

**Land Bank For Land Management And Distribution For The  
Advancement Of Economic Development**

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**ABSTRACT**

Based on the Research Results That Hermeneutic Philosophy provides a philosophical basis (ontological and epistemological) for legal science, or the philosophy of science from legal science. Because, in implementing legal science to solve a legal problem, for example in court, the interpretation activity is not only carried out on the legal text, but also on the reality that gives rise to the relevant legal problem (for example, determining relevant facts and their legal meaning). The development of legal science is based on the activity of interpreting legal texts to distill or extract legal rules that (implicitly) exist in the legal text and thereby determine the meaning and area of application. The legal product produced in this case is the formation of a land bank through Law Number 11 of 2020 concerning Job Creation with the aim of managing and distributing land in Indonesia to create comprehensive and fair economic development progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government forms a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The wealth of the land bank agency is separated state wealth. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform.

**Keywords: Land Acquisition, The Land Bank Agency, Economic Development.**

**A. Introduction**

Talking about law in general, people generally only look at legal regulations in the sense of rules or regulations, especially for practitioners. While we are aware that the law is not perfect, it is impossible for the law to regulate all human life activities completely. There are times when the law is incomplete or there are times when the law is unclear. In the event of a violation of the law, law enforcers (judges) must implement or enforce the law. Judges cannot and should not suspend or refuse

to issue a verdict on the grounds that the law is incomplete or unclear. Judges are prohibited from refusing to issue a verdict on the pretext of the law being incomplete. Therefore, because the law that regulates concrete events is incomplete or unclear, in this case law enforcers (judges) must seek, explore and study the law, judges must find the law by conducting legal discovery (*rechtsvinding*). Legal discovery is usually interpreted as the process of forming law by judges or other legal officers who are tasked with implementing the law on concrete legal events. This is a process of concretization and individualization of general legal regulations by considering concrete events. In legal discovery there are several schools and methods of legal discovery, but this article will not discuss in depth the schools (schools) in legal discovery, but only want to examine legal hermeneutics in the perspective of legal philosophy as a method of discovering new laws with the method of interpreting legal texts. By using legal hermeneutics as a method of legal discovery, it is hoped that judges and other legal practitioners can create more certainty and legal justice in a balanced manner.

The correlation with the birth of a land bank as an institution or agency to manage land acquisition in Indonesia is starting from the land management system in Indonesia which is very unclear and unstructured, resulting in hampered economic development and investment. For this reason, a land bank was formed with the legal basis of Law Number 11 of 2020 concerning Job Creation and Government Regulation Number 64 of 2021 concerning the Land Bank Agency, this can certainly be seen as a legal discovery using legal philosophy as a reaction to the existence of an unclear and unstructured system which can also be called the legal hermeneutics method.

Land Bank is one of the important resource management tools to increase the productivity of land utilization. The methods carried out in land banks are market control and local market land stabilization. Land banks guarantee the availability of land for various development needs in the future, efficiency of the APBN/APBD,

reducing conflicts in the land acquisition process and reducing the negative impacts of land liberalization.<sup>1</sup> Land management in Indonesia has developed, the presence of Law Number 11 of 2020 concerning Job Creation initiated the birth of an agency that functions to manage land in Indonesia, namely the Land Bank Agency. Article 125 paragraph (4) of Law Number 11 of 2020 concerning Job Creation explains that "The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land.

### **B. Research Methods**

Legal research is a series of systematic mechanisms in conducting research.<sup>2</sup> In this case, legal research is conducted to find solutions and answers to a problem that has been determined in the legal issue that is used as the object of research. The research method used to answer the problem. This research is a type of normative legal research.<sup>3</sup> This study uses secondary data sources. Secondary data sources, This research data consists of secondary data. Secondary data is data obtained from literature studies that are relevant to this study. Secondary data is "data sourced from literature studies (library research) related to publications, namely library data listed in official documents.

### **C. Analysis And Discussion**

The legal product produced in this case is the formation of a land bank through Law Number 11 of 2020 concerning Job Creation with the aim of ensuring that land management and distribution in Indonesia can create comprehensive and fair economic development progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government has established a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The assets of the land bank agency are separated state assets. The land bank agency

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<sup>1</sup> Bernhard Limbong. *Bank Tanah*, (Jakarta: Margaretha Pustaka, 2013), hlm. 45

<sup>2</sup> Abdulkadir Muhammad. *Hukum dan Penelitian Hukum*. Cetakan I. (Bandung: Citra Aditya Bakti, 2004), hlm. 57.

<sup>3</sup> Jhonny Ibrahim, *Teori & Metode Penelitian Hukum Normatif*. (Malang: Bayumedia Publishing, 2008), hlm. 47

functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform. The Land Bank Agency is given as one of the institutions formed by the central government which is given special authority to manage land. The Land Bank Agency is further regulated in Government Regulation of the Republic of Indonesia Number 64 of 2021 concerning the Land Bank Agency. This agency was initially established in the city of Amsterdam, Netherlands in 1890, and was later implemented in several countries such as Europe, the United States, China and Singapore in 1970. The establishment of a land bank is expected to guarantee the availability of land for development for sustainable public interests. When viewed from the legal aspect, a sense of justice, certainty, and legal benefits are the main goals to be achieved by the land bank agency.<sup>4</sup>

Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, it states that the Central Government forms a land bank agency. The land bank agency as referred to is a special agency that manages land. The assets of the land bank agency are separated state assets. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land.

Furthermore, based on Article 126 of Law Number 11 of 2020 concerning Job Creation, it states that the land bank agency guarantees the availability of land in the context of a just economy for:

- a. Public interest;
- b. Social interests;
- c. National development interests;
- d. Economic equality;
- e. Land consolidation; and

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<sup>4</sup> Muhammad Bakri. 2019. *Urgensi Pebentukan Kelembagaan Bank Tanah Sebagai Alternatif Penyedia Tanah Bagi Masyarakat Untuk Kepentingan Umum*, Malang: Arena Hukum halaman 452.

f. Agrarian reform.

Land management is an activity carried out by a land bank after controlling the land and before distributing the land and can be used by the land bank itself, for example, development for public interest. Development certainly requires land as its main facility. On the other hand, residents also need land as a place of residence and a place of livelihood.

Based on Article 129 of the Job Creation Law (UUCK), land managed by a land bank will obtain Management Rights. Furthermore, regarding the provisions of Management Rights, it is bound by Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units and Land Registration. The provisions regarding Management Rights in the regulation also apply to land banks as holders of Management Rights. Land bank assets that have been granted Management Rights, then their management is based on cooperation in utilization with other parties or release for the granting of Ownership Rights.

One of the functions of a land bank according to Article 3(1) of PP No. 64/2021 concerning the Land Bank Agency is to distribute land. The purpose of land distribution is that land controlled by the land bank is provided and distributed to the specified parties and through procedures that will be regulated by the derivative regulations of the Job Creation Law. Meanwhile, the provisions in Article 126 of the UUCK state that the land bank agency guarantees the availability of land in order to realize a just economy. This means that land distribution is intended for activities or activities referred to in Article 126 of the UUCK.

Good governance in land banks will have an impact on the implementation of land banks. Land banks in carrying out their duties and authorities refer to Article 127 of the UUCK, namely being transparent, accountable and non-profit. The implementation of land banks in a transparent and accountable manner shows how they work like corporations or BUMN. While the principle of non-profit is not commercially oriented because there is a main mission of land banks, namely providing land for a

just economy. As a basis for the formation of land bank governance, special regulations are needed. Based on the regulations regarding governance, detailed arrangements regarding standards, operations and procedures are regulated in the internal regulations of land banks. Land management is directed to be utilized through cooperation with other parties and to be distributed to designated parties. Land managed by land banks is given Management Rights. Furthermore, land with Management Rights can be utilized through cooperation with other parties and above it can be given Building Use Rights, Cultivation Use Rights or Use Rights. While land to be distributed if it will be used for a just economy, then the release is carried out through procedures determined based on applicable laws and regulations.

#### **D. Conclusion**

The development of legal science is based on the activity of interpreting legal texts to distill or extract legal rules that (implicitly) exist in the legal text and thereby determine the meaning and area of application. The legal product produced in this case is the formation of a land bank through Law Number 11 of 2020 concerning Job Creation with the aim of managing and distributing land in Indonesia to create comprehensive and fair economic development progress. Based on Article 125 of Law Number 11 of 2020 concerning Job Creation, the Central Government forms a land bank agency. The land bank agency as referred to in paragraph (1) is a special agency that manages land. The assets of the land bank agency are separated state assets. The land bank agency functions to carry out planning, acquisition, procurement, management, utilization, and distribution of land. The land bank agency guarantees the availability of land in the context of a just economy for the public interest, social interests, national development interests, economic equality, land consolidation and agrarian reform.

## References

- Abdulkadir Muhammad. *Hukum dan Penelitian Hukum*. Cetakan I. (Bandung: Citra Aditya Bakti, 2004).
- Bernhard Limbong. *Bank Tanah*, (Jakarta: Margaretha Pustaka, 2013).
- Jhonny Ibrahim, *Teori & Metode Penelitian Hukum Normatif*. (Malang: Bayumedia Publishing, 2008).
- Muhammad Bakri. *Urgensi Pebentukan Kelembagaan Bank Tanah Sebagai Alternatif Penyedia Tanah Bagi Masyarakat Untuk Kepentingan Umum*, (Malang: Arena Hukum, 2019).