

Regulations on the Determination of Abandoned Land Objects for the Land Bank in the Context of Realizing Agrarian Reform

Asyifa Aulia Putri Ramadhina¹⁾, Imam Koeswahyono²⁾, Mohammad Hamidi Masykur³⁾
^{1,2,3)} University of Brawijaya, Indonesia

*Corresponding Author

Email: asyifahaulia@student.ub.ac.id

Abstract

Constitution is the highest basic norm that regulates various aspects of a country's life, including the relationship between state institutions, government, and citizens. In Indonesia, the constitution is known as the 1945 Constitution, which before the amendment only limitedly regulated rights to land and natural resources through Article 33 Paragraph (3). After the amendment, these rights were regulated more firmly, including the recognition of the rights of indigenous peoples and the right to control the state. The regulation of abandoned land is also discussed in the Basic Agrarian Law (UUPA) and PP No. 20 of 2021, which expands the objects of regulation to abandoned land and abandoned areas. Abandoned land can be used as an asset of the Land Bank, an institution formed by the government to manage land optimally. However, the existence of the Land Bank raises concerns regarding legal uncertainty and inequality in land ownership, especially because its broad authority has the potential to ignore the rights of small and indigenous communities. Legal certainty and justice in land distribution must be guaranteed to prevent abuse of power, as well as to fulfill the goals of agrarian reform and community welfare. The method used in this research is a normative legal research method, which is applied to examine regulations related to the Land Bank. This research aims to achieve results that The Land Bank, regulated by PP No. 64 of 2021, aims to manage abandoned land for investment and agrarian reform (TORA), but its implementation risks agrarian inequality, legal uncertainty, and conflicts due to potential dominance by investor interests and deviations in the interpretation of the State's Right to Control (HMN). To achieve equitable, sustainable, and beneficial land use, regulations must be reformed to prioritize justice, transparency, and accountability, ensuring the Land Bank supports small farmers and the public interest in line with Article 33 of the 1945 Constitution and the UUPA.

Keywords: *Land, Land Bank, Agrarian Reform*

INTRODUCTION

Pancasila as the philosophy of the Indonesian nation as stated in the opening of the 1945 Constitution of the Republic of Indonesia. Philosophy as a nation's outlook on life is positioned as the basis or foundation of the state which refers to the moral basis, religion, human rights, the unity of all elements of the nation, placing power under the power of the people and social justice. This is in line with Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that: "The land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". State-owned land is used for the welfare of its people, so that Article 10 paragraph (1) of the UUPA states that each individual and legal entity has rights to their agricultural land with the principle of being obliged to actively cultivate/manage it, and rejecting any extortion. Being obliged to actively cultivate/manage it, is defined, if necessary, by forming a rule/prohibition on abandoning land that exceeds the maximum limit and absentee land control.

The authority of a state according to the provisions of the 1945 Constitution, especially in Article 2 paragraph (1) and (2) of the UUPA so that land really has benefits for the prosperity and welfare of the community that runs well, so that at the operational level PP No. 11 of 2010 emerged. Presidential Regulation No. 86 of 2018, related to the restructuring of the control structure, ownership, use, and utilization of land that is more equitable through Asset Arrangement and accompanied by Access Arrangement for the prosperity of the Indonesian

people. Article 7 Paragraph (1) Letter (e) of Presidential Regulation No. 86 of 2018 states "State Land is former abandoned land that is utilized for the benefit of the community and the state through Agrarian Reform". So that with the issuance of PP No. 11 of 2010, land that is designated as abandoned land becomes the object of Agrarian Reform Land Objects (TORA).

The issuance of Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law No. 2 of 2022 concerning Job Creation which is made into a Law, which is currently in effect is a derivative of the UUCK, namely Government Regulation of the Republic of Indonesia Number 20 of 2021 concerning the Order of Abandoned Areas and Land. Land that is proven to be abandoned will become state land whose rights have been revoked, its bonds have been terminated, and it is emphasized that the land directly belongs to the state, then known as TCUN (State General Reserve Land). Land that is designated as abandoned land in Article 33 of PP No. 21 of 2021 states that: "Land designated as abandoned land can be used as an asset of the Land Bank and/or TCUN". Thus, with the issuance of the UUCK and its derivative regulations, namely PP No. 20 of 2021, the utilization of abandoned land objects is no longer only an object of Agrarian Reform Land Objects (TORA) but can become an asset of the Land Bank Agency.

The ever-increasing population growth increases the need for land availability so that land is considered a very important object and requires good management so that it can provide benefits to the community.(Arnowo H, 2022)Continuous population growth results in increasing demand for land availability, so that land is increasingly seen as the most vital object in society. In this context, effective and sustainable land management becomes very important to ensure that this resource can provide optimal benefits to society.

Good management does not only cover legal aspects related to land ownership and use, but also considers social, economic, and environmental needs. Therefore, a clear and firm legal framework is needed to regulate the rights and obligations of land owners, as well as a fair land redistribution mechanism to encourage equal access to land resources. Furthermore, efforts to realize sustainable land management must be based on the principles of agrarian reform that aim to improve community welfare, reduce social inequality, and maintain environmental sustainability. Thus, laws and policies related to land ownership and management must be regulated in such a way as to accommodate the need for land availability, while maintaining community rights and protecting the environment. State-owned land is used for the welfare of its community, so that Article 10 paragraph (1) of the UUPA states that each individual and legal entity has rights to their agricultural land with the principle of being obliged to actively cultivate/manage it, and rejecting any extortion. The obligation to actively cultivate/manage it is defined if necessary by forming a rule/prohibition on abandoning land that exceeds the maximum limit and absentee land control.(RO, 2014)

The Land Bank Agency has several functions, one of which is land acquisition, the acquisition of land can come from the determination of the state and other parties. Abandoned land and abandoned areas that are inaugurated by the government can be used as land bank assets. This is explained in Article 33 of PP No. 20 of 2021 concerning the Regulation of Abandoned Areas and Land which states that "Land that has been designated as abandoned land can become a Bank, Land and/or TCUN Asset". After the assets legally belong to the Land Bank, the assets can be managed independently by the Land Bank. According to the author, in this case there are no regulations governing when abandoned land objects can become land bank assets, when they become TCUN assets or technical instructions for land criteria that can be obtained by the bank, because the authority of the Land Bank is so broad, the Land Bank can carry out its own Land Acquisition so that in several examples of cases that the author wrote above, the Land Bank can take land that is clearly cultivated, thus creating legal uncertainty. Where this legal certainty is to protect legal subjects from potential abuse of power by the government in the process of forming, discovering, and implementing laws. Legal certainty includes rules, procedures or

mechanisms, time and institutions. With the existence of clear laws, the goal is to provide protection to the community, especially those in need of land. Because this abandoned land is not only an asset of the Land Bank Agency but also becomes the Land Object of Agrarian Reform (TORA) which aims for power, ownership, use, and utilization of land that has excessive justice with the Asset and Access Order for the welfare of the community. So that the Land Bank in obtaining abandoned land must be in accordance with the basis of PP No. 20 of 2021 concerning the Order of Abandoned Areas and Land because in PP No. 64 of 2021 concerning the Land Bank Agency there is no explicit normative basis regarding the procedure for obtaining abandoned land.

In the implementation of the Land Bank regulation, there are problems that arise, namely land acquisition carried out by the Land Bank is carried out by means of silent operations, using institutional authority to obtain land, this unilateral staking is carried out by the Land Bank in Penajam Paser Utara, seizing community land to be converted into the Naratetama VVIP Airport of the National Capital (IKN) of the Archipelago. Arising from the limited amount of land compared to the amount of development activities for public interests, as well as the possibility of practices of land control/ownership by irresponsible individuals, it is necessary to have a database containing land data or a "land bank" managed by an independent and impartial institution, namely the Land Bank (Kurniati & Surya, 2023). Land concerns the livelihoods of many people and is the socio-economic capital of the people and the state. According to Imam Koeswahyono, it is not justified for someone's land rights, including customary (ulayat) rights to land to be taken by another party, especially by force by ignoring the aspirations of the subject of land rights. (Koeswahyono, 2008) The problem of land banks in relation to utilizing abandoned land for agrarian reform is that the land bank manages two different types of land allocation, namely the first is carried out in the context of a just economy and the second is carried out in order to encourage investment. The Land Bank guarantees the availability of land for agrarian reform of at least thirty percent (30%) for a just economy. and then for the person who holds the right to manage the land bank also provides authority which aims to encourage investment. (N & S, 2020)

Based on research conducted by Firman Husaeni (Husaeni, 2022), The authority of the land bank agency must be in line with and linked to the UUD NRI Article 33 paragraph (3) because in the constitution of the UUD NRI 1945, the welfare of society is something that is guaranteed by the state. Article 33 paragraph (3) of the 1945 Constitution is aimed at the substantive interests of only a small group of people. It is not intended to be used to the fullest extent for the prosperity of the people and is considered a violation of the principles in MPR Decree No. IX of 2001 regarding Agrarian Reform and Natural Resource Management (PA and PSDA) concerning overlapping authority in the implementation of providing TORA objects by the Agrarian Reform Task Force team (Trisna & Sandela, 2021a). Furthermore, in research conducted by Masayu Dewi Puspa, (Puspa, 2023) This land bank has a role which is actually used to guarantee the availability of land for the general public. It can be concluded that the land bank is a state institution or a regional institution under the authority of the government that operates independently, non-profit, and has the authority in the control of land including acquisition, governance, and regulation of all things related to land for the achievement of the welfare of the public interest (Rafi Pravidjayanto et al., 2023).

Based on the description and discussion, there is legal ambiguity regarding the utilization of abandoned land. PP No. 20 of 2021 Article 33 stipulates that abandoned land can become a Land Bank/TCUN Asset. Because this abandoned land is not only an asset of the Land Bank Agency but also becomes the Land Object of Agrarian Reform (TORA) which aims for power, ownership, use, and utilization of land that has excessive justice with the Asset and Access Order for the welfare of the community. From the description above, the researcher will conduct a study What are the legal consequences/problems of regulating the determination of abandoned land

objects for land banks and state general reserve land? and What is the nature of the regulation of the determination of abandoned land objects for land banks and state general reserve land to achieve the principle of legal certainty?

RESEARCH METHODS

This article research is based on normative juridical legal research, which focuses on legal aspects, legal regulations, and comparative law by analyzing various sources of positive law (Marzuki, 2019). This research uses a normative legal approach that examines library materials or secondary data, including primary, secondary, and tertiary legal materials that are relevant in the discussion of legal issues discussed in this study. The main research method is literature research supported by information from field research. As Terry Hutchinson argues: Doctrinal Research: research which provides a systematic exposition of the rules governing a particular legal category, analyzes the relationship between rules, explains areas of difficulty and, perhaps, predicts future developments; Theoretical Research: research which fosters a more complete understanding of the conceptual basis of legal principles and of the combined effects of a range of rules and procedures that touch on a particular area of activity (Hutchinson, 2002). According to Sunaryati Harotono, legal research is a daily activity of law graduates. Normative legal research can only be carried out by legal scholars as someone who is deliberately educated to understand and master legal discipline. Furthermore, it is also mentioned that normative research methods can also be used together with social research methods (Harotono, 2006).

RESULT AND DISCUSSION

Legal Problems in the Regulation of Determination of Abandoned Land Objects for Land Banks and Land Cawith the State General

The constitution is the highest basic norm in a country that can describe the legal, political, economic and social systems of a country, in the constitution also regulates the relationship between state institutions, government structures and the relationship between the state and citizens. In Indonesia the constitution is known as the 1945 Constitution (Mujibburohman, 2012). The 1945 Constitution before the amendment did not contain many provisions on guarantees of people's rights to land and natural resources. The limited provisions are contained in Article 33 Paragraph (3) which reads: "The land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". Only after the amendment were the provisions more firmly and broadly regulated regarding people's rights to land and natural resources, as regulated in Article 18B Paragraph (2) which regulates the state recognizing and respecting customary law communities and their traditional rights and Chapter XA on Human Rights, and Article 33 of the 1945 Constitution regulates the State's Right to Control (Mujiburohman, 2019). The description of state authority in Article 2 Paragraph (2) letter (b) is further regulated in Articles 4, 6-11 and the provisions in Chapter II of the UUPA. Meanwhile, state authority in letter c refers to the provisions of Articles 12, 13, 26, and 49 of the UUPA. (Mujiburohman, 2019).

The regulation on abandoned land is regulated in a limited manner in the UUPA. The UUPA prohibits land rights holders from abandoning their land and regulates the obligations for land rights holders as regulated in Articles 6, 7, 10, 15, 19 of the UUPA. The state grants rights to individuals or legal entities accompanied by the obligations stipulated in the UUPA and the decree granting their rights. The legal consequences for land rights holders who do not carry out their obligations and do not use the land are adjusted to their circumstances and the nature of

their rights, all rights to the land will be revoked and fall into the hands of the state, if viewed from the perspective of national land law, it is categorized as abandoned land and the termination of legal relations and is confirmed as land directly controlled by the state (Mujiburohman, 2019).

The issuance of PP No. 20 of 2021 to replace the provisions of PP No. 11 of 2010 which are considered no longer relevant to the development of conditions in the field. PP No. 20 of 2021 changes the object of the regulation from what was previously regulated in PP No. 11 of 2010 (Lutfi, 2024). Previously, the object of regulation was only abandoned land that had been granted rights by the state that was not cultivated, not used, or not utilized according to its condition or the nature and purpose of granting rights or the basis for its control. Meanwhile, in PP No. 20 of 2021, the object of regulation was expanded to include objects of regulation of abandoned areas and abandoned land. (Yudha et al., 2022). PP No. 20 of 2021 concerning the regulation of abandoned areas and land. Objects of regulation of Abandoned Areas include mining areas; plantation areas; industrial areas; tourism areas; large-scale/integrated housing and settlement areas; or other areas whose management, use, and/or utilization are based on Concession Permits/Business Permits related to the use of land and space, as regulated in Article 6 of PP No. 20 of 2021.

The above can be drawn in general that the elements of land can be determined as abandoned land not only reviewed from the existence of land rights, there must be an owner/holder of land rights, there must be an intention not to use the land as granted control of the rights, there must be an act of ignoring obligations, there must be a certain period of time, but also must be reviewed from the 3 (three) elements above, the condition or nature and purpose of granting the rights can meet the criteria for land as abandoned land. That the land is not immediately qualified as abandoned land, because in the Article it is explained that there is land that is indicated as abandoned and abandoned land, land indicated as abandoned is one of the results of the stages of the procedure for determining abandoned land (A, 2022). The elimination of abandoned land must be carried out through several mechanisms starting with an evaluation, warning and ending with the determination of abandoned land which is further regulated in Articles 13 to 20 of the Regulation of the Minister of ATR/BPN No. 20 of 2021 concerning Procedures for the Order and Utilization of Abandoned Areas and Land.

As for the land designated as abandoned land in Article 33 of PP No. 21 of 2021, it states that: "Land designated as abandoned land can be used as an asset of the Land Bank and/or TCUN". Thus, with the issuance of UUCK and its derivative regulations, namely PP No. 20 of 2021, the utilization of abandoned land objects is no longer only an object of Agrarian Reform Land Objects (TORA) but can become an asset of the Land Bank Agency. The state's general reserve land, hereinafter referred to as TCUN, is utilized for the needs of the community and the state such as Agrarian Reform and Land Bank.

Land Bank Agency or Land Bank is a special agency (*sui generis*) which is an Indonesian legal entity formed by the central government which is given special authority to manage land. Land Bank is regulated by Government Regulation No. 64 of 2021 concerning Land Bank Agency. Land Bank assets are all assets controlled by the Land Bank, both tangible and intangible, which are valuable or valuable due to past events that provide benefits in the future. (Arnowo, 2022). The Land Bank Agency has several functions, one of which is land acquisition, the acquisition of land can come from the determination of the state and other parties. The government has the authority to determine abandoned land. This is explained in article 7 which reads "Land resulting from government determination consists of state land originating from former rights land, abandoned areas and land, forest area release land, emerging land, reclaimed land, ex-mining land, small island land, land affected by spatial planning change policies, and land that has no control over it ". The land bank agency can also obtain land from other parties originating from the Central Government, Regional Government, Business Entities, Legal Entities, and the public. Obtaining ownership of Land from previous owners through

methods such as purchase, inheritance, gifts, exchange, abandonment, or other legally approved methods. Abandoned Land and abandoned areas that are inaugurated by the government can be used as land bank assets. This is explained in "Article 33 of PP No. 20 of 2021 concerning the Regulation of Abandoned Areas and Land which states that "Land that has been designated as abandoned land can become a Bank Asset, Land and/or TCUN".

Article 33 of PP No. 20 of 2021 concerning the Regulation of Abandoned Areas and Land which states that "Land that has been designated as abandoned land can become a Bank Asset, Land and/or TCUN". The land bank system is essentially aimed at collecting abandoned land and state land that is not used, then the land is developed and given back according to the land management plan.(Trisna & Sandela, 2021b). The principle of the Land Bank that controls and manages state-owned land can re-emerge related to the transfer of land rights that existed during the Dutch East Indies colonial period. At that time, the principle of domein verklaring was the legal basis for the Dutch East Indies government as the basis for controlling western rights which ultimately made it easier for the Dutch East Indies government to obtain land legally.(Syibly & Ahsani, 2022). The Land Bank aims to introduce the concept of illegal land acquisition in the interests of investors in the name of land acquisition which of course goes against important guidelines for protecting people's rights and the objectives of land reform. The principle and principle of domein verklaring are not accepted in Law Number 5 of 1960 concerning Basic Agrarian Principles, especially in Article 2 of the UUPA concerning "the state's right to control". Moh. Mahfud MD is of the opinion that the role of the state should actually be interpreted as "regulating" not the state owning it absolutely.

This misinterpretation has an impact and causes structural problems which then result in the wrong implementation of policies by the Government on a land/soil. In the end, agrarian conflicts arise based on state domination and structural problems. Second, the Land Bank is authorized to implement the preparation of the master plan, contribute to the ease of business licensing/approval, implement land acquisition, and determine service rates. In relation to the contribution of the land bank to the ease of business licensing/approval services, the land bank also focuses on assistance services in the aspects of land and spatial planning. Third, Land Rights managed by the Land Bank can be allocated Cultivation Rights, Building Rights, and Usage Rights. The Land Bank can organize the transfer and use of parts of the Management Rights land to other parties with an agreement. Fourth, the source of wealth of the land bank comes from the State Revenue and Expenditure Budget (APBN), own income, state capital participation, and other sources that are legal and in line with the provisions of laws and regulations. Fifth, the structure/institution of the land bank which includes the Committee, Supervisory Board and Implementing Agency.

Guaranteeing the availability of land for national development purposes is a guarantee of the provision of land allocated for development carried out by the central government and regional governments in an effort to provide support for increasing the economy and investment. The existence of a Land Bank providing convenience to foreign business entities in making investments. The Land Bank ultimately does not side with and supports the fulfillment of the rights of small communities to land and land owned by the people who obey and are rooted in customary law. The Land Bank provides guarantees and controls the provision of land allocated for development in an effort to improve the economy and investment. So that it creates an agrarian inequality. The Land Bank provides reinforcement for land procurement for business groups and investors. Thus this problem widens discrimination against land ownership between the community and business entities and the state. It can be seen today the increasing development of industry, malls, housing, trade centers and other business sectors managed by the private sector.

Inequality in land ownership, in general, begins with the granting of permits/rights of use by public officials who exclude a group of people from the land. The agrarian conflict in question

begins with the issuance of a decree by public officials, including the Minister of Forestry, Minister of Energy and Mineral Resources, Head of the National Land Agency (BPN), Governor, and Regent, who grant permits or rights to certain business entities or government agencies to control a plot of land where on that plot of land there are rights to land/land or access by local communities to certain natural resources, most of which occur in rural areas.

So therefore, the availability of land that is decreasing every day needs to be managed optimally in order to meet the need for land both for the public interest, namely the community and private interests or for investment purposes. Therefore, there needs to be a balance of interests between the community and investors in order to achieve the objectives of Article 33 paragraph 3 of the 1945 Constitution of the Republic of Indonesia.

So with the existence of this law, it is feared that there will be an increase in the state's right to control land into a new right, namely the right to manage, whereas in the Basic Agrarian Law there is no recognition of the right to manage by the state. The right to manage has resulted in chaos in land control, because it is a form of deviation from the State's Right to Control (HMN). The Constitutional Court Decision Number 001-021-022/PUU-1/2003 confirms that HMN means the policy of regulation, administration, management, and supervision referring to Article 33 Paragraph 3 of the 1945 Constitution, not meaning that the state owns and manages the land. This inconsistency will confirm Maria Sumardjono's concerns that the recent agrarian and natural resource reforms have caused the degradation of the norms of the Basic Agrarian Law, which were originally expected to be general regulations (*leg generalis*) for other regulations, especially the natural resource sector, but have instead become regulations that are specific to land only.

In this case, there are no rules governing when abandoned land objects can become land bank assets, when they become TCUN assets or technical instructions on the criteria for land that can be obtained by the bank, because the authority of the Land Bank is so broad, the Land Bank can carry out its own Land Acquisition so that in several examples of cases that the author wrote above, the Land Bank can take land that is clearly cultivated, thus creating legal uncertainty. Where this legal certainty is to protect legal subjects from potential abuse of power by the government in the process of forming, discovering, and implementing laws. Legal certainty includes rules, procedures or mechanisms, time and institutions. (Fadli & Hadi, 2023). With the existence of clear laws, the goal is to provide protection to the community, especially those who need land. Because this abandoned land is not only for the assets of the Land Bank Agency but also becomes the Land Object of Agrarian Reform (TORA) where the goal is for power, ownership, use, and utilization of land that has excessive justice with the Asset and Access Order for the welfare of the community.

The laws and regulations set by the government must create proportional and non-overlapping justice. In the implementation of the Land Bank, there are legal acts in the form of transfer of land rights assets either through a sale and purchase mechanism, exchange or grant between the government and the community. Related to this, a fair legal relationship means creating fairness in the process or procedure of transferring rights and obligations for various parties. The distribution of the implementation of the Land Bank is not biased or prioritizes the interests of certain parties which is carried out transparently and guarantees public accountability. In terms of legal certainty, laws and regulations must be able to provide protection from arbitrary actions so that citizens can obtain what they expect. Legal certainty can be achieved if the main core set out in the regulation is in accordance with the needs of the community.

The Essence of Arrangements for Determining Abandoned Land for Land Banks and State General Reserve Land (TCUN) to Achieve the Principle of Legal Certainty

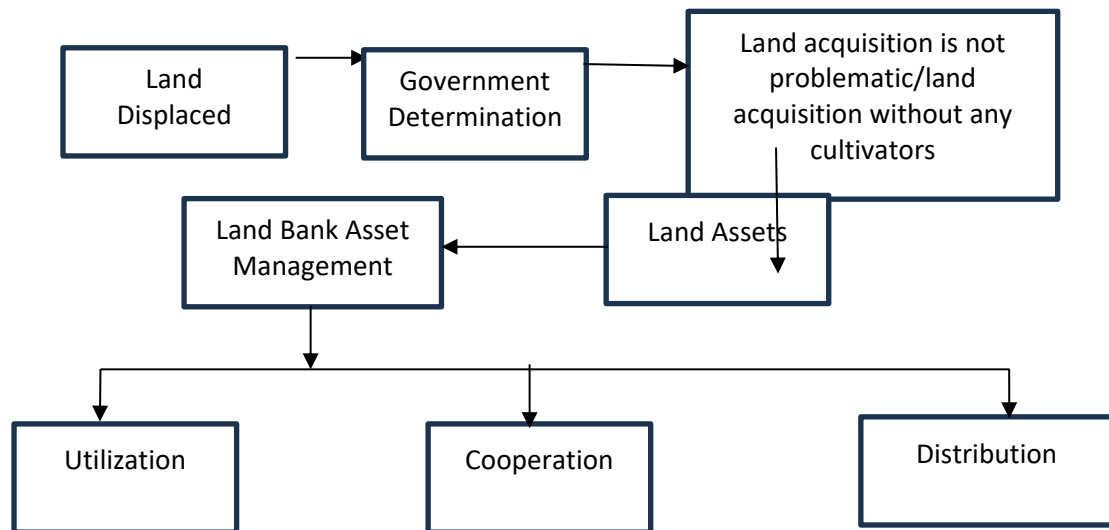
Land designated as abandoned is one of the land reform programs, basically abandoned land in question is state land that has the right to use it, but is not utilized. So it can be concluded

that abandoned land occurs when the holder or the person controlling the land rights or the holder of the management rights does not carry out activities on the land. The purpose of holding land reform is to perfect the distribution of land for people who have not received land. There are two dimensions to perfecting land reform, namely the first is an effort to create equal land rights among land owners through efforts with land redistribution, the second is to reduce the difference in income between large and small farmers which is an effort to improve farmers' income as a whole to increase and improve the efficiency of land use. This is certainly in accordance with the principles of land reform as stated in Articles 7, 10 and 17 of the UUPA. Article 7 of the UUPA states that in order not to harm the public interest, ownership and control of land that exceeds the limit is not permitted.

The model of utilization of abandoned land for Agrarian Reform that has been implemented in several interesting locations to discuss. Agrarian Reform as a land policy that includes the arrangement of the political system and land law as well as the arrangement of community assets and the arrangement of community access to land in accordance with the spirit of Article 2 of the Decree of the People's Consultative Assembly of the Republic of Indonesia Number IX / MPR / 2001 concerning Agrarian Reform and Management of natural resources, and Article 10 of the UUPA from the agrarian reform itself is the arrangement of community assets and the arrangement of community access to land can be through the distribution and redistribution of State land from former abandoned land in the explanation of Article 15 Paragraph 1 of PP Number 11 of 2010. The assets and access that are opened and given to the land-poor community certainly lead to one goal, namely justice and welfare and sustainability. Regarding the extension of government regulations in the utilization of abandoned land, it can be explained, by referring to PP No. 20 of 2021 that land that has been designated as abandoned land, then the land rights are automatically revoked by law and if the rights are revoked by law, it means that there is a transfer of land rights which were previously owned by individuals, groups of people or legal entities, then automatically change to state land rights as the land regulator in Indonesia so that the purpose and function of the land can be implemented properly.

The increasing agrarian conflict in Indonesia is basically a result of the rapid penetration of capitalism in the agrarian sector and the increasing difficulty of people in accessing agrarian resources. So what happens then is inequality in land ownership, people's access to land is getting narrower, on the other hand, capitalists' access is wide open. Because the formulation of policies in Indonesia provides more opportunities for the process towards land concentration in a capital force. So that people are slowly removed from access to their land (Lestari, 2023). The regulation of land rights by state administrators through the Basic Agrarian Law includes, among other things, the social function of land. Social functions are functionalized with the result that: the relationship with the land is not released, or the legal relationship with the land is completely severed. (Palilingan, 2016).

The land redistribution program is a policy issued through a government program which then accommodates the implementation of the transfer of state land rights to land ownership rights for the benefit of the community. Land redistribution is not just limited to distributing land, but the purpose of land redistribution activities is how farmers who receive redistribution can feel real benefits after the implementation of land redistribution. (Michael, 2020). Referring to the existing regulations, the Land Bank should acquire abandoned land as described below:



It can be concluded that the acquisition of land that can be managed by the Land Bank is land that is not problematic or land that has no cultivators. In the Technical Instructions for TCUN objects that have community cultivation, as long as the data collection of cultivators has been carried out, it can be allocated to the Land Bank for further Agrarian Reform or other programs that are beneficial to the Community. Some of the potential operational weaknesses of the Land Bank above, if they really happen, are enough to give birth to institutional corruption. For this reason, in line with the preparation for its establishment, risk mitigation is very necessary. It can ensure that the Land Bank remains a non-profit institution, in line with the mandate of the 1945 Constitution of the Republic of Indonesia Article 33 Paragraph 3 and the UUPA so that land resources are used as much as possible for the prosperity of the people. The acquisition of abandoned land carried out by the land bank must prioritize the public interest, therefore the land obtained must be intended for the public interest. If we talk about acquisition, it cannot be separated from the third function of the land bank itself, namely land acquisition, therefore the land acquisition carried out must be in accordance with proportionality in community life.

Land banks in acquiring abandoned land must comply with the basis of Government Regulation No. 20 of 2021 concerning the Regulation of Abandoned Areas and Land because in Government Regulation No. 64 of 2021 concerning the Land Bank Agency there is no explicit normative basis regarding the procedure for acquiring abandoned land. Article 1 number 2 explains the definition of abandoned land, "Abandoned land is land rights, land Management Rights, and land obtained based on the Basis of Land Control, which is deliberately not cultivated, not used, not utilized, and/or not maintained". Based on the description and related discussion, the utilization of abandoned land should still refer to agrarian reform, which means that agrarian reform includes a restructuring of ownership, control and use of agrarian resources, especially land for the benefit of farmers, farm laborers and the common people in general, the essence of which is land redistribution as well as being a foundation for prosperity.

In the formation of its regulations, it must fulfill the objectives of the law, where the objectives of the law are the basic values of the law/legal ideals, namely consisting of justice, benefit and legal certainty. In relation to this, the value of justice is needed in order to realize the balance of rights and obligations of the parties involved in the implementation of the Land Bank. As an instrument of land management, the land bank institution should carry out the mandate of Article 33 of the 1945 Constitution of the Republic of Indonesia, namely that land is controlled/regulated by the state for the greatest prosperity of the people. In this case, the land

bank must improve the welfare of the community through the optimal, equitable and sustainable utilization of land resources. To bridge the complexity in the regulation of abandoned areas and land, an executive review evaluation is needed to revise the contents of PP No. 20 of 2021, especially in the article, so that the implementation of the regulation of abandoned areas and land that is just and prosperous and does not repeat the dark period of the previous regulatory regime (Redi et al., 2022).

In relation to this, the value of justice is needed in order to realize the balance of rights and obligations of the parties involved in the implementation of the Land Bank. The value of utility means that all efforts carried out in the activities of the Land Bank must be within the framework of providing the greatest possible benefits for the welfare of the people. And the value of legal certainty means the existence of laws and regulations that specifically form the basis for the implementation of the Land Bank in Indonesia. The laws and regulations stipulated by the government must create proportional and non-overlapping justice. In the implementation of the Land Bank, there are legal acts in the form of transfer of land rights assets either through the mechanism of sale and purchase, exchange or grants between the government and the community. In relation to this, a fair legal relationship means creating fairness in the process or procedure of transferring rights and obligations for various parties. The distribution of the implementation of the Land Bank is not biased or prioritizes the interests of certain parties which is carried out transparently and guarantees public accountability. In terms of legal certainty, laws and regulations must be able to provide protection from arbitrary actions so that citizens can obtain what they expect. Legal certainty can be achieved if the main core stipulated in the regulation is in accordance with the needs of the community. Related to that, the mechanism of organizing the Land Bank, institutions and specific regulations must be regulated to be able to realize the legal certainty. In terms of legal benefits, it is intended that the existing regulations are able to provide the greatest benefits for every individual in a nation.

CONCLUSION

The first problem provides an explanation that the Land Bank regulated through PP No. 64 of 2021 aims to manage abandoned land and abandoned areas as assets that can be utilized by the state, both for investment and agrarian reform (TORA). Although it aims to provide land for national development, the presence of the Land Bank raises concerns about agrarian inequality due to the potential dominance of investor and business entity interests that can harm the common people. This policy also presents the potential for deviations in the interpretation of the State's Right to Control (HMN) and its application, which could lead to agrarian conflicts and legal uncertainty in land management in Indonesia. Therefore, it is important to ensure that the regulations set are balanced between the interests of the community and investment, transparent, and guarantee justice and legal certainty.

Research on the second problem can be drawn a broad outline that abandoned land is one of the important objects in the land reform program which aims to redistribute land for the sake of equal rights and welfare of the community, especially small farmers. The Land Bank as a land management instrument is expected to be able to manage abandoned land for the public interest, by prioritizing the principles of justice, benefit, and legal certainty in accordance with Article 33 of the 1945 Constitution and the UUPA. However, there are several weaknesses in the regulation and implementation that need to be fixed, such as mitigating the risk of corruption, evaluating regulations, and affirming the mechanism for acquiring and managing abandoned land so as not to repeat past mistakes. The implementation of the Land Bank must focus on the optimal, equitable, sustainable use of land resources, and providing benefits for the welfare of the people in a transparent and accountable manner.

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