

## LEGAL ANALYSIS OF LAND BANK INSTITUTIONS IN INDONESIA (Comparative Study with the United States)

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### Abstract

This study analyzes the idea and implementation of the Land Bank in Indonesia, comparing it with similar systems in other nations, especially the United States. This study aims to examine the Land Bank policy in Indonesia, juxtapose its frameworks with those in the United States, and formulate an optimal Land Bank concept suitable for implementation in Indonesia. This study employs a normative juridical methodology using comparative legal and philosophical methods. The findings indicate that although the Land Bank in Indonesia has the same aims as its counterpart in the United States, namely land management for public benefit, there are considerable disparities in operational and regulatory methodologies. In Indonesia, the Land Bank is mostly centralized and oriented towards social concerns, but in the United States, it is more decentralized and operates as a financial entity. The optimal framework for a Land Bank in Indonesia must emphasize justice, openness, and sustainability, while enhancing the function of Notary/PPAT and improving the integration of land information systems. This study underscores the significance of cooperation among the government, corporate sector, and communities to establish an efficient and sustainable Land Bank in Indonesia.

**Keywords:** *Land Bank, Land Management, Social Justice, Transparency, Comparative Law, Indonesia, United States*

### INTRODUCTION

#### A. BACKGROUND

The primary responsibility of the state is to maintain order and advance the welfare of its population, as explicitly stated in the Preamble to the 1945 Constitution. Within this framework, the state is mandated to uphold the basic rights of its population, which includes the allocation of sufficient land for various development purposes (Zahra, 2017: 357-384). However, the continued increase in the world's population, which is projected to reach 9.8 billion by 2050, makes land management increasingly difficult. This requires countries to carry out efficient land management to meet the basic needs of their population. In Indonesia, land acquisition is still a significant difficulty. The gap between the need for land for development and its availability often causes disputes in society (Celine, 2020: 13128). The government has implemented many laws to address this issue, including Law Number 2 of 2012 concerning Land Acquisition for Public Interest and Law Number 11 of 2020 concerning Job Creation. A notable advance is the establishment of the National Land Agency (BPN), which seeks to allocate land systematically and non-controversially. However, its implementation in the field still faces various challenges, including disputes over compensation prices, the presence of land speculators, and administrative complications over the validity of documents.

The land bank idea in the United States has been used effectively to manage abandoned properties. The property bank organization in the United States, exemplified by the "Land Bank Authority", serves as a mechanism to transform unproductive properties into valuable assets for the public interest, including housing development, infrastructure, and environmental protection (Zahra, 2017). Unlike Indonesia, the United States benefits from a well-established land management system and a clearer legal framework. In this context, Notaries in the United States act as administrative witnesses without the authority to validate land documents, but in Indonesia, Notaries/PPATs have greater authority. This places Indonesian Notaries/PPATs in a strategic position to verify the validity of land documents in the land bank and ensure compliance with legal standards. However, in Indonesia there is still a legal gap between das sollen and das sein. Normatively, laws and regulations mandate that every land transaction and document managed by the National Land Agency has legal validity and can reduce disputes. In reality, many land conflicts arise due to document forgery, procedural deviations, or unclear land rights. This indicates that the legal

function of Notaries/PPATs has not been optimal in facilitating the implementation of the land bank idea. Comparative analysis with the United States indicates that Indonesia should improve the function of Notaries/PPAT in maintaining the validity of land documents to improve the effectiveness of the Land Bank. In addition, aligning agrarian regulations with the Notary/PPAT Law is an important step to ensure fair, transparent, and sustainable implementation of the land bank idea in Indonesia. This study examines the regulatory policy of the Land Bank in Indonesia. This study aims to build an optimal land concept in Indonesia that ensures land availability and fair assessment by improving the law and combining the legal functions of Notaries/PPAT. This study presents a new way to develop the optimal idea of the Land Bank by integrating the principles of justice, legal benefits, and the functions of Notaries/PPAT.

## **B. RESEARCH METHODS**

This study uses a normative legal method, namely legal research that focuses on applicable legal norms or rules. This type of research aims to examine laws and regulations, legal theories, and documents relevant to the regulation of Land Banks in Indonesia and the United States. Analysis through literature studies for primary legal materials (laws, regulations) and secondary (books, journals, scientific articles). Using inductive methods (from facts to generalizations) and deductive methods (from generalizations to specific facts) to produce an ideal concept of a Land Bank that is relevant to legal and social needs in Indonesia.

## **DISCUSSION**

### **A. LAND BANK REGULATION POLICY IN INDONESIA**

The regulatory framework for the Land Bank in Indonesia is stipulated in Presidential Regulation (Perpres) No. 113 of 2021, which regulates its structure and organization. The Land Bank was established as an entity tasked with planning, providing, and managing land for the public interest, social interests, and equitable economic development. The Land Bank is tasked with implementing land consolidation, agrarian reform, and ensuring the availability of land for infrastructure and settlement initiatives. The organizational structure of the Land Bank includes a Committee that reports to the President, together with a Supervisory Board and an Implementing Agency tasked with overseeing and implementing policies. This collaboration is expected to enable the Land Bank to substantially address land issues in Indonesia (Ibid).

The Land Bank policy in Indonesia is explicitly regulated in Article 125 of Law Number 11 of 2020 concerning Job Creation, which is then further detailed in Government Regulation Number 64 of 2021 concerning the National Land Agency. The Land Bank legally operates to monitor abandoned properties, accelerate land purchases for infrastructure development, and facilitate agrarian reform. Its main goal is to ensure the availability of land for various development needs while avoiding prolonged social disputes.

However, there are several problems faced in implementing this strategy. The lack of transparency in the land acquisition process, especially regarding the assessment of compensation values, often causes friction between the government and the community (Celine, 2020). In addition, collaboration between related organizations, including the National Land Agency (BPN) and the city government, is still not optimal. This results in redundancy in land management and a protracted legalization process for legal documents.

The Land Bank Policy needs to be aligned with other laws and regulations, including Law No. 5/1960 on Basic Agrarian Principles (UUPA) and Law No. 2/2012 on Land Acquisition for Development in the Public Interest. This alignment is very important to ensure land management in accordance with the ideals of justice, benefit, and legal certainty as stipulated in the UUPA.

### **B. COMPARISON OF THE CONCEPT AND IMPLEMENTATION OF LAND BANKS IN INDONESIA AND THE UNITED STATES**

A comparative analysis of the Land Bank concept and implementation in Indonesia and the United States shows substantial differences in the legal framework, institutional roles, and operational processes. In Indonesia, the Land Bank governance is highly centralized, with the institution fully under the jurisdiction of the central government as stipulated in Law Number 6 of 2023 concerning Job Creation and Government Regulation Number 64 of 2021. The main objective of the Land Bank in Indonesia is to allocate land for public interest, agrarian reform, and administration of abandoned land, prioritizing social interests. This strategy aims to create equity and sustainability in land management throughout Indonesia.

In contrast, in the United States, Land Bank administration is decentralized, with varying limitations in each state. The Detroit Land Bank Authority in Michigan is an example of a land bank that oversees unproductive

or abandoned assets, with the primary goal of increasing the productivity of the assets. The emphasis is on transforming abandoned land into a valuable resource through affordable housing, urban renewal, or other initiatives that meet the needs of the local community (Zahra, 2019: 26-28). Another difference is that Land Banks in the United States often operate as adaptable, non-profit entities, sometimes contributing to the financial sector by providing loans or investing in real estate initiatives (Ibid). This is in contrast to Land Banks in Indonesia, which operate under a more stringent legal framework and centralized administrative protocols.

The operating process of the system in the United States shows advantages in several aspects:

1. **Transparent Administration System:** All property data managed by the Land Bank is available online and can be accessed by the public. This transparency ensures the accountability of the institution and minimizes the potential for abuse of authority.
2. **Stable Funding:** Land Banks in the United States receive funding from a variety of sources, including government grants, property taxes, and private donations or investments, which enable them to have sufficient financial resources to carry out their functions effectively.

Indonesia shares some similarities with the United States system, particularly in its emphasis on land administration for the public interest. However, there are substantial differences in methodology and technical administration. The Land Bank in Indonesia seeks to facilitate agricultural reform and investment; however, deficiencies in the legal and administrative framework, including the absence of an integrated land information system, often result in overlapping land title certificates or unresolved documentation conflicts. These issues constitute significant obstacles to the implementation of the Land Bank program in Indonesia.

In contrast, land management in the United States is more tailored to market forces and local needs. This adaptability allows Land Banks to meet specific local needs, both in urban redevelopment and in promoting local economic development. In addition, the legal process for abandoned properties in the United States is closely monitored by courts and other institutions, reducing the potential for legal conflicts. In contrast, Indonesia requires a more cohesive legal framework to facilitate the efficient functioning of Land Banks, which includes proactive involvement of Notaries/PPATs in validating documents and mitigating potential disputes.

This comparison suggests that Indonesia could incorporate successful aspects of the United States Land Bank, including increased transparency through digitization of land administration systems, better funding, and operational flexibility, while still prioritizing social justice and equitable land access for its citizens.

## C. THE LEGAL ROLE OF NOTARIES//PPAT IN SUPPORTING THE IMPLEMENTATION OF LAND BANK IN INDONESIA

Notaries and Land Deed Officials (PPAT) play a vital role in facilitating the implementation of the Land Bank in Indonesia, which aims to provide efficient and fair land management. They are responsible for making valid deeds that provide legal certainty for land transactions, verifying the validity of documents such as land certificates and ownership rights, and facilitating land registration through the National Land Agency (BPN). In addition, Notaries/PPATs also contribute to preventing land mafia activities by implementing the precautionary principle, providing legal assistance to the community, and formalizing land acquisition for public interests, including infrastructure development.

However, the implementation of the Land Bank has several challenges: First, empirical research on the effectiveness of the role of Notaries/PPATs in improving the transparency and efficiency of the Land Bank is still very minimal. Second, there is still a lack of research on the integration of technology with the Land Bank system, especially in terms of the use of digitalization to improve services. Third, concrete initiatives to combat land mafia are sometimes not outlined. In addition, implementation issues in rural areas, where access to the Land Bank system is more difficult, are rarely discussed. Additional studies in this area are essential to address these gaps and improve the function of Notaries/PPATs in facilitating fair land management in Indonesia. To improve the function of Notaries/PPAT, it is important to revise the regulations that explain their responsibilities in facilitating land management by the Land Bank. In addition, improving the technical capabilities of Notaries/PPAT in handling digital documents is essential to prevent manipulation and speed up administrative procedures.

## D. IDEAL CONCEPT OF LAND BANK IN INDONESIA

The ideal concept of a Land Bank in Indonesia should be oriented towards three main pillars: justice, transparency, and sustainability. These pillars aim to address the challenges that exist in the implementation

of a Land Bank, including social conflict, imbalance in access to land, and administrative and legal issues of documents. The following are the main elements that the ideal concept of a Land Bank in Indonesia should have:

**1. Principle of Justice** The principle of justice is the basis for land management to ensure a balance between community interests and development needs. An ideal land bank must be able to guarantee that:

- a) **The social interests of the community are protected:** The land managed is used for public needs, such as public housing, basic infrastructure, and agrarian reform.
- b) **Replacement of land rights is carried out fairly:** The amount of compensation given to land owners must be in accordance with market value and not harm the community. This is important to minimize social conflict.
- c) **Even distribution of land:** The Land Bank must prevent the concentration of land ownership in the hands of certain parties, in accordance with the spirit of the Basic Agrarian Law (UUPA) Article 7 which limits excessive land ownership (Article 7, Law No. 5, 1960).

## 2. Transparency and Accountability

A transparent system is essential to build public trust in land management by the Land Bank. The ideal concept includes:

- a) **Digitization of Land Information Systems:** A digital-based land information system is needed that is integrated with other institutions, such as the National Land Agency (BPN), local governments, and Notaries/PPAT. This system will facilitate document verification, avoid duplicate certificates, and provide access to information that can be monitored by the public.
- b) **Independent Oversight:** It is necessary to establish an independent supervisory body involving academics, legal practitioners and civil society to ensure that the management of the Land Bank is carried out in accordance with the principles of justice and without deviation.
- c) **Project and Budget Publication:** Land Banks must publish data related to land allocation, budget, and beneficiaries to avoid abuse of authority and conflicts of interest.

## 3. Sustainable Land Management

Land management should be designed to provide long-term benefits, both economically, socially and environmentally. In this case, the ideal concept includes:

- a) **Land Management Displaced:** Land managed by the Land Bank must be used productively, for example for the development of public housing, management of green areas, or development of sustainable agriculture. This is in line with the practice of the Land Bank in the United States, where abandoned lands are transformed into valuable assets.
- b) **Environmentally Conscious Development:** Land Banks must ensure that land use does not damage local ecosystems. For example, allocating land for conservation or disaster mitigation.
- c) **Collaboration with the Private Sector:** To increase funding, the Land Bank can collaborate with the private sector through investment mechanisms that continue to prioritize social interests.

## 4. The Legal Role of Notaries/PPAT

In supporting the ideal concept of Land Bank, the role of Notary/PPAT becomes very important. Notary/PPAT is responsible for ensuring the legality of documents and preventing legal conflicts in the future. In this context:

- a) **Integration with Land Administration System:** The land digitization system must be connected to the Notary/PPAT to speed up the document verification process and minimize the risk of data manipulation.
- b) **Strengthening the Technical Capacity of Notaries/PPAT:** Notaries/PPAT need to be given training related to land management under the Land Bank Agency, including the use of technology in document verification.
- c) **Clear Standard Operating Procedures (SOP):** The government needs to prepare SOPs that specifically regulate the role of Notaries/PPAT in supporting the Land Bank Agency, so that every legal administration process can run efficiently and in accordance with the rules.

### 5. Sustainable Funding

The ideal Land Bank should have stable and diversified funding sources, which may include:

- a) **APBN and APBD funds:** As a government commitment to supporting land management for the public interest.
- b) **Private Funding:** Cooperation with the private sector for infrastructure development or investment-based projects.
- c) **Income from Land Management:** For example, land lease managed by the Land Bank for a specific project.

### 6. Harmonization of Regulations

An optimal framework for the Land Bank requires alignment of relevant laws and regulations, including the UUPA, Law No. 11/2020, and related implementing regulations. This harmonization aims to provide legal clarity in land management, including the process of property acquisition, replacement of rights, and conflict prevention.

By combining these components, the Land Bank in Indonesia can develop into an organization that is able to drive national growth while ensuring equity and sustainability in land management. This optimal design can also include successful Land Bank systems from other countries, such as the United States, while still considering the social, economic, and legal environment in Indonesia.

## CONCLUSION

Property banks in Indonesia continue to experience difficulties in managing abandoned properties and allocating land for public interest. Although regulated by Law No. 11/2020, this policy requires improvements in the administrative dimension and more cohesive regulations. Comparison with the United States shows that the Land Bank system in Indonesia is more centralized and oriented towards social interests, while the system in the United States is more flexible and conducive to investment. Indonesia can benefit from the transparency, funding, and digital administrative practices implemented in the United States.

The optimal framework for a Land Bank in Indonesia should emphasize fairness, transparency, and sustainability. Land management should be fair and ensure land use for the benefit of the community, supported by a transparent and accessible administrative framework. In addition, the function of Notaries/PPAT in enforcing the validity of land documents is very important, and a comprehensive land information system needs to be implemented to improve the effectiveness of the Land Bank. To establish an efficient and sustainable Land Bank, coordination between the government, commercial sector and communities is needed, with a better regulatory framework.

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