights, there is the term management rights. Literally, a management right is a right of control from the State whose implementation authority is partially delegated to the holder.<sup>7</sup> The meaning of authority can be divided into 2 (two) types, namely in the private sense and in the public sense. In the private sense, the term *bevoegheid* is used for authority. The definition of authority in the public sense is legal power (*rechtmacht*). The authority of the owner of the management right to the land can be divided into 2 (two), namely internal authority and external authority. The internal authority is to carry out planning for the allocation and utilization of land, and use land for the needs of carrying out its duties. While the external authority is to hand over parts

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<sup>4</sup> Imam Koeswahyono, "Tanah Untuk Keadilan Sosial: Perbandingan Penataan Dan Pengaturan Pertanahan Di Beberapa Negara," *Arena Hukum*, 2019, <https://doi.org/10.21776/ub.arenahukum.2019.01201.4>.

<sup>5</sup> Arief Budiman, "Pensertifikatan Tanah Negara Oleh Masyarakat Menjadi Tanah Hak Milik," *Jurnal Hukum Dan Kenotariatan* 4, no. 2 (2020): 158–72.

<sup>6</sup> Aminuddin Ilmar, *Hak Menguasai Negara Dalam Privatisasi BUMN* (Jakarta: Kencana Prenada Media Group, 2012).

<sup>7</sup> Meiliyana Sulistio, "Politik Hukum Pertanahan Di Indonesia," *Jurnal Education and Development Institut Pendidikan Tapanuli Selatan* 8, no. 2 (2020): 105–11.

of the management right land to third parties and / or cooperate with third parties in conducting business or using the management rights.<sup>8</sup>

Against this external authority, there are generally other land rights such as the land rights referred to in Article 16 paragraph (1) of the UUPA attached to management rights. It can also be concluded that management rights as land rights are not regulated in the UUPA or other laws that specifically regulate management rights. In addition to the absence of legal certainty in the regulation of management rights, the definition of management rights as land rights or not as land rights still has differences among experts. Furthermore, in its development, management rights are considered to be one of the Government's efforts to facilitate large entrepreneurs in investing in Indonesia. Of course, investment is expected to improve the community's economy. One of the efforts to improve the economy is done by creating jobs for the community. So it is necessary to map the land that is ready for business activities for investors. This is generally known as land reserves. However, the concept of land reserves is considered to have an impact on land abandonment which is not justified by law.

The progressive steps of the Government through its various policies need to be based on legal rules that have legal certainty. This is inseparable from the mandate of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, namely Indonesia is a State of law. Therefore, studies of management rights in relation to land reserves need to be studied from a legal perspective in order to provide input for policy makers in realizing legal certainty.

## **2. Method**

This research method is normative juridical, a research based on the rules, legal principles, and legal rules owned by a legislation.<sup>9</sup> The approach used is a statutory approach, namely an approach that is carried out based on new and / or current laws and regulations as related positive law and a concept approach is an approach that is carried out based on forms and concepts that can be obtained in scholarly opinions or legal doctrines related to related legal issues. Data collection is carried out by means of literature study. Types of legal materials include primary and secondary legal materials. Primary legal materials are the 1945 Constitution of the Republic of Indonesia, Law Number 5 of 1960 concerning Basic Agrarian Regulations, Law Number 6 of 2023 concerning Job Creation, Government Regulation Number 64 of 2021 concerning the Land Bank Agency. Secondary legal materials include legal literature, legal journal articles, and arguments of legal experts in line with the study of the discussion.

## **3. Discussion**

### **Regulation of Land Management Rights in Indonesia**

Land rights are rights that authorize people to use or use land granted to persons or legal entities. The right is granted by the state as the agency that controls the land in

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<sup>8</sup> Urip Santoso, "Eksistensi Hak Pengelolaan Dalam Hukum Tanah Nasional," *Mimbar Hukum*, 2012, <https://jurnal.ugm.ac.id/jmh/article/view/16130/10676>.

<sup>9</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Prenada Media, 2005).

accordance with the laws and regulations.<sup>10</sup> However, this often leads to a long debate regarding Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which discusses "State Control Rights" or some call it "control rights". In fact, this meaning should not be a debate anymore, after the Constitutional Court issued Decision Number 002/PUU-1/2003 regarding the testing of Law Number 22 of 2001 concerning Oil, Gas and Natural Gas.<sup>11</sup>

On the other hand, the potential of land in Indonesia, which is one of the countries that has a very large area in the world, and includes land and oceans. Of course, these potential resources must be preserved and protected, so that they are not exploited and explored by irresponsible parties arbitrarily.<sup>12</sup> For this reason, a right is needed that gives the right holder great authority to plan the allocation and use of land in law. So that no one is able to intervene in land ownership other than the right holder and is able to be used to prosper the welfare of the community.

Various views indicate that land is an economic investment as a form of natural resource management.<sup>13</sup> Thus, land is a very important object in life and does not often become a dispute. Therefore, the state provides a management right to land in the form of property rights, usage rights, use rights, business rights and others in accordance with the provisions of laws and regulations. This is in accordance with the opinion of Oloan Sitorus who states that the relationship between people / legal entities and land is accommodated with rights which are then called land rights.<sup>14</sup>

Meanwhile, the State's Right of Control has been stated in Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia which reads, "the earth, water and natural resources contained therein shall be under the control of the state and shall be used for the greatest prosperity of the people". In fact, the Right to Land is the parent of the State's Right of Control over land.<sup>15</sup> The difference in definition is due to the existence of the Management Right, which is not explicitly regulated in the Basic Agrarian Law. In fact, the rules regarding the definition or meaning of the Management Right itself should be clearly regulated in the UUPA. However, the UUPA only mentions Management Rights in General Elucidation Number II Number 2, namely: "The State may grant such land to a person or legal entity with a right according to its designation and needs, such as Hak

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<sup>10</sup> Arivan Amir, "Pengalihan Hak Penguasaan Tanah Menurut UUPA Dalam Rangka Pendaftaran Tanah Pertama Kali," *Repertorium: Jurnal Ilmiah Hukum Kenotariatan* 8, no. 1 (2019): 51–65.

<sup>11</sup> Wahyu Nugroho, "Persoalan Hukum Penyelesaian Hak Atas Tanah Dan Lingkungan Berdasarkan Perubahan Undang-Undang Minerba," *Jurnal Hukum Ius Quia Iustum* 27, no. 3 (2020): 568–91, <https://doi.org/10.20885/iustum.vol27.iss3.art7>.

<sup>12</sup> Raden Muhammad Arvy Ilyasa, "Prinsip Pembangunan Infrastruktur Yang Berlandaskan HAM Terhadap Eksistensi Masyarakat Hukum Adat Di Indonesia," *Sasi* 26, no. 3 (2020): 380–91, <https://doi.org/10.47268/sasi.v26i3.296>.

<sup>13</sup> Dian Cahyaningrum, "Pemberantasan Mafia Tanah," *Pusat Penelitian Badan Keahlian DPR RI XII*, no. 23 (2021): 1–6.

<sup>14</sup> Oloan Sitorus, "Penataan Hubungan Hukum Dalam Penguasaan, Pemilikan, Penggunaan, Dan Pemanfaatan Sumber Daya Agraria (Studi Awal Terhadap Konsep Hak Atas Tanah Dan Ijin Usaha Pertambangan)," *BHUMI: Jurnal Agraria Dan Pertanahan* 2, no. 1 (2016): 1–11, <https://doi.org/10.31292/jb.v2i1.29>.

<sup>15</sup> Rachmat Trijono, *Hak Menguasai Negara Di Bidang Pertanahan* (Jakarta: Badan Pembinaan Hukum Nasional, 2015).

Milik, Hak Guna Usaha, Hak Guna Bangunan, Hak Pakai or grant it under management to an authority (Department, Jawatan, or Daerah Swatantra) to be used for the implementation of its respective duties."

So it can be understood that the object of management rights is land directly controlled by the state. A similar understanding can also be obtained, if examined in the history of management rights originating from the right of control over state land regulated by Government Regulation Number 8 of 1953. After Indonesia's independence in 1945, the emergence of Law Number 5 of 1960 concerning Agrarian Principles, became the beginning of politics and policies on land and when the UUPA was formed, the spirit that wanted to be expressed was the spirit to abandon colonial law as the legal basis for land tenure.

In addition, the UUPA is the center of legal discussion in elaborating the relationship between the control of the state and the people over land and other natural resources that have been stated in the constitution.<sup>16</sup> Thus, the UUPA has been the basis for legitimizing land management from the old order era to the present, which has abolished the colonial era arrangements. Regarding land management rights, the UUPA does not explicitly regulate them. However, it describes it as the state's right to control land. The state, as an organization of power on behalf of the people, can grant land to legal subjects, both individuals and legal entities with a right according to their designation and needs. Then the right to land that is in the control of the state can only be allocated to legal entities or local governments either utilized for their own business or for the benefit of third parties. This means that management rights have a cumulative nature, that land in state control will be allocated with management rights to a government legal entity for use in carrying out its duties, and will also be handed over with certain rights to third parties.

Article 2 of Minister of Agrarian Affairs Regulation No. 9/1965 on the Implementation of Conversion of State Land Tenure Rights and Further Policies (PMA No. 9/1965) states that: "If state land is not only intended for the interests of the agencies themselves, but also its allocation can be given with a right to a third party, then the right of control is converted into a management right, lasting as long as the land is utilized for the purposes of the agency concerned". In the above provisions, it is the beginning of a clear description of land management rights that are used as the basis for the right owner in managing the land. In the UUPA, management rights come from state control rights granted to agencies in accordance with the legal basis in Article 2 paragraph 4 of the UUPA, "The right to control from the State for its implementation can be authorized to the Swatantra regions and customary law communities, as long as it is used and does not back the national interest in accordance with the provisions of Government Regulations."

### **Land Management Rights by the Government through the Land Bank for Investment Needs in Indonesia**

The meaning of Management Rights cannot be separated from the concept of the Right to Control Land by the State (HMN). The Constitutional Court expanded the meaning of

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<sup>16</sup> Yance Arizona, *Konstitusionalisme Agraria* (Yogyakarta: STPN Press, 2014).

"controlled by the state" as not only the right to regulate.<sup>17</sup> Management rights are state control rights granted to holders, namely government agencies, including local governments, BUMN, BUMD, PT Company, Authority Agency and Other Government Legal Entities. The holder of the management right can be used for the purposes of its duties and business, can also be handed over to third parties with the consent of the management right holder.<sup>18</sup> On this basis, management right holders can endeavor to overcome the problem of land availability, in particular, by establishing an institution that deals with land provision.

Basoeki Hadimoeljono revealed that the establishment of an institution that handles land acquisition is very important to avoid the imbalance of land availability with the Government's efforts to carry out development.<sup>19</sup> Meanwhile, one of the institutional instruments that can help is the establishment of a Land Bank (Bank Tanah). This is considered very appropriate, considering that Law No. 2 of 2012 concerning Land Acquisition for Development for the Public Interest and Presidential Regulation No. 71 of 2012 concerning the Implementation of Land Acquisition for Development for the Public Interest have not succeeded in solving problems related to land acquisition and provision.

In terms of its function, the Land Bank has the following functions: (1) land keeper, as land data collection, namely inventory and development of land data, administration and provision of land information systems, (2) land warantee, to secure land, namely ensuring the provision of land for development purposes, ensuring land value and fair land market efficiency, and ensuring optimal land allocation, (3) land purchaser, as control over land, namely land tenure, land pricing related to the perception of similarity in the value of land and building taxes, (4) land valuer, (4) land valuer, as a land appraiser, namely organizing an objective land valuation in making a value system in an effort to determine the value of land that applies to various needs, (5) land distributor, as a land distributor, namely ensuring reasonable and fair distribution of land based on the unity of land value, ensuring the planning, provision and distribution of land, (6) land management, as a land manager, namely conducting land management which is an integral part of overall asset management, analyzing, setting strategies and managing land-related implementation. Seeing this, the concept of a land bank is very important to consider as an instrument for land reserves in investment efforts for the prosperity of the people.

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<sup>17</sup> Tundjung Herning Sitabuana and Dixon Sanjaya, "Urgensi Pembentukan Undang-Undang Pengakuan Dan Perlindungan Masyarakat Hukum Adat Sebagai Jaminan Konstitusional Keberadaan Masyarakat Hukum Adat," in *Seri Seminar Nasional Ke-III Universitas Tarumanagara Tahun 2021* (Jakarta: UNTAR, 2021), 171–82.

<sup>18</sup> Urip Santoso, *Hukum Agraria Kajian Komprehensif* (Surabaya: Prenada Media Group, 2012).

<sup>19</sup> Ranitya Ganindha, "Urgensi Pembentukan Kelembagaan Bank Tanah Sebagai Alternatif Penyediaan Tanah Bagi Masyarakat Untuk Kepentingan Umum," *Arena Hukum* 9, no. 3 (2016): 442–62, <https://doi.org/10.21776/ub.arenahukum.2016.00903.8>.

As a land management instrument, land banking is actually an act of refinement and expansion of land management patterns applied in various European countries several centuries ago when these countries carried out land consolidation programs, especially in agriculture such as in England (1710 - 1853), Denmark (1720), Sweden (1749), Norway (1821), and Germany (1821). Land Bank is a form of resource management, especially in increasing the productivity of land use. The concept of land banking is market control and stabilization of the local land market. The Land Bank's guarantee of land availability is intended for future development needs, APBN/APBD efficiency, reducing disputes over the land acquisition process and minimizing the adverse effects of land liberalization.<sup>20</sup>

A land bank is a land arrangement in which the state through government agencies or independent institutions established by the government is authorized to acquire abandoned land.<sup>21</sup> This is in line with Article 6 of the UUPA which states that every land has a social function. Meanwhile, Article 6 of Government Regulation No. 11/2010 on the Issuance and Utilization of Abandoned Land has explained that if within 3 (three) years of the right being granted no utilization has taken place, the land parcel is declared as identified as abandoned. In these two regulations, it is very continuous that land has a social function for land that is identified as abandoned. In the General Elucidation of the UUPA, it is stated that the use of land must be in accordance with the conditions of the right, so that it is beneficial both for the welfare and happiness of those who own it and also benefits the community and the State.

In terms of agrarian principles, land reserves through land banks are in accordance with the provisions of agrarian law. Land banks are established in an effort to achieve local and regional objectives, including providing affordable housing, stabilizing property values, and controlling the land market.<sup>22</sup> Within this framework, land bank regulations should accommodate the objectives of welfare and justice, public benefit, environmental sustainability, and community participation. As a public entity, the main purpose of the land bank is to facilitate public needs as mandated in Article 33 paragraph (3) of the Indonesian Constitution.

As a government effort in realizing good and ideal regulations, there are several things that need to be considered.<sup>23</sup> First, the existence of the principle of justice, this principle

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<sup>20</sup> Bernhard Limbong, *Bank Tanah* (Jakarta: Margaretha Pustaka, 2013).

<sup>21</sup> Iwan Permadi, "Konstitusionalitas Keberadaan Bank Tanah Dalam Pengelolaan Dan Penguasaan Atas Tanah Oleh Negara," *Jurnal USM Law Review* 6, no. 1 (2023): 291–309, <https://doi.org/http://dx.doi.org/10.26623/julr.v6i1.6678>.

<sup>22</sup> Desy Nurkristia Tejawati, "Penerapan Bank Tanah Di Indonesia Yang Berlandaskan Teori Keadilan Bermanfaat," *Perspektif* 27, no. 3 (2022): 139–46, <https://doi.org/https://jurnal-perspektif.org/index.php/perspektif/article/view/841>.

<sup>23</sup> Fatimah Al Zahra, "Konstruksi Hukum Pengaturan Bank Tanah Untuk Mewujudkan Pengelolaan Aset Tanah Negara Berkeadilan," *Arena Hukum* 10, no. 3 (2017): 357–84, <https://doi.org/10.21776/ub.arenahukum.2017.01003.2>.

aims as an effort to organize a guarantee of decent land value/price to the entitled party in the implementation of land banking, so that those who need it can live their lives better. The concretization of this principle is the implementation of land banking that can improve the socio-economic conditions of the land holders who are the object of land banking, at least the same or at least not making the community poorer than it was before.

Second, the principle of Legal Certainty, this principle aims to create legal certainty over the availability of land in the implementation of land banking and to guarantee the rightful parties in obtaining their rights legally. The purpose of legal certainty is the implementation of land banking so that the objectives of the public interest are based on the implementation system carried out in the laws and regulations and the certainty of the legal content that regulates it, which means that there are no sentences or language in the regulation that can make different interpretations.

Third, Humanity, this principle aims for the implementation of land banking in Indonesia to create protection and respect for human rights, dignity, dignity of all Indonesian citizens and residents proportionally. Land can be recognized as basic human capital at any time there is potential for unlawful takeover. Proportional protection of human rights, dignity and rights can provide a comprehensive protection of human rights, which is not only given to land rights holders whose land will be taken over by land banking as a public interest, but protection can also be organized to the interests of society at large, namely for the public interest.

Fourth, Benefit, this principle aims that the implementation of land banking in Indonesia can provide the widest possible benefits to the interests of the people, nation and state. The implementation of land banking aimed at the public interest can be carried out if the use of land in land banking can be carried out in harmony with planning and designation in several aspects of public interest facilities.

Fifth is Welfare, this principle aims that the implementation of land banking in Indonesia can have a social and economic influence in improving the welfare of the people. Land Banking can be organized in terms of improving the quality of people's lives through development that can benefit the community so that socio-economic welfare becomes much more developed in a good direction. One of the plans in terms of development is the provision of affordable housing for people with low income, land redistribution for farmers who do not have their own agricultural land, and control of the land market so that the value / price of land in Indonesia is stable and affordable.

The current policy or regulation regarding land banks can be seen in the Job Creation Law, as contained in Articles 123-135 of the Job Creation Law in the land section regarding the



establishment of an institution called a land bank agency.<sup>24</sup> The Land Bank Institution is referred to as a special body that has the function to carry out a planning, acquisition, procurement, management, utilization, and distribution of land. Furthermore, land banking also has the right to grant land rights within 90 years. Article 124 of the draft omnibus law states that the land banking agency guarantees the availability of land in the context of an equitable economy.<sup>25</sup> The justice referred to in the draft needs to be clearly stated and pay attention to the elements of justice, certainty and usefulness so that after it is passed it can be implemented properly and there is no opposition from the community or even harm to the community.

Conceptually, the Land Bank is actually an act of collecting land from the community including abandoned lands and unutilized state lands, then developed and reallocated based on land use planning.<sup>26</sup> Thus, the Land Bank is a means of land management in an effort to utilize and use it productively, which is obtained before the need is determined, so that the price of land is still cheap.<sup>27</sup> Therefore, the Land Bank is a guarantee for the implementation of land acquisition in a systematic way on undeveloped land, abandoned or vacant land and is considered to have the potential to be developed. Government land acquisition by the Land Bank is carried out in an effort to meet future needs and in order to realize the public land policy.

As for efforts to build or implement the concept of land reserves through the Land Bank, indicators are needed in determining the success or failure of the Land Bank, among others:<sup>28</sup> *First, Regulation. The Land Bank requires regulation at the level of a law, thus seeking binding legal force. The regulation will force the Land Bank to be organized as its function and purpose, so that it can carry out justice and encourage improvement for the prosperity of the people. Furthermore, with so many stakeholders participating in the Land Bank, the regulation also ensures the equality of interests of all stakeholders (government,*

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<sup>24</sup> Widyarani Indriasti Wardani, "Harmonisasi Lembaga Bank Tanah Dengan Pengaturan Pengadaan Hak Atas Tanah Bagi Pembangunan Untuk Kepentingan Umum," *Spektrum Hukum* 18, no. 2 (2021): 1–14, <https://doi.org/10.35973/sh.v18i2.2476>.

<sup>25</sup> I Nyoman Mertayasa and Gusti Ayu Kade Komalasari, "Penerapan Pp No. 64 Tahun 2021 (UU Cipta Kerja) Terhadap Kedudukan Bank Tanah Di Indonesia," *Wacana Paramarta Jurnal Ilmu Hukum* 21, no. 3 (2022): 53–62, <https://doi.org/http://www.paramarta.web.id/index.php/paramarta/article/download/183/151>.

<sup>26</sup> 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>.

<sup>27</sup> Desy Nurkristia Tejawati, Fries Melia Salviana, and Shanti Wulandari, "Welfare State Dalam Urgensi Land Banking Di Indonesia," *Kosmik Hukum* 21, no. 2 (2021): 98–104.

<sup>28</sup> Hairani Mochtar, "Keberadaan Bank Tanah Dalam Pengadaan Tanah Untuk Pembangunan," *Jurnal Cakrawala Hukum*, 2013, [https://108.181.32.55/index.php/jch/article/view/1117/771?\\_\\_cpo=aHR0cHM6Ly9qdXJuYWwudW5tZXIuYWMuaWQ](https://108.181.32.55/index.php/jch/article/view/1117/771?__cpo=aHR0cHM6Ly9qdXJuYWwudW5tZXIuYWMuaWQ).

*private sector, community). The regulation of the Land Bank should contribute to the following factors:*

- a) To improve the welfare of the community in an effort to achieve prosperity;
- b) To improve the welfare of the people by upholding the value of justice through land distribution;
- c) To physically prepare land for sustainable development for both public and commercial needs;
- d) To be able to control the price of land so that it can reach every layer of society.

*Second, the Institutionalization of the Land Bank. Indonesia in organizing the Land Bank must be in the form of a public legal entity, this is reasonable because the Land Bank has the authority and responsibility that is not small and is related to the interests of the wider community, so the government is required to be active in the implementation of the Land Bank. The Land Bank can basically carry out the tasks of the BPN, among others:*

- a) Coordinating policies, planning in the land sector by preparing plans for the supply, allocation, use and maintenance of land by reorganizing the use of land in level II regions;
- b) To supervise and control land ownership by monitoring, evaluating the use and utilization of land in land redistribution efforts including land consolidation;
- c) Carry out land management in the land information sector.

*Thirdly, Land Bank Financing, the issue of financing is a very important one, especially at the implementation stage. The financing of the Land Bank is influenced by a number of factors such as the structure of the Land Bank, the purpose of the Land Bank, the scale of operations, etc. Thus the Land Bank is dependent on a stable and sustainable source of funds. The funding of the Land Bank generally recognizes 2 forms of funding assistance:*

- a) Program assistance, generally provided by a country or international funding agency to a particular country and associated with a particular development program;
- b) Project assistance, channeled in the form of financing facilities to finance various development projects, which are determined by grants, loans or investments that are usually provided by government agencies, donor agencies, or organizations..

*Fourth, Factors that determine the success of the Land Bank as a Land Reserve for Investment such as:*

- a) *Political will from the government, especially in the formation of laws and regulations;*
- b) *Regional Spatial Plan (RTRW), this is the basis for planning activities related to land allocation so that it can be used optimally without damaging the environment;*
- c) *Human resources, which are very important for the success of the Land Bank, human resources have a role in the land bank which is required to have qualified and professional expertise so that the implementation of the Land Bank is carried out efficiently.*

#### **4. Conclusion**

The regulation of Management Rights (HPL) is not explicitly spelled out in Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA). However, the definition of HPL is mentioned in the General Elucidation of the UUPA. HPL is a right derived from state control granted to legal subjects called holders of Management Rights. This is in accordance with Article 2 of Minister of Agrarian Affairs Regulation No. 9 of 1965 on the Implementation of Conversion of State Land Tenure Rights and Policies. As for state land that is allocated other than for the needs of agencies, and is given with a right to a third party, so that the right of mastery is converted into a management right. In addition, it can be concluded that management rights are not only from the right to control the state over land, but the delegation of the right to control the state to the subject or holder of management rights. Meanwhile, to obtain HPL, two ways can be taken, namely conversion and granting rights. Right holders are obliged to administer until they get a certificate as proof of management.

The Land Bank is one of the appropriate institutional instruments in land acquisition. It is viewed from its functions, namely as a land keeper, land warantee, land purchaser, land valuer, land distributor, and land manager. Thus, the concept of a land bank becomes very important to consider as an instrument for land reserves in investment efforts for the prosperity of the people. To implement this, Regulations related to the Land Bank are needed as a solid legal umbrella, Secondly, the Land Bank institution as the implementing institution, and finally the Land Bank financing which is very important in carrying out Land Bank activities. Thus, the Land Bank as a land reserve institution is able to encourage investment in the country's development.

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