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The Existence of the Land Bank Agency within the Framework of State Control Rights

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Original Article

Abstract

Land plays a strategic role in supporting development, investment, and public welfare; however, persistent challenges such as land disputes, unequal ownership, and limited land availability continue to hinder the realization of equitable land governance. These conditions have prompted the establishment of the Land Bank Agency as a national instrument for land management. This study aims to analyze the position of the Land Bank Agency within the Indonesian land law system and to examine the philosophical, juridical, and constitutional foundations underlying its establishment as an institution implementing the State's Right to Control over land. The research employs a normative legal method using statutory, conceptual, and historical approaches through the examination of primary, secondary, and tertiary legal materials. The findings indicate that the Land Bank Agency constitutes a sui generis legal entity authorized to perform land planning, acquisition, procurement, management, utilization, and distribution functions for the purposes of public interest, agrarian reform, economic equity, and national development. The study concludes that the Land Bank Agency possesses strong constitutional and legal legitimacy as an instrument of state land governance. Nevertheless, strengthening institutional oversight, transparency, accountability, and the harmonization of authority among relevant institutions remains essential to ensure legal certainty, justice, and sustainable land management.

Keywords: *Land Bank Agency, State Control Rights, Agrarian Reform, Indonesian Land Law*

Abstrak

Tanah memiliki peran strategis dalam pembangunan, investasi, dan kesejahteraan masyarakat, namun masih dihadapkan pada sengketa, ketimpangan penguasaan, serta keterbatasan penyediaan lahan. Kondisi tersebut mendorong pembentukan Badan Bank Tanah sebagai instrumen pengelolaan pertanahan nasional. Penelitian ini bertujuan menganalisis kedudukan Badan Bank Tanah dalam sistem hukum pertanahan Indonesia serta mengkaji dasar filosofis, yuridis, dan konstitusional pembentukannya sebagai pelaksana Hak Menguasai Negara atas tanah. Penelitian menggunakan metode hukum normatif dengan pendekatan perundang-undangan, konseptual, dan historis melalui analisis bahan hukum primer, sekunder, dan tersier. Badan Bank Tanah berkedudukan sebagai badan hukum khusus (sui generis) yang melaksanakan fungsi perencanaan, perolehan, pengadaan, pengelolaan, pemanfaatan, dan pendistribusian tanah untuk kepentingan umum, reforma agraria, pemerataan ekonomi, dan pembangunan nasional. Kesimpulannya, keberadaan Badan Bank Tanah memiliki legitimasi konstitusional dan yuridis yang kuat, meskipun memerlukan penguatan pengawasan, transparansi, dan sinkronisasi kewenangan kelembagaan yang adil.

Kata kunci: *Badan Bank Tanah, Hak Menguasai Negara, Reforma Agraria, Hukum Pertanahan Indonesia*

1. INTRODUCTION

Land constitutes a strategic resource with significant economic, social, and legal functions in national life. Beyond serving as a space for habitation and a source of livelihood, land plays a crucial role in supporting national development, investment, infrastructure expansion, and the implementation of social welfare programs. Within the Indonesian legal framework, land governance is founded upon Article 33(3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that land, water, and natural resources shall be controlled by the state and utilized for the greatest benefit of the people. This constitutional mandate is further elaborated in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), which grants the state the authority to regulate the allocation, utilization, and management of land in pursuit of social justice.

Despite this normative foundation, the implementation of land law in Indonesia continues to face substantial challenges. Land disputes and conflicts, unequal land ownership, the existence of abandoned land, speculative land practices, and overlapping land rights remain persistent issues that undermine the effectiveness of national land governance.¹ These conditions indicate that the existing land management framework has not yet fully succeeded in ensuring sustainable land availability while simultaneously realizing the constitutional objective of agrarian justice.

At the same time, rapid population growth, urbanization, infrastructure expansion, and increasing investment demands have intensified the need for land. The limited availability of land frequently creates obstacles to land acquisition for public purposes and national development projects.² Moreover, land acquisition processes often involve substantial costs and prolonged procedures due to ownership disputes and uncertainties regarding legal status. These challenges have encouraged the government to develop new institutional mechanisms capable of ensuring a more effective and systematic supply of land.

In response to these concerns, the government established the Land Bank Agency through Law Number 11 of 2020 concerning Job Creation, subsequently reinforced by Law Number 6 of 2023 and Government Regulation Number 64 of 2021 concerning the Land Bank Agency. The institution is designed as a *sui generis* legal entity endowed with the authority to plan, acquire, manage, utilize, and distribute land in support of public interests, national development, economic equity, and agrarian reform.

Nevertheless, the establishment of the Land Bank Agency has generated considerable debate. On the one hand, it is regarded as a strategic instrument for

¹ Martha Lilia Del Río Duque et al., "Understanding Systemic Land Use Dynamics in Conflict-Affected Territories: The Cases of Cesar and Caquetá, Colombia," *Plos One* 17, no. 5 (2022): e0269088, <https://doi.org/10.1371/journal.pone.0269088>.

² Henny Nuraeny and Anita Kamilah, "Improvement of Conflict of Agrarian Period Pandemic Covid-19 Due to Government Policy on Land Acquisition for Infrastructure Development," *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat* 8, no. 1 (2022): 1–18, <https://doi.org/10.55809/tora.v8i1.79>.

addressing land scarcity and enhancing legal certainty in land administration.³ On the other hand, concerns have been raised regarding potential overlaps of authority with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), the concentration of state control over land resources, and possible implications for the rights of indigenous communities.⁴ Consequently, examining the position of the Land Bank Agency within Indonesia's land law system is essential to understanding the legal basis of its authority, its institutional status, and its implications for legal certainty, agrarian reform, and the realization of social justice in national land governance.

Scholarly discussions on the Land Bank Agency have expanded significantly following the enactment of Law Number 11 of 2020 concerning Job Creation, later strengthened by Law Number 6 of 2023 and Government Regulation Number 64 of 2021. While the institution is widely recognized as a strategic instrument for national land management, it has also generated debates concerning its authority, its relationship with agrarian reform policies, its role in facilitating investment, and its contribution to legal certainty.

Research conducted by Kurniati and Milda argues that the establishment of the Land Bank Agency represents the implementation of state legal policy aimed at fulfilling the mandate of Article 33(3) of the 1945 Constitution. Their study positions the institution as a mechanism for ensuring land availability for development and public purposes. However, the analysis primarily focuses on the legal-political dimensions of its establishment and does not comprehensively examine the institutional position of the Land Bank Agency within the national land law system.⁵

Similarly, Husaeni examines the authority of the Land Bank Agency from the perspective of the State's Right to Control over land. The study identifies tensions between the objectives of agrarian reform and the investment-oriented interests underlying the institution's operation. In addition, several normative issues concerning the clarity of authority and land management mechanisms are highlighted. Nevertheless, the study concentrates primarily on the scope of authority rather than on the institutional position and legal status of the Land Bank Agency within Indonesia's broader land law framework.⁶

³ Iwan Permadi, "Land Tenure and Utilisation Challenges of The Land Bank Concept in Indonesia," *Jurnal Hukum Dan Kenotariatan* 7, no. 3 (2023): 185–96, <https://doi.org/10.33474/hukeno.v7i3.20750>.

⁴ Ida Ayu Putu Sri Astiti Padmawati et al., "Legal Construction for The Establishment of Land Banks in Land Procurement for Fair Public Interest," *Jurnal Hukum Prasada* 10, no. 1 (2023): 1–11, <https://doi.org/10.22225/jhp.10.1.2022.1-11>.

⁵ Nia Kurniati and Milda Milda, "Eksistensi Bank Tanah Dalam Perspektif Politik Hukum Pertanahan," *Jurnal Kajian Budaya Dan Humaniora* 6, no. 2 (2024): 186–94, <https://doi.org/10.61296/jkbh.v6i2.253>.

⁶ Firman Husaeni, "Kewenangan Badan Bank Tanah Dalam Mengatur Penggunaan Tanah Terlantar Dihubungkan Dengan Hak Menguasai Negara Pasal 33 Ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945." (Universitas Islam Negeri Sunan Gunung Djati, 2022), <https://digilib.uinsgd.ac.id/53834/>.

Susan Meliala examined the relationship between Land Banks and agrarian reform. The findings indicate that Land Banks possess significant potential to support land redistribution and facilitate land provision for public purposes. Nevertheless, their implementation continues to face several challenges, including limited transparency, the risk of agrarian conflicts, and a tendency toward investment-oriented policies.⁷ Similar conclusions were reached by Rahadiyan Veda Mahardika and Gatot Suyanto, who highlighted the potential overlap of authority between the Land Bank Agency and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), emphasizing the need for a clearer regulatory framework.⁸

Permata S. and Anugrahyu identified concerns related to the centralization of authority, potential conflicts of interest, and the necessity of transparent oversight mechanisms in the operation of the Land Bank Agency.⁹ Likewise, Rendi Yuzy Andika Harahap argued that the Land Bank Agency can serve as an effective instrument for supporting development projects and facilitating land acquisition, although legal certainty regarding the status and management of land assets under its control remains insufficiently developed.¹⁰

Dyah Ayu Prameswari and Baidhowi Baidhowi emphasized that the Land Bank Agency should not be regarded as a landowner but rather as a land manager acting on behalf of the state. However, the absence of clearly defined limits on its authority may create legal uncertainty.¹¹ Similarly, Bening and Rafiqi criticized the institution's investment-oriented approach, arguing that it may conflict with the objectives of agrarian reform and generate institutional tensions with the ATR/BPN.¹²

From a different perspective, Andre Dwi Putra Sinaga et al. examined the protection of indigenous peoples' rights in relation to the Land Bank Agency and found that such protection remains predominantly administered through the National Land

⁷ May Susan Meliala, "Kedudukan Bank Tanah Dalam Reforma Agraria: Antara Regulasi Dan Implementasi," 5, no. 1 (2026): 344–51, <https://jurnal.umsu.ac.id/index.php/sanksi/article/view/30364>.

⁸ Rahadiyan Veda Mahardika and Gatot Suyanto, "Kedudukan Hukum Badan Bank Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum," *Jurnal Ilmu Kenotariatan* 3, no. 2 (2022): 58–65, <https://doi.org/10.19184/jik.v3i2.36432>.

⁹ Nathania Permata S and Ayang Afira Anugrahyu, "Bank Tanah Dalam Perspektif Hukum Agraria: Peran Strategis Dan Tantangan Kelembagaan Di Indonesia," *Journal Kompilasi Hukum* 10, no. 1 (2025): 177–86, <https://doi.org/10.29303/jkh.v10i1.227>.

¹⁰ Rendi Yuzy Andika Harahap, "Eksistensi Bank Tanah Terhadap Hak Pengelolaan Atas Tanah Dalam Hukum Agraria Menurut Undang–Undang Cipta Kerja: Studi Badan Pertanahan Nasional Sumatera Utara" (Universitas Medan Area, 2024), <https://repositori.uma.ac.id/jspui/bitstream/123456789/27281/2/218400238%20-%20Rendi%20Yuzy%20Andika%20Harahap%20-%20Fulltext.pdf>.

¹¹ Dyah Ayu Prameswari and Baidhowi Baidhowi, "Implikasi Bank Tanah Terhadap Status Kepemilikan Tanah," in *Bookchapter Hukum Dan Lingkungan*, vol. 2 (2025), <https://bookchapter.unnes.ac.id/index.php/hk/article/view/488>.

¹² Wahyu Bening and Ilham Dwi Rafiqi, "Permasalahan Hukum Pengaturan Bank Tanah Pasca Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja," *Jurnal Suara Hukum* 4, no. 2 (2023): 265–98, <https://doi.org/10.26740/jsh.v4n2.p265-298>.

Agency (BPN).¹³ Furthermore, Suyadi et al. emphasized that land management conducted by the Land Bank Agency must adhere to the principles of justice, public interest, and social welfare.¹⁴

A review of the existing literature demonstrates that previous studies have primarily focused on the authority of the Land Bank Agency, policy implementation, agrarian reform, investment facilitation, and the legal consequences arising from its operation. However, limited attention has been given to analyzing the institutional position of the Land Bank Agency as a *sui generis* legal entity within Indonesia's land law system. Accordingly, this study offers a novel contribution by examining the institutional position of the Land Bank Agency within the framework of the State's Right to Control, agrarian reform, legal certainty, and its relationship of authority with the ATR/BPN.

This study aims to analyze the position of the Land Bank Agency within the Indonesian land law system based on Law Number 6 of 2023 and Government Regulation Number 64 of 2021. Furthermore, it examines the philosophical, juridical, and constitutional foundations underlying the establishment of the Land Bank Agency as an institution implementing the State's Right to Control over land. The study also analyzes the functions and authority of the Land Bank Agency in providing land for public purposes, national development, investment, and agrarian reform, while evaluating key legal challenges concerning legal certainty, the protection of indigenous peoples' rights, transparency in land governance, and potential overlaps of authority with the ATR/BPN.

2. RESEARCH METHODOLOGY

This study employs a normative legal research method, which conceptualizes law as a system of norms comprising legal principles, rules, doctrines, and statutory regulations. This approach was selected because the research focuses on examining the position, functions, and authority of the Land Bank Agency within Indonesia's land law system, as well as assessing its conformity with the principles of the State's Right to Control, agrarian reform, legal certainty, and agrarian justice.

The study applies three complementary approaches: the statutory approach, the conceptual approach, and the historical approach. The statutory approach is utilized to analyze the legal framework governing the Land Bank Agency, including relevant legislation and implementing regulations. The conceptual approach is employed to

¹³ Andre Dwi Putra Sinaga et al., "Efektivitas Kehadiran Bank Tanah Terhadap Perlindungan Hukum Masyarakat Adat Atas Tanah Adat Studi Kasus Di Kecamatan Medan Belawan," *Jurnal Hukum Lex Generalis* 5, no. 4 (2024): 1–19.

¹⁴ Yagus Suyadi et al., "Pengelolaan Tanah Oleh Badan Bank Tanah Demi Kesejahteraan Masyarakat Dalam Perspektif Islam," *The Indonesian Journal of Islamic Law and Civil Law* 4, no. 2 (2023): 228–43, <https://doi.org/10.51675/jaksya.v4i2.542>.

examine the legal concepts of the State's Right to Control, land banking, sui generis legal entities, legal certainty, and agrarian justice. Meanwhile, the historical approach is used to explore the background and policy considerations underlying the establishment of the Land Bank Agency within Indonesia's national agrarian governance framework.

The legal materials utilized in this study consist of primary, secondary, and tertiary legal sources. Data collection was conducted through an extensive literature review involving the examination of legislation, scholarly publications, previous research findings, and other relevant legal documents. The collected legal materials were analyzed qualitatively using descriptive-analytical and prescriptive methods. The analysis was carried out through grammatical, systematic, historical, and teleological interpretations to identify the legal foundations and institutional characteristics of the Land Bank Agency. Conclusions were drawn using a deductive method to formulate legal arguments concerning the institutional position of the Land Bank Agency and to develop recommendations aimed at strengthening legal certainty, transparency, and agrarian justice within Indonesia's land governance system.

3. RESEARCH RESULT AND DISCUSSION

3.1. The Position of the Land Bank Agency within the Indonesian Land Law System

The establishment of the Land Bank Agency represents a legal and policy response by the government to a range of land-related challenges that have hindered national development and the equitable distribution of public welfare. Persistent issues, including land disputes, unequal land ownership, increasing demand for land to support development projects, the existence of abandoned land, and speculative increases in land prices, have necessitated the creation of an institutional mechanism capable of ensuring sustainable land availability through a more systematic, integrated, and public interest-oriented approach.

Pursuant to Law Number 6 of 2023 and Government Regulation Number 64 of 2021, the Land Bank Agency is granted a distinctive status as a sui generis legal entity under Indonesian law. This designation signifies that the Land Bank Agency cannot be equated with conventional government institutions or state-owned enterprises. Its unique legal status reflects the strategic nature of its functions, which are directly associated with the management of national agrarian resources. Normatively, the Agency was established by the central government and vested with comprehensive authority over land planning, land acquisition, land procurement, land management, land utilization, and land distribution. Such extensive authority positions the Land Bank Agency as a novel institutional instrument within Indonesia's land governance framework, one that had not previously been explicitly recognized within the national agrarian legal system.

The institutional position of the Land Bank Agency is closely linked to the concept of the State's Right to Control, as enshrined in Article 33(3) of the 1945 Constitution of the Republic of Indonesia and Article 2 of the Basic Agrarian Law of 1960 (UUPA). Under this doctrine, the state is empowered to regulate and administer the allocation, utilization, availability, and preservation of land resources for the greatest benefit of the people. Within this framework, the Land Bank Agency functions as an operational instrument through which the state exercises its authority over land management. Accordingly, the Agency does not hold ownership rights over land in the private law sense; rather, it acts as a land manager on behalf of the state to ensure the availability of land for strategic national objectives.

The establishment of the Land Bank Agency reflects an expansion of the implementation of the State's Right to Control, transforming it from a predominantly regulatory function into a more active managerial function. The state no longer limits its role to regulating land use through legislation, policies, and licensing mechanisms but also directly manages land reserves to support development initiatives, investment, public interests, and economic equity. This development signifies a paradigm shift in Indonesia's land governance system, positioning the state not only as a regulator but also as an active land manager within the framework of modern agrarian law.

In addition to serving as an instrument for implementing the State's Right to Control, the Land Bank Agency is closely associated with the realization of agrarian reform. Government Regulation Number 64 of 2021 explicitly mandates that a portion of the land managed by the Agency be allocated to agrarian reform programs. This provision demonstrates that the Agency's mandate extends beyond facilitating investment and economic development, encompassing a broader social function aimed at supporting land redistribution and promoting equitable access to land resources. Consequently, the Land Bank Agency embodies the principle of the social function of land rights, which constitutes one of the fundamental principles of Indonesian agrarian law.

This perspective is consistent with the findings of Kurniati and Milda, who argue that the establishment of the Land Bank Agency represents the implementation of state legal policy in fulfilling the mandate of Article 33(3) of the 1945 Constitution.¹⁵ However, the present study identifies a broader institutional dimension. The Land Bank Agency should not merely be viewed as an instrument for land provision; rather, it functions as an integrated institution that combines land acquisition, agrarian reform, economic equity, and land-use control within a single institutional framework. Through this integrated role, the Agency occupies a strategic position within Indonesia's land law system as a key mechanism for achieving sustainable land governance, legal certainty, and social justice.

¹⁵ Kurniati and Milda, "Eksistensi Bank Tanah Dalam Perspektif Politik Hukum Pertanahan."

This study further corroborates the findings of Husaeni regarding the close relationship between the Land Bank Agency and the doctrine of the State's Right to Control over land.¹⁶ However, the present study demonstrates that the existence of the Land Bank Agency should not be interpreted merely as an expansion of state control over land resources. Rather, it should be understood as an institutional mechanism designed to ensure more effective and efficient land governance in pursuit of the constitutional objective of promoting public welfare. Consequently, the legitimacy of the Land Bank Agency's authority is largely contingent upon the extent to which its functions remain consistently oriented toward the public interest, agrarian justice, and the equitable distribution of land resources.

Nevertheless, several legal challenges may affect the effectiveness of the Land Bank Agency's position within Indonesia's land law system. The first challenge concerns the potential overlap of authority between the Land Bank Agency and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN). Normatively, ATR/BPN functions as the primary regulator and administrator of the national land system, whereas the Land Bank Agency is entrusted with land management functions. In practice, however, certain areas of responsibility may intersect, particularly with respect to land acquisition, land rights administration, and land distribution. This finding is consistent with the studies of Mahardika and Suyanto, Permata and Anugrahyu, and Bening and Rafiqi, all of which identify the risk of overlapping authority within Indonesia's land governance framework.¹⁷

The second challenge relates to the protection of the rights of indigenous peoples and local communities. Although the legal framework governing the Land Bank Agency emphasizes respect for existing rights, stronger mechanisms for safeguarding indigenous land rights remain necessary to prevent potential agrarian disputes and social conflicts. The success of the Land Bank Agency should therefore be assessed not only by its capacity to provide land for development purposes but also by its ability to balance development objectives with the protection of communities that have historically occupied, managed, or utilized land resources across generations.¹⁸

The third challenge concerns the need to strengthen transparency and accountability in land governance. Given the extensive authority vested in the Land Bank Agency, effective oversight mechanisms are essential to prevent abuses of power,

¹⁶ Firman Husaeni, "Kewenangan Badan Bank Tanah Dalam Mengatur Penggunaan Tanah Terlantar Dihubungkan Dengan Hak Menguasai Negara Pasal 33 Ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945."

¹⁷ Mahardika and Suyanto, "Kedudukan Hukum Badan Bank Tanah Dalam Pengadaan Tanah Untuk Kepentingan Umum"; Permata S and Anugrahyu, "Bank Tanah Dalam Perspektif Hukum Agraria"; Bening and Rafiqi, "Permasalahan Hukum Pengaturan Bank Tanah Pasca Undang-Undang Nomor 11 Tahun 2020 Tentang Cipta Kerja."

¹⁸ Asyifa Aulia Putri Ramadhina et al., "Regulations on the Determination of Abandoned Land Objects for the Land Bank in the Context of Realizing Agrarian Reform," *International Journal Of Humanities Education and Social Sciences (IJHESS)* 4, no. 3 (2024): 1658–69, <https://doi.org/10.55227/ijhess.v4i3.1341>.

monopolistic land control, and an excessive orientation toward investment interests. These findings are consistent with the research of Prameswari and Baidhowi and Meliala, which emphasizes the importance of enhancing supervisory mechanisms, institutional accountability, and legal certainty in the operation of the Land Bank Agency.¹⁹

The Land Bank Agency occupies a strategic position as a specialized institution within Indonesia's land law system. Its role extends beyond managing state land reserves and encompasses the implementation of the State's Right to Control over land as a means of supporting national development, agrarian reform, economic equity, and legal certainty in land governance. The establishment of the Land Bank Agency represents a significant development in Indonesia's agrarian legal framework, reflecting an effort to integrate land management functions within a systematic, planned, and sustainable institutional structure. However, the effectiveness of this role depends substantially on the establishment of a clear division of authority between the Land Bank Agency and ATR/BPN, the protection of indigenous peoples' rights, and the consistent application of transparency and accountability principles throughout all stages of land management. Accordingly, strengthening the regulatory framework and oversight mechanisms constitutes an urgent priority to ensure that the Land Bank Agency can effectively fulfill its constitutional mandate of managing land resources for the greatest prosperity of the people.

3.2. Philosophical, Juridical, and Constitutional Foundations for the Establishment of the Land Bank Agency

From a philosophical perspective, the establishment of the Land Bank Agency is grounded in the concept of the welfare state, which constitutes a fundamental principle of governance in Indonesia. Within this framework, the state is not merely responsible for maintaining law and order but also bears an active obligation to promote public welfare through the management of strategic resources, including land. In the Indonesian context, land is not solely regarded as an economic asset; it also possesses significant social, cultural, political, and ecological dimensions that are essential to the sustainability of community life. Consequently, land governance cannot be left entirely to market mechanisms, as doing so may result in unequal land ownership, speculative land practices, and the marginalization of communities with limited access to agrarian resources.

The establishment of the Land Bank Agency represents a governmental effort to address longstanding structural problems in the agrarian sector. Persistent challenges such as land disputes, unequal land distribution, the existence of abandoned land,

¹⁹ Dyah Ayu Prameswari and Baidhowi Baidhowi, "Implikasi Bank Tanah Terhadap Status Kepemilikan Tanah"; May Susan Meliala, "Kedudukan Bank Tanah Dalam Reforma Agraria: Antara Regulasi Dan Implementasi."

increasing demand for land to support infrastructure development, and difficulties in acquiring land for public purposes have necessitated the creation of a dedicated institutional mechanism. The Land Bank Agency was therefore established as a means of realizing the principle of social justice embodied in the Fifth Principle of Pancasila, namely, “Social Justice for All Indonesian People.” Through a more systematic and coordinated approach to land management, the state seeks to ensure that the utilization of land resources generates equitable benefits for society as a whole rather than serving the interests of particular groups.

From a constitutional perspective, the establishment of the Land Bank Agency derives its legitimacy from Article 33(3) of the 1945 Constitution of the Republic of Indonesia, which stipulates that land, water, and natural resources contained therein shall be controlled by the state and utilized for the greatest prosperity of the people. This constitutional provision serves as the principal foundation for state authority in regulating, administering, managing, and supervising agrarian resources. Constitutional Court jurisprudence has consistently interpreted the phrase “controlled by the state” not as an expression of state ownership in a private-law sense, but rather as a form of public authority entrusted to the state to regulate the utilization of natural resources for the benefit of the people. Accordingly, the establishment of the Land Bank Agency constitutes a concrete manifestation of the state’s constitutional obligation to exercise effective control over land resources while ensuring that such control remains directed toward the achievement of public welfare.

Within this constitutional framework, the Land Bank Agency functions as an institutional instrument through which the state implements its authority over land governance. The state, acting through the Land Bank Agency, does not assume the role of a landowner; rather, it acts as a land manager authorized to undertake land planning, acquisition, procurement, management, utilization, and distribution. These functions are intended to ensure the availability of land for public purposes, national development, agrarian reform, economic equity, and investment while maintaining adherence to the principles of social justice. Consequently, the establishment of the Land Bank Agency reflects the dual role of the state as both regulator and manager of agrarian resources within Indonesia’s constitutional order.

From a juridical perspective, the establishment of the Land Bank Agency is supported by a comprehensive and multilayered legal framework. Its principal legal basis is found in Law Number 6 of 2023, which retains and reinforces the provisions concerning the Land Bank Agency originally introduced under Law Number 11 of 2020 concerning Job Creation. These provisions are further elaborated through Government Regulation Number 64 of 2021 concerning the Land Bank Agency. Under this regulatory framework, the Land Bank Agency is recognized as a *sui generis* legal entity

established by the central government and endowed with specific authority in the field of land management.

An examination of the legal structure governing the Land Bank Agency demonstrates that its establishment is consistent with the fundamental principles of the Basic Agrarian Law of 1960 (UUPA). Rather than conflicting with the UUPA, the Land Bank Agency reinforces the implementation of Article 2 of the UUPA, which grants the state authority to regulate the allocation, utilization, availability, and maintenance of land. The Agency serves as an institutional mechanism through which the state can more effectively exercise its regulatory and managerial functions in land governance. In this regard, the establishment of the Land Bank Agency represents a contemporary institutional development of the State's Right to Control, a doctrine that has long constituted a cornerstone of Indonesia's agrarian legal system.

This study is consistent with the findings of Kurniati and Milda, who argue that the establishment of the Land Bank Agency constitutes an implementation of state land policy aimed at fulfilling the mandate of Article 33(3) of the 1945 Constitution of the Republic of Indonesia.²⁰ However, the present study extends this perspective by demonstrating that the establishment of the Land Bank Agency should not be viewed solely through the lens of legal and political policy. Rather, it is also grounded in a strong philosophical commitment to promoting social justice and ensuring equitable access to land as a strategic national resource.

The findings of this study also support the conclusions of Husaeni, who positions the Land Bank Agency as an institutional manifestation of the State's Right to Control over land.²¹ Nevertheless, the role of the Land Bank Agency should not be interpreted merely as an instrument for strengthening state control over land resources. Instead, it should be understood as a public service institution designed to optimize land governance for the benefit of society as a whole. Consequently, the legitimacy of the Land Bank Agency is determined not only by its legal authority but also by its capacity to promote agrarian justice, equitable land distribution, and public welfare.

One of the distinguishing characteristics of the Land Bank Agency is its status as a *sui generis* institution. This unique status reflects its integrated institutional design, which combines land planning, acquisition, management, utilization, and distribution functions within a single organizational framework.²² From the perspective of administrative law, this institutional model represents an innovative approach to

²⁰ Kurniati and Milda, "Eksistensi Bank Tanah Dalam Perspektif Politik Hukum Pertanahan."

²¹ Firman Husaeni, "Kewenangan Badan Bank Tanah Dalam Mengatur Penggunaan Tanah Terlantar Dihubungkan Dengan Hak Menguasai Negara Pasal 33 Ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945."

²² Dhifla Wiyani, "Legal Certainty of Land Banking Institutions: Theoretical and Current Challenges," *Scholars International Journal of Law, Crime and Justice* 7, no. 9 (2024): 406–10, <https://doi.org/10.36348/sijlcj.2024.v07i09.009>.

national land governance, intended to enhance the effectiveness, coordination, and implementation of agrarian policies.

Despite its strong philosophical, juridical, and constitutional foundations, the implementation of the Land Bank Agency continues to face several significant challenges. These include the potential overlap of authority with the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), concerns regarding the centralization of land control, the protection of indigenous peoples' rights, and the need to strengthen transparency and accountability mechanisms in land governance.²³ If these issues are not adequately addressed, the Land Bank Agency may face difficulties in fulfilling its intended role as an instrument for implementing the State's Right to Control in a manner consistent with the principles of social justice that constitute its philosophical and constitutional foundation.

The establishment of the Land Bank Agency is supported by a robust philosophical, juridical, and constitutional framework within the Indonesian legal system. Philosophically, the Agency was created to advance social justice and public welfare through more effective and equitable land governance.²⁴ Constitutionally, its existence represents a direct implementation of Article 33(3) of the 1945 Constitution, which mandates state control over agrarian resources for the benefit of the people. Juridically, its establishment is legitimized through Law Number 6 of 2023, Government Regulation Number 64 of 2021, and the principles embodied in the Basic Agrarian Law of 1960 (UUPA). Accordingly, the Land Bank Agency can be regarded as a legitimate and strategic state institution for implementing the State's Right to Control over land, with the ultimate objective of promoting legal certainty, agrarian justice, sustainable land governance, and the greatest possible prosperity for the people.

4. CONCLUSION

This study examines the position of the Land Bank Agency within the Indonesian land law system based on Law Number 6 of 2023 and Government Regulation Number 64 of 2021, while also analyzing the philosophical, juridical, and constitutional foundations underlying its establishment as an institutional instrument for implementing the State's Right to Control over land, as mandated by Article 33(3) of the 1945 Constitution of the Republic of Indonesia and the Basic Agrarian Law of 1960 (UUPA). The findings demonstrate that the Land Bank Agency constitutes a *sui generis* legal entity that performs strategic functions in land planning, acquisition, procurement, management, utilization, and distribution to support public interests, national development, agrarian

²³ Ramadhina et al., "Regulations on the Determination of Abandoned Land Objects for the Land Bank in the Context of Realizing Agrarian Reform."

²⁴ Joshua Nsanyang Sandow et al., "Regulatory Capital Requirements and Bank Performance in Ghana: Evidence from Panel Corrected Standard Error," *Cogent Economics & Finance* 9, no. 1 (2021): 2003503, <https://doi.org/10.1080/23322039.2021.2003503>.

reform, and economic equity. Its establishment is grounded in the philosophical principles of social justice and public welfare, the constitutional mandate of Article 33(3) of the 1945 Constitution, and the juridical framework provided by the UUPA, Law Number 6 of 2023, and Government Regulation Number 64 of 2021.

The study concludes that the Land Bank Agency represents a legitimate institutional development in the implementation of the State's Right to Control over land and serves as a strategic mechanism for promoting legal certainty, sustainable land governance, and agrarian justice. Theoretically, this research contributes to the advancement of agrarian law scholarship by clarifying the institutional position and legal character of the Land Bank Agency within Indonesia's land law system. Practically, it provides policy recommendations for strengthening the effectiveness and legitimacy of the institution.

Nevertheless, this study is limited by its reliance on a normative legal approach and therefore does not examine the empirical implementation of the Land Bank Agency in practice. Accordingly, the government should establish clearer boundaries of authority between the Land Bank Agency and the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), strengthen the protection of indigenous peoples' land rights, and enhance institutional transparency, accountability, and oversight mechanisms. Future studies are encouraged to employ empirical or socio-legal approaches to evaluate the effectiveness of the Land Bank Agency in supporting agrarian reform, facilitating land acquisition, and resolving land-related conflicts in Indonesia.

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