

The Legal Implications of Establishing Land Bank As An Entity Authorized to Manage Land

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Abstract: Many people utilize the land for their sustenance. The land has social, economic, cultural, and even religious value. The state's presence, as mentioned in Article 33, Section (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), is intended to manage land allotment fairly. This is also mentioned in the UUPA. However, the establishment of the Land Bank has caused challenges, particularly in the normative order; in this circumstance, what is emphasized is a conflict of norms. This leads to two issue formulations. Firstly, what is the essence of the Land Bank's regulation as an entity authorized to manage land? Secondly, what are the legal implications of regulating the Land Bank, which has the authority to manage land? Implementing normative legal research approaches, including statute approaches and theoretical approaches. The resulting study reveals that the present Land Bank laws, as described in Law No. 6 / 2023 and PP No. 64 / 2021, have more specific economic implications. This is also inconsistent with Article 33, Section (3) of the 1945 Constitution of the Republic of Indonesia, the UUPA, and agrarian reform aims. This regulation has legal implications, including philosophical, normative, and sociological aspects. As a result, it is required to analyze and restructure the land bank regulations in Indonesia to ensure legal certainty and equitable use.

Keywords: : Legal Implications; Land Bank; Managing Land.

1. Introduction

Constitutionally, according to Article 33 Section (3) of the 1945 Constitution of the Republic of Indonesia, that mandates "the earth, water, and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". Bringing legitimate consequences to the state's role in optimizing all available resources for the benefit of all people, based on the right way to control the state.¹ The Constitutional Court has interpreted the right to control the state in Constitutional Court Decision Number 002 / PUU-I / 2003 as essentially mandating the state to carry out policies (*beleid*) and management actions (*bestuursdaad*), regulation (*regelendaad*), management (*beheersdaad*), and supervision (*toezichthoudensdaad*) for the greatest significance of the people's prosperity.²

¹ Kuntana Magnar, Inna Junaenah, and Giri Ahmad Taufik, "Tafsir MK Atas Pasal 33 UUD 1945: Studi Atas Putusan MK Mengenai Judicial Review Terhadap UU No. 7/2004, UU No. 22/2001, Dan UU No. 20/2002," *Jurnal Konstitusi* 7, no. 1 (2016): 111, <https://doi.org/10.31078/jk717>.

² Athari Farhani and Ibnu Sina Chandranegara, "Penguasaan Negara Terhadap Pemanfaatan Sumber Daya Alam Ruang Angkasa Menurut Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Jurnal Konstitusi* 16, no. 2 (2019): 235–54.

This also refers to land that has no ownership title; it is regarded as state land. In this circumstance, the state does not own these lands; instead, the state manages the allocation of these lands based on the right to control, according to Law Number 5 of 1960 establishing Basic Regulations on Agrarian Principles (hereafter referred to as UUPA).³ These lands were then administered (*beheersdaad*), leading to management rights. Subsequent forms of land rights, such as building use rights, business use rights and usage rights, will be granted based on this management right.⁴

In addition to the land dynamic that occurs, and the numerous land problems, including one of the land mafias, the government considers it necessary to reinforce legally to achieve economic empowerment through agrarian reform.⁵ The concept of establishing a Land Bank originated, and it subsequently made it into the Land Bill. However, it was unsuccessful because the Land Bill had been found inconsistent with the 1945 Constitution of the Republic of Indonesia.⁶ In addition to the fact that also initiatives have been made to reform land regulations, such as adding land formulation in Law No. 11 of 2020 about Cipta Kerja. Law No. 11 of 2020 successfully combined various legislative transformations through the omnibuslaw technique. Although Law No. 11 of 2020 was declared conditionally unconstitutional by Constitutional Court Decision Number 91 / PUU-XVIII / 2020, it was revised again with the enactments of Law No. 6 of 2023 regarding Law No. 2 of 2022 about Cipta Kerja (hereinafter referred to as Law No. 6 of 2023). This means that, with the enactment of Law No. 6 of 2023, the Land Bank's existence acquires significant normative justification once more. Additionally, the implementation rule, Presidential Regulation Number 64 of 2021 recognizes Land Banks (hereafter referred to as PP No. 64 of 2021).

According to Article 1 number 1 of PP No. 64 of 2021, the Land Bank Agency, also known as the Land Bank, is a special agency (*sui generis*) formed by the national government and given special authority to manage land in Indonesia. According to this definition, it can be easy to determine if the Land Bank is a land-management organization. The management of this property has an expansive definition. Furthermore, Article 3 section (1) of PP No. 64 of 2021 implies that the Land Bank's roles include planning, land purchase, land administration, land utilization, and land distribution. Based on this function, it is probable to determine that, theoretically, the existence of the Land Bank is not quite distinct from the definition of the Bank in general. Particularly axiologically, the Bank's primary objective is to achieve maximum (economic) profit. The fact is, that the Land Bank's only objective is to optimize earnings economically.

³ Andi Bustamin Daeng Kunu, "Kedudukan Hak Menguasai Negara Atas Tanah," *Fiat Justitia Jurnal Ilmu Hukum* 6, no. 1 (2012): 1–10.

⁴ Rifki Herman Saputra, Nurwati, and Bambang Tjatur Iswanto, "Analisis Yuridis Kepemilikan Hak Guna Bangunan Atas Ruko Di Pasar Rejoamertani Temanggung," *Varia Justitia* 12, no. 1 (2016).

⁵ Dita Dwinanta Garvania Tumangger and Budi Santoso, "Penegakan Hukum Terhadap Praktik Mafia Tanah Sebagai Pembuat Sertifikat Fiktif," *Notarius* 16, no. 2 (2023): 776–94, <https://doi.org/10.14710/nts.v16i2.41030>.

⁶ Inako, "Diskusi Publik ISHI & Ombudsman RI : RUU Pertanahan Bermasalah Memberi Hak Kepemilikan Tanah, Kepada Asing," ombudsman.go.id, 2019, <https://ombudsman.go.id/news/r/diskusi-publik-ishi--ombudsman-ri--ruu-pertanahan-bermasalah-memberi-hak-kepemilikan-tanah-kepada-asing>.

However, the normative issue is that the establishment of this Land Bank leads to a conflict of norms, particularly when it comes to regulating the Land Bank's positions with the Ministry of Agrarian Spatial Planning / National Land Agency (ATR / BPN) c.q. National Land Agency (BPN). Looking closely, Article 3 Letter e of the Presidential Regulation Number 48 of 2020 concerning the National Land Agency (hereinafter referred to as Presidential Regulation No. 48 of 2020) implies that one of the functions of BPN is "the formulation and implementation of regulations in the area of land acquisition and land development". In comparison with Article 3 Section 1 letter c and Section (2) letter c of PP No. 64 of 2021 specifically, "acquiring land for development for public interest or direct land acquisition" refers to Article 125 Section (4) of Law No. 6 of 2023. Based on this definition, there is, of course, the possibility of overlapping, involving the issue of norm conflict.

Furthermore, the Land Bank's establishment performs a dual function. Firstly, a private function to create agreements (Article 40 section (3) of PP No. 64 of 2021). Secondly, a public function in the context of establishing the extension and renewal of land rights (Article 40, Section (4) of Presidential Regulation No. 64 of 2021). This additional role shouldn't be present in institutions that are oriented as a "bank" considering that there are still other institutions that are considered to have a more appropriate domain, especially by BPN.

Considering by perspective of the constitutional basis of Article 33, section (3) of the 1945 Constitution of the Republic of Indonesia, UUPA, in addition to the intentions of agrarian reform⁷, it is necessary to conduct more extensive research on Land Banks. The topic of the article refers to the legal implications of establishing the Land Bank, an entity given authority to manage land. The article presents two different approaches to the problem. First, what is the essence of the Land Bank's regulation as an entity with the authority to manage land? Second, what are the legal implications of establishing the Land Bank, with the authority to manage land?

2. Method

The research method used is normative legal research, as legal issues are related to norm conflicts.⁸ The laws and regulations for consideration are UUPA, Law No. 6 of 2023, Presidential Regulation No. 48 of 2020, and PP No. 64 of 2021. The four regulations have to be consistent with the essence of Article 33, section (3) of the 1945 Constitution of the Republic of Indonesia. In particular, it is founded on the principle of legal certainty and legal harmonization. As an outcome, this research takes both a statutory (statute) approach and a theoretical approach.⁹ Considering additional legal resources, such as

⁷ M. Nazir Salim, *Reforma Agraria: Kelembagaan Dan Praktik Kebijakan* (Yogyakarta: STPN Press, 2020).

⁸ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2008), 15.

⁹ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum Normatif Dan Empiris* (Depok: Prenada Media, 2018), 20.

rules and regulations, legal theories, and concepts. To be examined descriptively using comprehensive and constructive legal interpretation.¹⁰

3. The Land Bank Regulation As An Entity Authorized to Manage Lands

Land is a fundamental aspect of every human being's existence. Land is utilized as a place where one lives, a shelter, an opportunity for earning a living, and even a place to begin and end a life. Due to these features of functionality, the land has social, economic, and cultural/spiritual value. Unsurprisingly, every single person or community group is willing to "get involved" to protect their land, even if it's barely an inch. On that basis, the state takes a critical role in achieving the needs and distributing land through land regulation, as declared by Article 33, section (3) of the 1945 Constitution of the Republic of Indonesia. The land does not belong to the state, nevertheless, it becomes one of the resources that have an impact on many people's lives. Therefore, under an additional specific arrangement, specifically the UUPA, it is declared that the authority of the government operates as an organization of power at the highest level, such as :

- a. Regulate and manage its distribution, use, supply, and maintenance.
- b. Identify and regulate the rights that might exist over (parts of) the earth, sea, and space.
- c. Establishes and regulates contractual obligations between individuals, as well as legal acts involving the earth, sea, and space.

On these premises, the government forms entities with a specific role in managing land arrangements, particularly within the context of agricultural reform. UUPA has been seen as an amazing achievement because of its ability to harmonize social, economic, and spiritual values. The legal and institutional structures also impact the process of establishing this land part. Begin with the constitutional presence of the Ministry of ATR / BPN, the agrarian reform team established under TAP MPR No. IX / MPR / 2001 concerning Agrarian Reform and Natural Resources Management, and the most recent establishment of a Land Bank under Law No. 6 of 2023. The table below describes each one of them:

Table 1. Institutional or Special Agency Forms of Lands

No.	Legal basis for formation (hierarchical)	Institutional Form/Agency in the Land Sector			Descriptions
		Ministry ATR/BPN	Team Agrarian Reform	Land Bank	
1.	UUD NRI 1945	Article 17 —	-	-	The constitution establishes ministries, one of which is responsible for land. Unlike the other two, which were not constitutionally formed.

¹⁰ Yudha Bhakti Ardhiwisasta, *Penafsiran Dan Konstruksi Hukum* (Bandung: Alumni, 2000), 30.

2.	TAP MPR	-	TAP MPR No. IX/MPR/2001	-	The MPR TAP was the basis for the Agrarian Reform Team, which was historically inseparably connected to the strong legislative system in place. They want an innovation in the land sector that can resolve agrarian disputes efficiently and sustainably.
3.	Undang-Undang	UUPA	UUPA	UU No. 6 of 2023	Although the UUPA does not specifically specify the establishment of ATR/BPN or the agrarian reform team, it does efficiently integrate into administrative aims and aspects ¹¹ , as mentioned in Articles 21 and 30 of the UUPA, as well as the general explanation of the UUPA. ¹² Unlike the Land Bank , which is primarily concerned with investment development, Law No. 6 of 2023 focuses on the latter aspect. As a result, the use of the word "Bank" as an entity cannot be separated from its basic essence with the spirit of capitalism.
4.	Peraturan Pemerintah	-	-	PP No. 64 of 2021	As a form of implementing regulation of Law No. 6 of 2023.
5.	Peraturan Presiden	Perpres No. 47 of 2020 Perpres No. 48 of 2020	Perpres No. 86 of 2018 Perpres No. 62 of 2023	-	As an addition to ministerial duties and continuance of the MPR TAP. The enactment of Presidential Regulation No. 62 of 2023 replaces Presidential Regulation No. 86 of 2018. Even though Presidential Regulation No. 62 of 2023 no longer mentions the Agrarian Reform Team, as did Presidential Regulation No. 86 of 2018. However, the Agrarian Reform Task Force (GTRA) was still established. Has the same responsibility, except the position is at the provincial, regency, or city.

¹¹ Meita Djohan Oe, "Tugas Dan Fungsi Badan Pertanahan Nasional Dalam Pendaftaran Tanah," *Pranata Hukum* 10, no. 1 (2015): 64–74.

¹² Farah Ananda Resti and Harvini Wulansari, "Peran Gugus Tugas Reforma Agraria Mewujudkan Kampung Reforma Agraria," *Tunas Agraria* 5, no. 2 (2022): 94–110, <https://doi.org/10.31292/jta.v5i2.178>.

According to the regulations mentioned in the table above, the Land Bank Agency's function is to distribute land for development in the public interest. Encourage development in both the public and private sectors. Furthermore, the Land Bank has the authority to acquire community land in the public interest (social purpose) and to ensure the sustainability of future economic development. Particular attention is given to infertile soils.¹³ When considered from an axiological perspective's view (expediency), the necessity of this Land Bank arrangement is actually to ensure the sustainability of soil functions and soil availability, now and in the future.¹⁴

On the other side, Limbong believes¹⁵ that the Land Bank is one of the mechanisms for establishing significant land resource management activities, having an impact on the lives of many people. As a consequence, it may increase land productivity while maintaining market control and price stability. According to Evans¹⁶, this refers to "*the acquisition of land ahead of development either by construction companies or by central or local government or their agencies*". Based on these two conceptual perspectives, it is clear that the Land Bank's establishment is inextricably related to economic concerns. Begins with productivity, acquisition, and regional/community growth. It is also what creates the term "Bank" which would never lead to a balanced aspect of social and economic values.

Particularly when you consider the aspect of "the distribution". Of course, distribution will be based on economic value. It is not truly founded on the definition of justice. This is a legally incompatible object in its regulation under Law No. 6 of 2023. According to Article 127 of Law No. 6 of 2023, "the land bank entity in accomplishing its duties and authorities is transparent, accountable, and non-profit". The presence of the phrase "nonprofit" contradicts the fundamental essence of the term "Bank" applied to the flesh. Deborah K. Dilley describes it conceptually¹⁷ "*A bank is an establishment for the custody, loan, exchange, or issue of money, for the extension of credit, and for facilitating the transmission of funds*". Begitu juga definisi yang diberikan oleh Jeanne Gobat,¹⁸ "*Institutions that match up savers and borrowers help ensure that economies function smoothly*", and "*the activity of the bank is making loans, creating money, transmitting monetary policy based on regulation*". In addition to what Sruti Bansal explained¹⁹, "*A bank is an institution which provides to individuals such advances of money which may be required and safely made, and to which individuals trust money when not required by them for use.*"

¹³ Mirnawati Abd Kadir, Husen Alting, and Rusdin Alaudin, "Kedudukan Bank Tanah Dalam Rangka Retribusi Tanah," *Amanna Gappa* 32, no. 1 (2024): 1–11.

¹⁴ Alfansyuri et al., "Nalisa Ketersediaan Tanah (Land Banking) Untuk Perumahan Dan Pemukiman Dengan Sistem Informasi Geografis Di Kabupaten Tanah Datar.," *Jurnal Ilmiah Rekayasa Sipil* 17, no. 1 (2020).

¹⁵ Bernhard Limbong, *Bank Tanah* (Jakarta: Margaretha Pustaka, 2013), 45.

¹⁶ A. Evans, *Economics, Real Estate and the Supply of Land* (New Jersey: John Wiley & Sons, 2004), 30.

¹⁷ Deborah K. Dilley, *Essential of Banking* (United States of America: John Wiley & Sons, Inc., 2008), 2.

¹⁸ Jeanne Gobat, "What Is a Bank?," *Finance & Development* (New York, 2012), 38-39.

¹⁹ Sruti Bansal, "Meaning , Concept and Significance of Banks," *International Journal of Recent Advances in Multidisciplinary Topics* 1, no. 2 (2020): 11–15.

According to this basic perspective, it is certainly irrelevant when the Land Bank explicitly declares to be a "non-profit" business. In fact, even if the bank is a place for storing treasures, it must be profit-oriented in order to survive, whether in the form of funds or something similar. This arrangement indicates characteristics that are incompatible with the essence of the form as its entirety. If the Land Bank Agency is not focused on profit, why is BPN ineffective?

At present, the role/function arrangements have become more common, which means they have the potential to lead to conflict. The essence of the regulation under Law No. 6 of 2023 is the spirit of the economy. That is, profit aspects must exist within the Land Bank. That is the reason why the Land Bank's dual function in the public and private sectors makes it institutionally "unclear". When compared to the principle of legal certainty, the existence of this Land Bank leads to legal uncertainty.

4. The Legal Implications of Establishing Land Bank As An Entity Authorized to Manage Land

The Land Bank is a relatively new institution, especially in comparison to established institutions such as the Ministry of ATR/BPN and the Agrarian Reform Team (now the Agrarian Reform Task Force-GTRA). Article 1 of PP No. 64 of 2021 explicitly implies that the Land Bank is authorized to manage land, the extent of which is outlined in Article 3 of PP No. 64 of 2021. Unexpectedly, Article 2 of PP No. 64 of 2021 refers only to the Land Bank as a legal entity. However, it did not specify the type of legal entity. Although the concept is referred to as *sui generis*, an explicit form of recognition is required, particularly in the context of harmonizing current legislation.

The Land Bank's authority as a new entity is not widely accepted by government officials or the general public. This relates to what the author said about the Land Bank regulation in the last sub-discussion. As an outcome, if the legal consequences of regulating land banks are revisited, the following analysis can be conducted. The legal implications for the management of the Land Bank, as an entity empowered to manage land by Law No. 6 of 2023 juncto PP No. 64 of 2021, can be implied in three aspects.

First, in terms of philosophy, being an entity in the form of a "bank," it is highly uncertain that there will be no "economic" spirit in the sense of "profit-oriented." This means that the terms of Article 127 of Law No. 6 of 2023 cannot be strictly recognized as a "non-profit" entity. When compared to the spirit described in Article 33, section (3), and Section (4) of the 1945 Constitution of the Republic of Indonesia, the existence of the Land Bank is a different thing. There was a philosophical transition toward the existence of the Land Bank, which was intended in the 1945 Constitution of the Republic of Indonesia. Although Article 33 sections (3) and (4) of the 1945 Constitution of the Republic of Indonesia neither oppose the capitalist system nor encourage socialism, their essence is

the harmony between social and economic values of a resource that is important to the state and affects the lives of many people.²⁰

This is additionally assisted by the agrarian reform agenda, which in principle makes substantial changes to the agrarian structure, enhances farmers' access (particularly at the lowest levels), and provides legal certainty for them to work on land.²¹ According to the UUPA, land reform consists of three main aspects:²²

- a. Redevelop the land ownership and management system. Prohibit the existence of groot grond bezit, also known as domein verklaring.
- b. Revamp and rebuild the land use planning system.
- c. Abolition of colonial agricultural law and the establishment of national agrarian laws.

Furthermore, as implied in the general explanation of Article II number (7) of the UUPA, "formulated a principle is being the basis of changes in land structure almost throughout the world, namely in countries that have/are implementing out what is called "land reform" or "agrarian reform," that is, "agricultural land must be worked or cultivated actively by the owner himself." Based on this definition, it is clear that the purpose of agrarian reform is to provide as many opportunities as possible for Indonesians, particularly farmers, to acquire agricultural land. So that individuals are active and productive enough to operate independently. Not in the context of providing to a third party. However, it supports the idea that previously inactive land is now able to be productive by farmers themselves. Furthermore, the following explanation implied, "For this concept to be implemented, other conditions must be made. As an example, there should be a clause insisting on the bare minimum quantity of land that a farmer must possess to make sufficient earnings to support himself and his family.

The establishment of the Land Bank, which functions as a banking entity under government arrangements, considerably increases the risk of taking land that should be used for community livelihood.²³ Furthermore, in this context, the Land Bank performs both public and private responsibilities, as mentioned in Article 40 PP No. 64 of 2021. The dualism of this responsibility, as conveyed by Member of Commission XI of the House of Representatives of the Republic of Indonesia, Anis Byarwati,²⁴ "This Land Bank appears to place more emphasis on the obligation to guarantee the availability of land to support economic improvement and investment while ensuring the extension and renewal of land rights, then in performing its functions can carry out public functions as well as

²⁰ Ronny Winarno, Endang Retnowati, and Ardhiwinda Kusumaputra, "Kedaulatan Negara Atas Pengelolaan Sumber Daya Air," *Yustitiabelen* 10, no. 1 (2024): 87–104.

²¹ Berharnhard Limbong, *Reforma Agraria* (Jakarta: Margaretha Pustaka, 2012), 27.

²² Bachsan Mustofa, *Hukum Agraria Dalam Perspektif* (Bandung: Remadja Karya, 1988), 27.

²³ Mochammad Rafi Pravidjayanto et al., "Peran Bank Tanah Dalam Mengatasi Problematika Pengadaan Tanah Untuk Kepentingan Umum," *Ma'mal: Jurnal Laboratorium Syariah Dan Hukum* 4, no. 2 (2023): 98–117.

²⁴ Komisi XI DPR RI, "Anis Byarwati: Pembentukan Bank Tanah Beda Dengan Tujuan Reforma Agraria," dpr.go.id, 2022, [https://www.dpr.go.id/berita/detail/id/41698/t/Anis Byarwati: Pembentukan Bank Tanah Beda dengan Tujuan Reforma Agraria](https://www.dpr.go.id/berita/detail/id/41698/t/Anis%20Byarwati%3A%20Pembentukan%20Bank%20Tanah%20Beda%20dengan%20Tujuan%20Reforma%20Agraria).

private functions." On that basis, the philosophical legal consequences of the Land Bank's development, with its authority to manage land, contradict/diverge from the actual aim envisaged in Article 33 of the 1945 Constitution of the Republic of Indonesia and National agrarian reform. The Land Bank is nothing more than a "tool" for tremendous economic growth and investment opportunities. Especially if we look at the online page <https://banktanah.id/profile/profillokasi/list>, which gives numerous places/areas with prospective or regional criteria. Of all, the Land Bank's intended customer base does not include farmers who are already struggling to support and maintain their families. However, this applies to enormous domestic and foreign investors. This essence must be re-established to carry out both private and public functions. So that in the future, it does not affect the sustainability of people's lives.

Secondly, normatively, in the context of assessing existing regulations. By examining the arrangements in Article 3 of Presidential Regulation No. 48 of 2020 to Article 3 of PP No. 64 of 2021, it is obvious that both the BPN and the Land Bank have land management and acquisition responsibilities. That is, such an entity enhances the possibility of conflict. It even escalates to a stage of institutional dispute. Furthermore, institutional and ego-sectoral disputes have always plagued Indonesia. Establishing a new institution, such as the Land Bank, is frequently considered an effective strategy than optimizing the operations of present institutions. As a consequence, the possibility of overlapping will be higher. Although such conflicts have occurred in multiple instances, as identified on the ATR/BPN website page²⁵, it is obvious in normative terms. This also contributes to legal inconsistencies. In reality, according to Gustav Radbruch, legal certainty is the most crucial factor in implementing regulations. Provide explicit instructions and objectives so that the regulation can be implemented. When such a conflict develops or has the potential to arise, the regulatory direction is uncertain.²⁶

Thirdly, sociologically, it has implications for the development of future conflicts that are not acceptable in society. The possibility is there will be disagreement between the community and entrepreneurs. Similarly, when the community believes that the existence of the Land Bank violates their rights, it provokes disturbances and has a long-term impact on the stabilization of economic growth. Essentially, how can we attract investors if current regulations will lead to conflicts between the community and investors? Of course, investors lose their interest if current regulations have an impact on business. It is the same for the State or the government, which should have an impact on the development and growth of investment value, is having the opposite effect as a result of the Land Bank, which is philosophically in contradiction to the 1945 Constitution of the Republic of Indonesia, as well as agrarian reform / UUPA, which normatively leads to conflicts of norms and potential institutional functional dualism. Especially in considering recent developments, community groups representing farmers', indigenous

²⁵ ATR/BPN, "Sekjen Kementerian ATR/BPN Ungkap Fungsi Badan Bank Tanah Dan Keunggulan Sertipikat Tanah Elektronik," atrbpn.go.id, 2023, <https://www.atrbpn.go.id/siaran-pers/detail/8804/sekjen-kementerian-atrbpn-ungkap-fungsi-badan-bank-tanah-dan-keunggulan-sertipikat-tanah-elektronik>.

²⁶ E. Fernando., "Misinterpretasi Ide Gustav Radbruch Mengenai Doktrin Filosofis Tentang Validitas Dalam Pembentukan Undang-Undang," *Undang: Jurnal Hukum* 5, no. 2 (2022): 453–468.

peoples', and fishermen's movements have filed a judicial review complaint against PP No. 64 of 2021 with the Supreme Court.²⁷

Following such restrictions, which have sociological implications for the Land Bank's existence, may not be justified. This means that the Land Bank's actions must be improved both functionally and structurally. If we look at the purpose and direction of the existence of the Land Bank, including by comparing what the Dutch have, the name *lenst Landdelijk Gebied* (DLG), states that the land bank is "the structural acquisition and temporary management of land in rural areas by an impartial state agency with the purpose to redistribute and or lease out this land to improve the agricultural structure and/or reallocate the land for other purposes with a general public interest". Having an independent form and function does not end up resulting in dualism, which is found in Indonesia, both functionally and structurally.²⁸ Land banks in the Netherlands are characterized by the practice of land consolidation and land readjustment by the Land Consolidation Law, which was approved in 1954. This is an instrument used by the land bank to accelerate and improve the land acquisition processes (particularly for abandoned land).²⁹ In contrast, Indonesia continues to have deficiencies in Land Bank management. Expanding the investment while potentially ignoring the rights of other communities, especially when referring to land reform.

At this point, it is important to re-evaluate and make arrangements. Enhancing the role of current institutions and integrating new ones into the community's conditions and requirements. Integrating social and economic principles, as mandated by Article 33 section (3) of the 1945 Constitution of the Republic of Indonesia and consistent with agricultural reform. Assisted by the development of rules based on harmonization and synchronization, ensuring that there are no norm or institutional conflicts. The fact that Indonesia is also a state of law, it is appropriate to establish rules coherently to provide legal certainty and advantages in a more equal way.

5. Conclusion

According to the research that has been accomplished. Firstly, the rules and regulations of the Land Bank as the entity authorized to manage land, as mentioned in Law No. 6 of 2023 juncto PP No. 64 of 2021, are primarily concerned with economic value for investment development. Especially in its dualistic performance, both public as well as private. This is directly incompatible with the basis of Article 33, section (3) of the 1945 Constitution of the Republic of Indonesia, UUPA, and agrarian reform. Allows uncertainty in the system.

²⁷ Walhi, "Petani Dan Rakyat Gugat Bank Tanah," walhi.or.id, 2023, <https://www.walhi.or.id/petani-dan-rakyat-gugat-bank-tanah>.

²⁸ Ida Ayu Putu Sri Astiti Padmawati, Ida Ayu Ratna Kumala, and Agustina Ni Made Ayu D.P., "Pembentukan Bank Tanah Dan Penguatan Hak Pengelolaan Pasca UU No. 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Hukum Saraswati* 4, no. 2 (2022): 163–77.

²⁹ Rafi Pravidjayanto et al., "Peran Bank Tanah Dalam Mengatasi Problematika Pengadaan Tanah Untuk Kepentingan Umum."

Secondly, the legal implications of establishing the Land Bank as an entity granted authority to manage land can be divided into three categories: philosophical, normative, and sociological. Philosophically, the legal implication is the contradiction of conflicting regulations. The Land Bank has nothing in common with the same aim and essence of Article 33, section (3 of the 1945 Constitution of the Republic of Indonesia, the UUPA, or agricultural reform. That is, the existence of the Land Bank under its current structures is legally inconsistent. Normatively, it leads to conflicts of norms and functional dualism, particularly when compared to BPN, which provides mutual authority in land acquisition. Sociologically, legal implications lead to social conflict. The potential for problems caused by regulation inconsistencies and existing disputes.

It is crucial to assess the Land Bank's regulations in both Law No. 6 of 2023 and PP No. 64 of 2021. However, stability within a country is a must to take into consideration, especially from a legal perspective. If the present regulations establish disturbance in the community and may jeopardize fundamental matters, it is the duty of the government (President and Ministers) to quickly assess and amend the existing regulations.

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