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Urgency and Legal Certainty of the Formation of a Land Bank Agency in Indonesia

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Abstract
This study aims to examine the legal certainty of the position of the land bank agency in Indonesia. to ensure prosperity and provide welfare for all Indonesian people where the state must be able to regulate, plan and also control the control and ownership of land rights. Improper land management can cause various problems such as environmental degradation, inequality in the structure of control, ownership, use and utilization of land. This problem can cause prolonged conflict so that the state needs to take steps to improve the land system in Indonesia, one of the policies issued is agrarian reform. special authority held by the Land Bank Agency which is regulated by law, namely Law No. 11 of 2020 concerning Job Creation. The issuance of this Law sparked various pros and cons debates in society until a formal test was carried out at the Constitutional Court which resulted in the Constitutional Court decision No. 91 / PUU-XVIII / 2020. This decision stated that Law No. 11 of 2020 concerning Job Creation contradicts the 1945 Constitution, thus creating problems related to the legal certainty of the Land Bank Agency. The legal issues that will be discussed are 1). What is the urgency of establishing a Land Bank Agency in Indonesia? and 2). What Are the Characteristics of Land Bank Agencies in Indonesia? The methodology used is normative juridical, with a conceptual approach and a legislative approach. The results of the study related to this matter, the Land Bank Agency still has legal certainty because the results of the Constitutional Court's decision are only valid until the government makes improvements and the rights have been exercised and a PP concerning the Land Bank Agency is issued in 2021.

Keywords: Urgency and Legal Certainty, Establishment, Land Bank

Introduction

Earth, water and space and all the natural riches contained therein are gifts from God Almighty to every living creature.[1] Therefore, this must be utilized optimally to ensure the prosperity and welfare of the Indonesian people, in accordance with the mandate contained in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia). Based on this article, it can be understood that the state is given the authority to regulate, plan, and control the control and ownership of land rights.

This authority is based on the right to control the state, which is essentially based on the Rights of the Indonesian Nation, which in principle is the control over the implementation of authority tasks that contain elements of public law.[2] Thus, the state has the authority to regulate and direct the function and use of land in accordance with government policy, including in terms of planning the provision and allocation of land, water and the natural resources contained therein.

Management of natural resources must essentially provide benefits to society in a fair and equitable manner.[3] The management of natural resources that has been going on so far has caused a decline in environmental quality, inequality in the structure of control, ownership, use, and utilization which often causes various conflicts. Agrarian renewal or better known as agrarian

[1] Elza Syarief, *Menuntaskan Sengketa Tanah Melalui Pengadilan Kusus Pertanahan, Pertama*, (Jakarta: Gramedia, 2012), h..4
[2] Urip Santoso, *Hukum Agraria Kajian Komperhensif*, (Surabaya: Kencana, 2013) h. 79
[3] Muhammad Ilham Arisputra, *Reforma Agraria di Indonesia*, (Jakarta: Sinargrafika, 2015) h. 19

reform is an idea or concept that was born in order to overcome land issues and natural resource management problems. The definition of Agrarian Reform as regulated in Presidential Regulation Number 62 of 2023 concerning the Acceleration of the Implementation of Agrarian Reform, amendments to Presidential Regulation Number 86 of 2018 concerning Agrarian Reform.

Which is then further regulated into the acceleration of the implementation of agrarian reform by setting the limits of the terms used in its regulation. The acceleration of the implementation of Agrarian Reform is implemented through the following strategies: 1) Legalization of Assets; 2) Land Redistribution; 3) economic empowerment of Agrarian Reform Subjects; 4) Agrarian Reform institutions; and 5) Community participation.

Based on this explanation, agrarian reform offers a strategic program that is able to solve problems such as community poverty, increase welfare through national food independence, increase land productivity, and provide recognition of land rights owned, whether privately, by the state, or publicly owned land whose use is intended to fulfill community interests.[4] The establishment of the Land Bank aims to strengthen the process of land availability or land acquisition so that it is not hampered. Land management for planning, acquisition, procurement, management, utilization, and distribution of land is a special authority owned by the Land Bank Agency, which is regulated by law.[5] All forms of authority are given to this agency to ensure the availability of land for public, private, social and national development interests.

The purpose of establishing this institution is to provide certainty in the provision of land so that it can be used for public, private, social, national development, economic equality, land consolidation, and to encourage agrarian reform. The urgency of regulating land bank agencies is very important, because it is hoped that through this regulation it can meet the country's needs for land used for national strategic programs such as toll roads, reservoirs, or other public infrastructure development. If this happens, legal uncertainty will arise, especially regarding the status and validity of the Land Bank Agency. This condition creates a conflict of norms between the Job Creation Law and the Constitutional Court Decision, namely the Constitutional Court Decision Number 91/PUU-XVIII/2020 which has implications for legal uncertainty regarding the Land Bank Institution.

The law should provide certainty and benefits for the community, but it has the potential to confuse them. As a result, the community cannot be served optimally by the law, and the presence of the law actually complicates and worsens the condition of the community. Based on the background description above, the formulation of the problem that will be discussed in this paper is: 1). What is the urgency of the establishment of the Land Bank Agency in Indonesia? and 2). What Are The Characteristics Of Land Bank Agencies In Indonesia?

Methodology

Research methods have an important role in writing because without legal research methods, legal development will not run optimally.[6] The type of legal research used to solve the legal issues in this article is normative juridical. The approach used is the Statue Approach and the Conceptual Approach. This is done by researchers to examine all laws and regulations related to the legal issues being studied.[7] In relation to this, to answer the legal issues being researched, researchers must understand the concept of legal certainty regarding the legal position of land banks in Indonesia.

Discussion

1. Urgency of Establishing a Land Bank Agency in Indonesia

The establishment of a land bank in Indonesia cannot be separated from the state's right to control and the principle of the social function of land. The State's Right to Control must be used as a constitutional basis and the social function of land as a legal basis (legal standing) to be able to carry out management of land in the territory of Indonesia. With this basis, the land bank can optimize the function of land as a national agrarian object to provide benefits and improve the welfare of the Indonesian people.

The urgency of establishing a land bank after the formation of the Job Creation Law and the PP on Land Banks is due to Indonesia's urgency regarding the problem of very large land needs, which will later be used as a container for investment activities. As an agency whose main task is to reserve land for the government before there is a need, it seems that a land bank can be an alternative to non-conflict land procurement that can be applied in Indonesia to overcome the land crisis in infrastructure development. The values of justice, legal certainty and legal benefits in the implementation of a land bank must be included in the principles and legal norms in the contents of the draft law to be drafted.

The Basic Agrarian Law gave birth to the concept of state control rights which is the basis for the state as a governing body to be able to always control or direct the management of the functions of the earth, water, and space and the natural resources contained therein in accordance with existing regulations and policies. As one of the development efforts within the framework of national development organized by the government is development for the public interest. Development for the public interest requires land as its main medium so that land acquisition efforts are needed that prioritize the principles contained in the 1945 Constitution of the Republic of Indonesia and the National Land Law.[8] Efforts to procure land for public interest must be carried out as well as possible and carried out by paying attention to the role of land in human life, as well as the principle of respecting legitimate land rights and not neglecting the personal interests of land rights owners.

[4] Retno Sulistyaningsih, Reforma Agraria di Indonesia, *Jurnal Perspektif* Vol 26 No. 1, (2021), h. 58

[5] Nila Erdiana, Budi Santoso, Mujiono Hafidh Prasetyo, Eksistensi Bank Tanah Terkait Pengadaan Tanah Berdasarkan Undang-Undang Cipta Kerja, *Jurnal Notarius*, Vol. 14 No. 2, (2021), h. 939

[6] Dyah Octorina Susanti dan A'an Efendi. *Penelitian Hukum (Legal Research)*. (Jakarta: Sinar Grafika, 2014), h 3.

[7] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media Group, 2019), Cetakan ke 14, h. 110.

[8] Ida Ayu Putu Sri Astiti Padmawati dkk, Dinamika Pembentukan Bank Tanah Di Indonesia: Tinjauan Kritis Terhadap Konsep Dan Regulasi,*Jurnal Yustisia*, Vol.19,No.2,(2024),h.50-59

The meaning of neglecting personal interests is when needs or interests are no longer taken into account in accordance with applicable provisions on the grounds that they are defeated by the public interest.[9] As is known, the main objective of land policy is the provision of land needed for development in the right location, at the right time, and at a reasonable price. The idea of establishing a land bank aims to solve these problems.

The Constitution itself does not provide a clear understanding of the State's Right to Control. However, the Constitution only provides a limitation that control by the state is intended to achieve the greatest possible prosperity of the people. Based on this explanation, the State in this context is not seen as the sole ruler and actor in controlling natural resources, but is present to formulate policies (beleid), make arrangements (regelendaad), carry out management (bestuurdaad), carry out management (beheersdaad), and carry out supervision (toezichthoudendaad).

The presence of a land bank is expected to resolve land disputes or conflicts. This land bank has the function of acquiring, procuring, managing, utilizing, and distributing land. In addition, the existence of the land bank is strengthened by Government Regulation Number 64 of 2021 concerning the Land Bank Agency and Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of the Land Bank. The land bank functions as a mechanism used by the government to ensure the availability of land and land productivity that will be utilized in development for the public interest. The establishment of a land bank is an effort to form a special institution that manages land, with the aim of ensuring the availability of land for various interests, including development, investment, and economic equality.

The Land Bank Agency has the task of implementing planning, acquisition, procurement, management, utilization, and distribution of land. In addition, the land bank can reduce the problem of land speculation which results in continuous increases in land prices, the land bank will also encourage healthy competition among developers, so that the provision of land for social needs and lower middle class communities can be realized.[10] The establishment of the Land Bank Agency as a form of natural resource management by the government with the aim of providing benefits to the community fairly and to various parties widely, because it is in accordance with the mandate of Article 33 paragraph 3 of the 1945 Constitution. And reminding Indonesia as an agricultural country, the state's support for the interests of farmers is a necessity.

The establishment of a land bank agency can be a significant political agenda for the government, because it can be one step to overcome the complex land ownership problem in Indonesia. In a political context, the establishment of this institution can reflect the government's commitment to land redistribution, increasing access to land for the community, and more efficient management of state assets. The increase in the need for land will increase along with the increasing population in Indonesia, causing uncontrolled land price competition and requiring very high costs and taking a long time in the process.[11]

Pembentukan bank tanah memiliki urgensi di tengah intensitas kebutuhan tanah untuk pembangunan yang terus meningkat. Tapi sayangnya, ketersediaan tanah semakin terbatas serta harga tanah yang terus meningkat. Selain itu, belum optimalnya pemanfaatan tanah khususnya untuk kepentingan umum serta maraknya praktik spekulan maupun penelantaran tanah. Pembentukan Bank tanahdisambut baik oleh beberapa pihak karena tujuan pembentukannya akan sangat mempermudah segala proses yang berkaitan dengan tanah serta memiliki kejelasan urgensi yang tertuang dalam Undang- Undang No 11 Tahun 2020 tentang Cipta Kerja yang selanjutnya disebut dengan UU Cipta Kerja. Pengaturan Badan Bank tanahdalam UU Cipta Kerja menjadi dasar untuk pembentukan sebuah Lembaga Negara baru di Indonesia yang memiliki tujuan yang jelas dan terstruktur.[12] Konstruksi pemikiran mengenai pembentukan Badan Bank tanahdi Indonesia tidak dapat dipisahkan dari konsep ekonomi berkeadilan yang mengarah pada ‘kemudahan investasi’, yang merupakan gabungan dari dasar pembentukan bank tanah, yaitu UU Cipta Kerja sebagai *lex generalis.*

The Land Bank Agency has the potential to optimize the function of land as a national agrarian object, which aims to provide benefits and improve the welfare of the Indonesian people. The urgency of establishing a land bank after the enactment of the Job Creation Law and the Land Bank PP arose from Indonesia's urgent need for a very large land problem, which will later be used as a means for investment activities. The establishment of the Job Creation Law relating to the Land Bank provides certainty and significant benefits for many people, because the existence of this Law can overcome various illegal land investment practices for the benefit of a handful of parties.

The urgency of implementing a land bank in Indonesia can be seen from several positive aspects which are the basic objectives of implementing the land bank concept, including: [13] Availability of land stock for the Government. The presence of a land bank provides many benefits for the availability of state (government) land. A land bank can be an institution for storing government land reserves for various purposes, especially in terms of development as the function of the land bank agency itself. This goal can certainly also provide other positive aspects for the State, especially in terms of reducing land acquisition conflicts in Indonesia which are increasing rapidly every year.

2. Characteristics of Land Bank Agencies in Indonesia

[9] Mudakir Iskandar Syah, *Pembebasan Tanah Untuk Pembangunan Kepentingan Umum*, (Jakarta,Permata Aksara, 2015), h.18

[10] Sri Susyanti Nur, *Bank Tanah: Alternatif Penyelesaian Masalah Penyediaan Tanah Untuk Pembangunan Kota Berkelanjutan*, (Makassar, AS Publishingi, 2010), h.176

[11] Ranitya Ganindha, Urgensi Pembentukan Kelembagaan Bank Tanah Sebagai Alternatif Penyediaan Tanah Bagi Masyarakat Untuk Kepentingan Umum, *Jurnal Arena Hukum*, Vol. 9 No. 3, (2016), h.442–462.

[12] Anna Azharniyah dan Ahmad Suhaimi, Keberadaan Bank Tanah Ditinjau Dari Asas Kemanfaatan Dan Politik Hukum Di Indonesia, *Jurnal Wasaka Hukum* Vol 10 No. 2, (2022), h. 28.

[13] Nila Erdiana, Budi Santoso dan Mujiono Hafidh Prasetyo, *Eksistensi Bank Tanah Terkait Pengadaan Tanah Berdasarkan Undang-Undang Cipta Kerja,* Jurnal Universitas Diponegoro Vol 12 No. 2, 2021, h. 936.

The concept of land banks has been known and implemented in several European countries and the United States since the 20th century. However, the land banks implemented in each country are different from one another. This is because there are different reasons behind the emergence of land banks in each country. The Netherlands and the United States have the most prominent land bank concepts with more complete regulations than other countries. Several countries have utilized land banks to ensure future land availability. The practice of land banking in the Netherlands aims to carry out more general land banking activities, where the Dutch government manages the provision, development, and distribution of public and private land according to its use.

The land bank was established as a means to empower land which is the wealth of the Indonesian nation, and then used as a basis for people's welfare in accordance with that stated in the 1945 Constitution of the Republic of Indonesia. The existence of a land bank functions as a vehicle for implementing the utilization and distribution of land for all Indonesian people in a fair and optimal manner, so that there is no inequality.The emergence of land banks in this context is almost similar to the principle of domein verklaring, which is known as a policy during the Dutch colonial period to control the land ownership of the Indonesian people. However, what is different is that land banks, as an extension of the state, can only control land that is not managed by the rights holders. In relation to this, if its authority is not regulated carefully, it can potentially lead to arbitrariness by the government.[14]

The establishment of the Land Bank Agency (hereinafter abbreviated as BBT) is closely related to the Agrarian Reform program. BBT is required to provide land, at least 30%, for the Agrarian Reform program. This reflects BBT's commitment to supporting programs that aim to create justice and prosperity through land distribution. The establishment of BBT is a very important step to support the Agrarian Reform program. BBT, with its responsibility in providing land and its commitment to justice and prosperity, has a very vital role in achieving the goals of Agrarian Reform. The Land Bank Agency can currently be seen as a form of reform in land acquisition for development in Indonesia. Land banks play a crucial role in resolving various problems in the land acquisition process, including land limitations, land acquisition and management processes, transparency in land acquisition, and storage and management of land data.

The characteristics of land banks in Indonesia and the Netherlands are not much different or have many similarities. This similarity is mainly due to the fact that Indonesia and the Netherlands adopt a similar legal system, namely the civil law system. Land banks in Indonesia have the following main characteristics:

1. **Special Agency (Sui Generis):** Land Bank is a special legal entity established by the central government with special authority to manage land;
2. **Non-Profit:** Land Bank is not a profit institution like BUMN, the income obtained is used for organizational development, not to distribute profits;
3. **Transparent and Accountable:** Land Bank performance must be transparent and accountable, as regulated in related regulations;
4. **Planning, Acquisition, Procurement, Management, Utilization, and Distribution of Land:** Land Bank has these main functions in managing land, including planning land needs, collecting land, procuring land (either through land procurement for public interest or directly), managing land, utilizing land through cooperation, and distributing land for public interest
5. **Asset Management and Land Acquisition:** The Land Bank is responsible for managing land assets, including land acquisition required for public interest development, such as infrastructure, housing, and public facilities
6. **Land Security:** The Land Bank functions to secure land from speculation and ensure the availability of land for various future development needs
7. **Land Distribution:** The Land Bank distributes land to ministries, institutions, local governments, organizations, and communities, according to the needs and priorities set by the central government
8. **Utilization Cooperation:** The Land Bank can cooperate in utilizing land with other parties, for example through buying and selling, renting, business cooperation, grants, or exchange.
9. **Priority of Utilization:** The utilization of land by the Land Bank continues to pay attention to the principles of utilisation and the principles of priority, namely priorities for public interest, social, development, economic equality, land consolidation, as well as agrarian reform and land justice.
10. **Financial Management:** The Land Bank has a Deputy for Financial Business Development who is responsible for the financial management of the Land Bank.

In addition, the existence of land banks in Indonesia aims to reduce the negative impacts of land liberalization which causes a spike in land prices in the market, making it difficult for the government to obtain land at a cheap or normal price. The policy regarding land in Indonesia is clearly regulated in the 1945 Constitution and in more detail in the UUPA. Article 2 Paragraph (1) of the UUPA states that the state is an organization of power for all Indonesian people, which means that the Indonesian people established the Republic of Indonesia with the aim of protecting all of Indonesia's homeland and implementing other goals of the Indonesian people in improving public welfare. Since the beginning of the introduction of the Land Bank in Indonesia, and under several business entities, both Private Business Entities and State-Owned Enterprises, which are managed directly by the Ministry of ATR/BPN, although initially there was no official institution that specifically regulated the Land Bank.[15]

In addition to the UUPA, there is also Law Number 2 of 2012 concerning Land Acquisition which also explains how the State works to provide citizens' rights to a plot of land needed for public interest. This regulation then encourages the state to immediately have a Land Bank institution which will later be formed through the Job Creation Law and

[14] Cellin Gabriella Tampi, *Pembentukan Bank Tanah Berdasarkan Undang-undang No 11 Tahun 2020 Dalam Rangka Menjamin Kesejahteraan Masyarakat,* Jurnal Lex Crimen, Vol 1, No. 1, 2021, h. 188.

[15] Rahma Winati, Yusuf Hidayat dan Anas Lutfi, *Eksistensi Dan Prospek Penyelenggaraan Bank Tanah,* Jurnal Al-Azhar Indonesia, Vol VII, No. 1, 2022, h. 30.

implementing PP in order to ensure the implementation of land acquisition by an official body called the Land Bank Agency.

The establishment of a land bank body cannot be separated from the thoughts of Gustav Radbruch who stated that the purpose of law must be understood as the basis and binding in the formation of legislation. There are 3 (three) basic values of law which are then known as legal ideals, where the law must fulfill these basic values, namely: Justice, utility (zweckmaszigkeit), and legal certainty. As a basic value that must be fulfilled, the future land bank regulatory instrument must be able to accommodate the fulfillment of these three basic values. Fulfillment of the value of justice is very important to create a balance between the rights and obligations of all parties involved in the management of the land bank. Fulfillment of the value of legal certainty aims for the state to be able to guarantee legal certainty through laws and regulations that specifically regulate the management of land banks in Indonesia. Meanwhile, the value of utility means that all efforts in the management of land banks must provide significant benefits, especially to increase the prosperity of the people.

Legal certainty according to Sudikno Mertokusumo is judicial protection against arbitrary actions, which means that a person can get what is expected in certain situations. From this understanding, it can be concluded that legal certainty is always related to the law that regulates the relationship between citizens and the state. To guarantee legal certainty, regulations are needed that are in accordance with the spirit of the Indonesian nation.[16] The concept of a land bank is very relevant to the needs of the community because in this concept, the value or price of land that will be used in land rights transfer transactions to obtain land will be based on the value formed in the market, which is carried out long before the land is needed for development.

The legal certainty of the establishment of a land bank agency has been regulated in Law Number 11 of 2020 concerning Job Creation which has been revoked by Law Number. 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law and is technically further regulated in Government Regulation Number 64 of 2021 concerning the Land Bank Agency. The presence of Law Number. 6 of 2023 has brought many innovations, especially in the land sector. As we know, to carry out infrastructure development, the government needs land. With the regulation of the structure and implementation of the Land Bank Agency, it is hoped that it can ensure the availability of land, especially for Agrarian Reform.

The presence of the Land Bank Agency will certainly raise many questions, whether in its implementation agrarian reform can be in line with the objectives of the land bank, especially in the field of development. The difference in objectives is inversely proportional between the land bank and agrarian reform where the objective of agrarian reform is to reorganize the structure of land ownership and land utilization.[17] The national priority program in the agrarian sector includes several things, namely strengthening regulations or rules and resolving land/agrarian conflicts, arranging control and ownership of land that is the object of agrarian reform, legal certainty and clarity of legalization of land rights, utilization and production of land, empowerment of communities in land use, allocation of natural resources to be managed by the community and the last is regarding the implementing institutions of agrarian reform both in the central and regional areas.[18] The role of the community in implementing every policy that has been initiated by the government is very important, including in facilitating the implementation of agrarian reform and land banks, which can then become strategic policies to improve community welfare.

The concept of the formation of the Land Bank Agency is to become a government channel to provide spatial implications in the management of infrastructure, the environment and also agriculture. According to Sri Susyanti Nur, the form of activity of the Land Bank is the provision of land, land preparation and the last is land distribution.[19] Land provision is carried out by means of land procurement through the process of buying and selling and exchanging. In terms of land preparation, the land bank acts as a provider of facilities and infrastructure and other supporting facilities and for land distribution, of course, the available land will be distributed according to its designation.

Another opinion comes from Harvey Flechner who said that land banks have several objectives, including to create growth in regional areas and within the community, improve land market management and control, protect land while maintaining environmental quality, obtain land that will be used for public needs and the needs of the general public/private sector. In addition to the objectives mentioned above, the Land Bank Agency can also be used as a land market control tool to prevent speculation on land price spikes and also to maintain good relations with land developers both in urban and rural areas. Therefore, the establishment of the Land Bank Agency in the Job Creation Law is expected to be able to create extensive employment opportunities for the community in order to increase prosperity and welfare. In general, the concept of establishing a land bank has 4 indicators that can be understood by the general public, namely:

a) Regulation
b) Type
c) Related Parties
d) Land Bank Implementation Mechanism.

The four indicators above can be applied differently in each country, namely according to ideology, socio-economic conditions and also in accordance with the legal system in force in each country. In this regard, the Land Bank in Indonesia can be based on the Job Creation Law and PP No. 64 of 2021 concerning the Land Bank Agency. Based on the explanation above, the perspective of the Agrarian Reform policy on the establishment of the Land Bank Agency is

[16] Chairul Arrasjid, *Dasar-Dasar Ilmu Hukum*, (Jakarta, Sinar Grafika, 2008), h. 160

[17] Setiyo Utomo, Percepatan Reforma Agraria Untuk Mencapai Keadilan, *Jurnal Hukum Bisnis Bonum Commune*, Vol 4, No. 2, (2021), h. 203.

[18] Indri Asra Ismanti, Pujiyono, dan Hari Purwadi, Kebijakan Reforma Agraria Pasca Lahirnya Bank Tanah, *Prosiding Seminar Hukum Aktual*, Vol 2 No 1, (2023), h. 67.

[19] Roby Guntoro dan Meysita Arum Nugroho, Konsep Formulasi Badan Bank Tanah Untuk Reforma Agraria Dalam Perspektif Perbandingan Hukum, Vol 6, No. 3, (2022), h. 6365.

expected to help improve the effectiveness of state land management and support all forms of sustainable development activities. The Land Bank Agency was also formed with the hope of improving community welfare through effective and efficient land management in accordance with the objectives of agrarian reform.

The existence of a land bank will realize the principle of efficiency in acquiring land for the public interest because it does not involve the courts which generally involve the objection process and payment of compensation /consignment.[20] The state, through government agencies or independent agencies appointed by the government, has the authority to acquire abandoned land, manage and regulate it temporarily, and distribute it for the public interest. Fulfillment of the 3 (three) basic values in the formation of the Law, is none other than to create harmony for the sake of creating a prosperous community life. The value of justice in the Land Bank regulations in particular, is needed as a balance between the rights and obligations of the parties, the value of utility or benefit is intended as an effort to provide benefits with the presence of the Land Bank and the value of certainty is intended so that the state can guarantee legal certainty in the implementation of the land bank and prevent arbitrary actions because legal certainty can be achieved if it is in line with the needs of the community.[21]

The formation of the two regulations above, especially Presidential Decree No. 113 of 2021, has become the focus of the public because it is considered to have violated the verdict and there was disobedience by the President who did not comply with the contents of the Constitutional Court Decision Number 91/PUU-XVIII/2020 where the President should be prohibited from issuing or ratifying any regulations related to the Job Creation Law in this case the Land Bank Agency for 2 years or before improvements are made.[22] Therefore, the existence of the two controversial regulations should not be used as binding rules as long as the Job Creation Law has not been revised even though the law is still in effect. However, it cannot be denied that the two regulations above are still used and in effect until now and have not escaped using the UUPA as another reference. In relation to this, at this time the Job Creation Law has been changed or revised regarding the regulations in it considering that it has exceeded the deadline for the Constitutional Court's ruling and changes are still being made over time.

Conclusion

The urgency of establishing a land bank agency in Indonesia is based on several regulations, one of which is Article 33 paragraph (3) of the 1945 Constitution. This regulation then narrows down to a more specific regulation, namely Law No. 11 of 2020 concerning Job Creation and is further emphasized in PP No. 64 of 2021 concerning the Land Bank Agency. The establishment of the Land Bank Agency is used as a forum for implementing the utilization and equalization of land for all Indonesian people in a fair and optimal manner. The characteristics of the land bank agency in Indonesia are not much different from other countries because they aim to regulate the availability of land which basically has resulted in inequality in land ownership rights. The land bank agency can easily carry out its duties in accordance with the regulations if supported by the availability of resources, support systems, spatial planning, certificate rates and political will. The land bank agency becomes an institution that is authorized by the State to manage abandoned land which will then be utilized and reused for people who want to use it by submitting an application.

[20] Nizam Zakka Arrizal dan Siti Wulandari, Kajian Kritis Terhadap Eksistensi Bank Tanah Dalam Undang-Undang No. 11 Tahun 2020 Tentang Cipta Kerja, *Keadilan Jurnal Fakultas Hukum Universitas Tulang Bawang*, Vol. 18,No. 2, (2020), h. 100

[21] Emsi Warasih, *Pranata Hukum Sebuah Telaan Sosisologis, (*Semarang.PT. Suryandari Utama, 2005), h.44.

[22] Malik Anwar, *Anomali Perarurun Presiden Nomor 113 Tahun 2021 Tentang Struktur Dan Penyelengaraan Bank Tanah Ditinjau Dari Putusan Mahkamah Konstitusi Nomor 91/PUU-XVIII/2020 Tentang Pengujian Formil UU Cipta Kerja*, Jurnal Rechtsvinding, Vol. 11 No 1, 2022, h. 111.

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