

The Urgency Establishing a Sharia Land Bank To Accelerate Agrarian Reform

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Abstract: Researchers believe that the existence of a Sharia Land Bank in Indonesia which is based on the concepts of al-ilah and al-musawah can accelerate agrarian reform in Indonesia. To ensure this, the researcher presented this research using standard methodological articles in scientific research that are commonly used. This research is a qualitative research with a descriptive approach related to the Land Bank, Agrarian Reform, and the experience of the concepts of al-ilah and al-musawah in the Sharia Land Bank which was initiated by the researcher. The data used in this research is secondary data that researchers obtained from scientific articles, books, statutory regulations, news from credible websites, and other sources that are usually used in every research and are certainly related to Land Banks, Agrarian Reform, and values in Islamic law such as Al-Adalah and Al-Musawah. The data that the researcher managed to obtain was analyzed using the stages of data collection, data selection, data reduction, data presentation, and drawing conclusions. The result in this article show first, The Land Bank functions to collect land, manage land, manage land and provide land to overcome inequality in land ownership and accelerate agrarian reform. The existence of a Land Bank which has an unclear concept and researchers believe could make the Land Bank a weakness in its implementation. Second, The presence of the Sharia Land Bank concept which is a refinement of the Conventional Land Bank concept by upholding the values of al-adadlah (justice) and al-musawah (equality) can be a guide for Land Bank employees, Land Bank Officials and Government officials others in implementing the concepts offered by not distinguishing between one group and another, being honest, and so on which can accelerate agrarian reform.

Keywords: : Establishing, Sharia Land Bank, Agrarian Reform

1. Introduction

According to the Big Indonesian Dictionary (KBBI), soil is "the surface of the earth or the layer of the earth above it". In agricultural discourse, land is termed land (land) for the use of words relating to areas of land. In the volume dimension of land, it is termed soil (soil) to use words that relate to the basic material of the earth's surface. Meanwhile, on the other hand, land is understood without distinguishing between soil as land or soil. In the legal context applicable in Indonesia, the term land is used more often than the term land ¹.

According to Boedi Harsono, in Indonesian land law the term "land" is used in a juridical sense. This is regulated in Article 4 paragraph (1) of the UUPA that: On the basis of the State's right to control as intended in Article 2, it is determined that there are various

¹ Tim penyusun kamus pusat pembinaan dan pengembangan Bahasa, *Kamus Besar Bahasa Indonesia* (Jakarta: Balai Pustaka, 1989).

rights to the surface of the earth, called land, which can be given to and owned by people, either alone or together with other persons and legal entities ².

Land is one of the objects regulated in agrarian law (UUPA). Based on the UUPA, land is often referred to as "agrarian". This is because most of the provisions in the UUPA regulate land. The definition of agrarian includes earth, water and the natural resources contained therein, and even includes outer space. ²⁶ The meaning of earth is regulated in Article 1 paragraph (4) of the UUPA that "in the sense of earth, apart from the surface of the earth, also includes the body beneath it and those which are underwater." The definition of water is regulated in Article 1 paragraph (5) of the UUPA that "in terms of water, it includes both inland waters and territorial seas of Indonesia". The definition of outer space is regulated in Article 1 paragraph (6) of the UUPA that "what is meant by outer space is the space above the earth and water as stated in paragraphs (4) and (5) of this Article" ³.

According to F. Alan Shirk "A land bank is not actually a "bank", in the traditional sense of the word. There are no drive-up ATMs, no tellers, and no home equity or autoloans", (Land Bank is actually not a "bank" in the traditional sense (Conventional Bank). This is because at Land Bank there are no drive-up ATMs, none teller, and no equity). Even though Land Bank is not a conventional bank, in principle the concept of Land Bank and conventional banks is not much different. The similarity lies in the intermediary function of conventional banks and land banks. The difference is that conventional banks collect money or funds from the public in the form of current accounts, deposits, savings and deposits and then return them to people who need funds through the sale of financial services. Meanwhile, the Land Bank collects and develops land from the community, especially abandoned land and state land that is not used for distribution or lease back ⁴.

According to Frank S. Alexander that: "Land banking is the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long-term strategic public purposes. Land banks are public authorities or special purpose not-for-profit corporations that specialize in land banking activities. Land banking can be undertaken by other public agencies, and not all communities need to create a separate land bank". (Land banking is the process or policy by which local governments acquire surplus property and convert it to productive use or hold it for long-

² Boedi Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA Dan Penjelasannya* (Jakarta: Gramedia Pustaka Utama, 2021).

³ Dewan Perwakilan Rakyat, "Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria" (21AD).

⁴ Siti Nur Alisa, "Tinjauan Normatif Tentang Fungsi Bank Tanah Dalam Kegiatan Pengadaan Tanah Berdasarkan Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Badan Bank Tanah," *Journal Of Business Theory And Practice* (2021)
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term strategic public purposes. A land bank is a special purpose public authority or not-for-profit company that specializes in themselves in land banking activities. Land banking can be carried out by other public bodies, and not all communities need to create separate Land Banks) ⁵.

Meanwhile, according to Bernhard Limbong "Land Bank is a land management instrument to handle various issues such as land transfer and more effective land use". Based on the definition of Land Bank above, Land Bank can be termed the words "land bank" and "land banking". Land bank refers to an institution in land management, while land banking refers to the form of activity of the Land Bank institution ⁶.

According to Effendi, the form of Land Bank activities consists of General Land Banking and Special Land Banking. General Land Banking is run by government institutions to provide, develop and distribute land for all types of use, both public and private. Meanwhile, Special Land Banking activities consist of providing land for urban renewal, industrial development, housing construction and the construction of various public facilities ⁷.

According to Irawan Soerodjo, the form of Land Bank activities consists of General Land Banking and Special Land Banking. General Land Banking is run by government institutions to provide, develop and distribute land for all types of use, both public and private. Meanwhile, Special Land Banking activities consist of providing land for urban renewal, industrial development, housing construction and the construction of various public facilities ⁸.

As a land distributor (Land Management), the Land Bank "conceptually must contain policies and strategies for optimizing land utilization and usage, so that in the case of the existence of the Land Bank it must be able to direct the development of land use". Furthermore, Arnowo explained that Land Banks in rural areas function as land collectors, optimizing the use of agricultural land and preventing conversion of agricultural land. As a land collector "it can be carried out on agricultural land that is fragmented in small land parcels below the minimum land ownership limit". As an optimization of the use of agricultural land, "Land Bank activities can prevent this by opening an area that has been designated for use (zoning) and equipped with facilities and infrastructure by the government." To prevent the conversion of agricultural land, "this can be done, among other things, by not issuing building permits, not granting permission to split land

⁵ Defrito Bima Oktavio, "Efektivitas Bank Tanah Dalam Pelaksanaan Pengelolaan Tanah Di Indonesia," *Tesis Fakultas Hukum UI* (2022).

⁶ Bernard Limbong, *Output Kebijakan Agraria* (Jakarta: Pustaka Margareta, 2022).

⁷ Effendi Parangin, *Hukum Agraria Di Indonesia, Suatu Telaah Dari Sudut Pandangan Praktisi Hukum* (Jakarta: Rajaawali Press, 2019).

⁸ Irawan Soerodjo, *Kepastian Hukum Hak Atas Tanah Di Indonesia* (Surabaya: Arkola Press, 2022).

parcels," and other policies that support the prevention of conversion of agricultural land⁹.

The Land Bank as a land manager is obliged to provide land within the framework of a just economy which includes a. public interest, b. social interests, c. national development interests, d. economic equality, e. land consolidation, and f. agrarian reform. The guarantee for the provision of land for agrarian reform is determined to be at least 30% of the state land designated for the Land Bank as stated in the guarantee. This guarantee must be reflected in the activity plan and management of the Land Bank's land assets¹⁰.

The guarantee of land provision in the management of Land Bank assets is to prepare a portion of the Land Bank's assets based on certain criteria for implementing the agrarian reform program. Agrarian Reform is a strategic national program to reduce inequality in land control and ownership. The issuance of Presidential Regulation Number 86 of 2018 concerning Agrarian Reform provides a strong foundation for the implementation of agrarian reform activities and collaborative activities with regional governments. In general, the implementation of agrarian reform consists of planning agrarian reform and implementing agrarian reform. The stages of asset management within the agrarian reform framework consist of asset legalization and land redistribution¹¹.

Based on this, researchers believe that the presence of the Land Bank in Indonesia can accelerate agrarian reform in Indonesia. In contrast to previous research, the Land Bank referred to here is a Sharia Land Bank which is more effective than ordinary Land Banks, which the researcher will explain comprehensively in the results and discussion section.

2. Method

Researchers believe that the existence of a Sharia Land Bank in Indonesia which is based on the concepts of al-ilah and al-musawah can accelerate agrarian reform in Indonesia¹². To ensure this, the researcher presented this research using standard methodological articles in scientific research that are commonly used¹³. This research is a qualitative

⁹ Hadi Arnowo, "Kajian Teoritis Pengelolaan Bank Tanah Dalam Rangka Perwujudan Reforma Agraria," *Jurnal Pertanahan* 12, no. 1 (2022), <https://doi.org/10.53686/jp.v12i1.177>.

¹⁰ N.Z Arrizal, "Kajian Kritis Terhadap Eksistensi Bank Tanah Dalam Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Keadilan* 18, no. 2 (2020): 99–110.

¹¹ Pemerintah RI, "Peraturan Menteri Pertanian Dan Agraria Nomor 2 Tahun 1962 Tentang Penegasan Konversi Dan Pendaftaran Bekas Hak-Hak Indonesia Atas Tanah" (1962).

¹² Widyastuti Andriyani, *Technology, Law And Society* (Makassar: Tohar Media, 2023).

¹³ Deny Susanto, "Penguatan Institusi Pelaku Usaha Sektor Keuangan Sebagai Upaya Partisipasi Mewujudkan Negara Hukum Kesejahteraan," *National Conference on Law Studies (NCOLS)* 5, no. 1 (2023): 897–908.

research with a descriptive approach related to the Land Bank, Agrarian Reform, and the experience of the concepts of al-ilah and al-musawah in the Sharia Land Bank which was initiated by the researcher ¹⁴. The data used in this research is secondary data that researchers obtained from scientific articles, books, statutory regulations, news from credible websites, and other sources that are usually used in every research and are certainly related to Land Banks, Agrarian Reform, and values in Islamic law such as Al-Adalah and Al-Musawah . The data that the researcher managed to obtain was analyzed using the stages of data collection, data selection, data reduction, data presentation, and drawing conclusions.

3. Result and Discussion

3.1. Land Bank and Agrarian Reform

According to the Big Indonesian Dictionary (KBBI), soil is "the surface of the earth or the layer of the earth above it". In agricultural discourse, land is termed land (land) for the use of words relating to areas of land. In the volume dimension of land, it is termed soil (soil) to use words that relate to the basic material of the earth's surface. Meanwhile, on the other hand, land is understood without distinguishing between soil as land or soil. In the legal context applicable in Indonesia, the term land is used more often than the term land ¹⁵.

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¹⁴ Deny Susanto, *PERLINDUNGAN HUKUM BAGI DIGITALISASI DUNIA USAHA SEKTOR JASA KEUANGAN* (Jakarta: LP2M Politeknik Manufaktur Astra, 2022).

¹⁵ Bahasa, *Kamus Besar Bahasa Indonesia*.

¹⁶ Harsono, *Hukum Agraria Indonesia, Sejarah Pembentukan UUPA Dan Penjelasannya*.

¹⁷ Rakyat, Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.

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According to Effendi, the form of Land Bank activities consists of General Land Banking and Special Land Banking. General Land Banking is run by government institutions to provide, develop and distribute land for all types of use, both public and private.

¹⁸ Siti Nur Alisa, "Tinjauan Normatif Tentang Fungsi Bank Tanah Dalam Kegiatan Pengadaan Tanah Berdasarkan Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Badan Bank Tanah," *Journal Of Business Theory And Practice* (2021)
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The Land Bank as a land manager is obliged to provide land within the framework of a just economy which includes a. public interest, b. social interests, c. national development interests, d. economic equality, e. land consolidation, and f. agrarian reform. The guarantee for the provision of land for agrarian reform is determined to be at least 30% of the state land designated for the Land Bank as stated in the guarantee. This guarantee must be reflected in the activity plan and management of the Land Bank's land assets ²⁴.

The guarantee of land provision in the management of Land Bank assets is to prepare a portion of the Land Bank's assets based on certain criteria for implementing the agrarian reform program. Agrarian Reform is a strategic national program to reduce inequality in

²¹ Effendi Parangin, *Hukum Agraria Di Indonesia, Suatu Telaah Dari Sudut Pandangan Praktisi Hukum*.

²² Soerodjo, *Kepastian Hukum Hak Atas Tanah Di Indonesia*.

²³ Arnowo, "Kajian Teoritis Pengelolaan Bank Tanah Dalam Rangka Perwujudan Reforma Agraria."

²⁴ Arrizal, "Kajian Kritis Terhadap Eksistensi Bank Tanah Dalam Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja."

land control and ownership. The issuance of Presidential Regulation Number 86 of 2018 concerning Agrarian Reform provides a strong foundation for the implementation of agrarian reform activities and collaborative activities with regional governments. In general, the implementation of agrarian reform consists of planning agrarian reform and implementing agrarian reform. The stages of asset management within the agrarian reform framework consist of asset legalization and land redistribution ²⁵.

3.2. The Urgency Establishing a Sharia Land Bank To Accelerate Agrarian Reforma

In contrast to previous research related to Waste Banks, Sharia Waste Banks have special characteristics that are different from ordinary Land Banks which were initiated by a number of previous studies, namely upholding the principles of al-ilah and al-musawah in the basic principles of sharia economics. Al-'is or also known as the principle of justice in Islam has a general meaning and has a special meaning, including justice in muamalah, justice in law, justice in finances, and justice in human rights. There are several terms to indicate the word adl. Some of the synonyms are qisth, istiqamah wasath, fate, hissa, mizan. Adl is the opposite of jawar (injustice) ²⁶. There are several synonyms for jawar such as zulm (despotism), tughyan (tyranny), and mayl (tendency), inhiraf (deviation). Linguistically, the word "Adl" is derived from the word adalah, which means: first, acting straight, changing or modifying; second, running away, changing one (bad) act into a good deed. third, balanced or equal, equivalent or suitable, or equalizing. fourth, balance, weigh, be balanced. The term „Adl" as equality or balance is used in the sense of balancing something with another²⁷. The meaning of the word "Adl" can mean qualitatively or quantitatively. The first meaning refers to the abstract principle of equality which means equality before the law or ownership of the same rights ²⁸.

Based on the explanation above, the researcher believes that the Land Bank concept which is accompanied by the principle of justice in it by not discriminating between small people and big people (in the sense of officials and so on) before the law will be able to further create agrarian reform in terms of overcoming land inequality. oligarchy is increasingly achieved.

Apart from al-is, Islam also recognizes the principle of al-musawah. In terms of terminology, Al-Musawah means equality or equality of all humans in their rights and obligations ²⁹. This means that all humans are the same because they are all servants of Allah, without any separation or differentiation based on race, skin color, rank, position,

²⁵ RI, Peraturan Menteri Pertanian dan Agraria Nomor 2 Tahun 1962 tentang Penegasan Konversi dan Pendaftaran Bekas Hak-Hak Indonesia Atas Tanah.

²⁶ Murtadha Muthahhari, *Keadilan Tuhan: Asas Pandangan Dunia Islam* (Jakarta: Mizan Pustaka, 2019).

²⁷ Juhaya S. Praja, *Filsafat Hukum Islam* (Tasikmalaya: Lathifah Press, 2019).

²⁸ Muhammad Dhiaduddin, *Teori Politik Islam* (Jakarta: Gema Insani Press, 2021).

²⁹ Andre, "Penerapan Prinsip Al-Musawah Dalam Kegiatan Produksi Dan Distribusi Yang Berbentuk Kemitraan (Al-Musyarakah)," Ngaji.com, 2020, <http://sangasiji-ngajiblogspot.com/2017/08/makalah-penerapan-prinsip-prinsip-al-musawah.html>.

wealth, ethnicity, language or anything else³⁰. In the modern concept, what is meant by the principle of equality is equality of opportunity, namely equality by removing obstacles that can prevent individuals from realizing their potential, by eliminating laws and other privileges that are not justified, which only provide a position- social, economic and political position for certain classes³¹. Neither party feels superior to the other, so they cannot impose their will. This means that the ruler or government cannot impose its will on the people and act authoritarian. The principle of equality (Al-Musawah) is important in a government, in order to avoid the arbitrary attitude of the ruler or government over the people³².

With the existence of the principles of al-ilah and al-musawah in Sharia Land Banks as a complement to conventional Land Banks which are weak in their implementation, the obstacles and challenges that have been an obstacle to realizing agrarian reform, especially regarding land inequality, unfair law enforcement, and disloyalty will be resolved as long as it can be implemented properly.

4. Conclusion

Based on the explanation above, several things can be concluded regarding Land Banks, Agrarian Reform, and the Urgency of Establishing Sharia Land Banks in accelerating agrarian reform in Indonesia with several points as follows:

1. The Land Bank functions to collect land, manage land, manage land and provide land to overcome inequality in land ownership and accelerate agrarian reform. The existence of a Land Bank which has an unclear concept and researchers believe could make the Land Bank a weakness in its implementation.
2. The presence of the Sharia Land Bank concept which is a refinement of the Conventional Land Bank concept by upholding the values of al-adadlah (justice) and al-musawah (equality) can be a guide for Land Bank employees, Land Bank Officials and Government officials others in implementing the concepts offered by not distinguishing between one group and another, being honest, and so on which can accelerate agrarian reform.

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³⁰ Zulhamdi, "Demokrasi Dalam Teori Politik Islam," *Jurnal Syarah* 8, no. 3 (2019): 134.

³¹ Al-Majid, *Al-Qur'an Terjemah Dan Tajwid Warna* (Jakarta: Beras, 2019).

³² H. Mahmud Yunus, *Kamus Arab – Indonesia* (Jakarta: PT. Mahmud Yunus Wa Dzurriyah, 2019).

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