



A State Authority Regulation Overland Bank Model Towards for Economic Value

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Abstract— This paper explores the importance of land as a crucial asset for the state, emphasizing its central role according to international law and constitutional requirements in Indonesia. This text examines the legal structure that regulates the state's power over land, focusing on the state's right to govern and the obligations of bodies like the Ministry of ATR/BPN. The article explores the state's authority to control land usage for public purposes while considering the equitable distribution of resources and the essential societal role of land. Next, it outlines the creation of the Land Bank Agency, explaining its purpose in effectively meeting the land needs of the state, awarding rights to manage land, and promoting its use for public, social, or national development purposes. In addition, the study explores the transfer of land utilization rights and the Land Bank's role in facilitating investment and company licensing. The text emphasizes the importance of implementing land bank techniques for land consolidation and establishing a regulatory framework that aligns with legal and conceptual procedures based on the philosophical concepts of Pancasila. This is crucial in order to create a fair and flourishing Indonesian economy.

Keywords— Land Capital; Land Bank Agency; Pancasila Economic Ideology.

I. INTRODUCTION

The land serves as the state's strategic capital due to the international law established in the Montevideo Convention of 1933, which states that a state is composed of a forming element comprising both land and water. This land-based component represents the embodiment of state power. Article 33 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia underscores this importance by declaring the Earth, water, and natural resources to be national assets that are under the jurisdiction of the state and are utilized for the benefit of the people. Consistent with this constitutional mandate, the Basic Agrarian Law, officially referred to as Law Number 5 of 1960 concerning Basic Agrarian Principles, implements the tenets outlined in Article 33 Paragraph 3 of the Republic of Indonesia's 1945 Constitution.[1]

The right to control the state (henceforth HMN) is established in Article 2, Paragraph 1 of the UUPA, which regulates the right to control the state (honoring the people). This provision states that "the state, in its capacity as a power organization, exercises supreme control over the earth, water, and outer space, including natural resources." This article is about the embryo that develops into the HMN. In accordance with Article 2, paragraph (1) of the Basic Agrarian Law and Article 33, paragraph (3) of the Constitution of the Republic of Indonesia, the state governs its authority over space, land, and water.[2]

As the organization of the people's highest authority, the state has the authority to exercise control. The power to control the state entails the state's jurisdiction over the management and execution of activities related to the allocation, utilization, provision, and upkeep of earth, water, and space, as well as the establishment and control of legal relationships between individuals and legal actions concerning these elements. The Ministry of ATR/BPN is responsible for carrying out state authority operationally.[3]

The prerogative of the state to regulate land use for public purposes must be treated fairly and equitably. Nevertheless, land possesses a fundamental social function, as stipulated in Article 6 of the UUPA, which permits the state to utilize land when doing so serves the public interest. Land designated as state land, lacking rights to the ground it occupies, is not customary land of the customary law community, waqf land, BUMN/BUMD, or state, regional, or village property. In accordance with the 1945 Constitution and Pancasila, land shall be allocated for public use in order to establish a just and prosperous society. [4]

Presidential Regulation No. 3 of 2018—which addresses the expedited implementation of national strategic projects—and Presidential Regulation No. 56 of 2018—both govern this. Law No. 20 of 2011 also addresses land acquisition for development in the public interest. Nevertheless, this provision must be reevaluated in light of the fact that the country's circumstances necessitate a substantial quantity of land, which is surely not insignificant. As per Section Four of Law No. 11 of 2020 on Job Creation with Respect to Land, the Land Bank Agency was established.[5]

The establishment of the Land Bank Agency will effectively address the land requirements of the state. The Land Bank Agency is a specialized organization tasked with the administration of land, including planning, acquisition, procurement, utilization, management, and distribution. Individuals who fall under the jurisdiction of the Land Bank Agency are granted management rights.[6]

Furthermore, the designation of the land can grant additional quality land rights in the form of cultivation rights, building use rights, and use rights. Consistent with the principle of establishing the Land Bank, the Land Bank Agency may transfer its management rights to various entities: central government agencies, regional governments, BUMN/BUMD, state-owned legal entities (e.g., universities in Indonesia, Gajah Mada University, or Bandung Institute of Technology), regionally owned legal entities, or central government-appointed legal entities. Considering the attributes of the entities to which the Land Bank Agency may bestow management rights, its objective extends beyond mere profit-seeking. However, public, social, or national development interests remain its top priority.[7]

Transferring utilization to third parties may be accomplished through the use of business use rights, building use rights, or use rights for a predetermined duration, subject to the payment of rates specified by statutory regulations. At the conclusion of the designated period, the land's rights revert back to the holder of the management rights. Land managed by the Land Bank Agency and possessing management rights status is eligible to receive ownership rights. Obviously, if the land already possesses ownership rights status, it will be issued in conjunction with the land that already possesses management rights status. [8]

While it is true that there are limitations on the granting of land ownership rights for the purposes of public housing and transmigration, this is consistent with the mission of the Land Bank Agency. In addition to offering advantages for land management rights, this is consistent with the provisions outlined in Part 4, Paragraph 1 of the Job Creation Law, which establishes an omnibus law designed to foster a favorable business and investment environment for entrepreneurs, foreign investors, and micro, small, and medium-sized enterprises (MSMEs). This. In matters pertaining to investment support, the Land Bank Agency, in its capacity as the proprietor of Management Rights, is bestowed with the power to devise a comprehensive strategy, facilitate the process of obtaining business licenses and approvals, acquire land, and establish service charges. Thus, under the Land Bank's supervision, the licensing procedure for investments and businesses will become more streamlined.[9]

Land bank practices are additionally required for land consolidation implementation in order to facilitate the land acquisition process and accelerate implementation. An ad hoc, authorized institution is a national council comprised of multiple non-profit ministries or organizations whose primary objective is to prevent financial gain. Prior to allowing land banks to operate legally in Indonesia, the government must establish a regulatory framework for such institutions. In national positive law, it is essential to implement a legal model that serves as the foundation for regulations governing land bank operations. Such regulations should ensure the provision of future legal benefits, legal certainty, and a sense of justice. The author incorporates a number of pertinent theoretical frameworks, such as Jeremy Bentham and Postner's perspectives on legal benefits and John Rawls' theory of justice. In order to develop a model for land bank regulation within the Indonesian legal system, this theory will serve as an analytical instrument.[10]

II. LITERATURE REVIEW

A. *State Authority Regulations, Constitutional Foundations, and Land Use Regulations*

The regulation of governmental authorities in managing natural resources, particularly land, is of utmost importance within the framework of Indonesia's constitutional basis.[11] Article 33 of the 1945 Constitution and UUPA affirm that land is a national resource subject to the state's complete authority.

This constitutional framework establishes the legal justification for enhancing government authority in managing land as a fundamental component of the nation's wealth.

The primary objective of this rule is to govern land use to serve the public interest. The state's authority to manage land for the benefit of the general public is demonstrated in UUPA Article 6. The social function of land, which grants the state the authority to utilize land for public objectives, plays a vital role in guaranteeing fairness and the long-term viability of land utilization within society.

Presidential regulations, including Presidential Regulation No. 3 of 2018 and Presidential Regulation No. 56 of 2018, serve as explicit legal foundations for executing national strategic programs. These projects, deemed crucial for the nation's advancement, necessitate the implementation of regulations and the establishment of a Land Bank Agency. The creation of this agency, as mandated by Job Creation Law No. 11 of 2020, serves as a tangible solution to address the significant demand for land to facilitate the national development agenda. Indonesia may establish a well-rounded and inclusive legal structure to effectively manage land as a valuable resource for national development and success by including state authority rules, constitutional principles, and land use regulations.[12]

B. *Land Bank Agency's Strategic Role in Land Management and Ownership Policy*

The Land Bank Agency (LBA) of Indonesia strategically oversees the management of land resources, encompassing functions such as planning, acquisition, and distribution. By being awarded management rights, the LBA gains the ability to effectively coordinate land use within its authority, thereby becoming a powerful driving force in this regard.[13] Furthermore, the LBA plays a pivotal role in connecting limitations on land ownership rights to public objectives by the Job Creation Law. The LBA's duty encompasses administrative functions and the responsibility of maintaining a harmonious equilibrium between national interests and individual rights in land ownership, which serves as the foundation for sustainable growth.

C. *The Influence of the Overland Banking Model on Economic Value and Relations with Economic Development*

The Overland banking model exerts a substantial influence on the economic worth of a nation. Initially, this concept can expedite economic expansion by enhancing the availability of financial services in previously excluded or disadvantaged regions.[14] This strategy facilitates the accessibility of banking services, enabling a more comprehensive range of individuals to engage in economic activities, promoting consumption, and fostering balanced growth.

Furthermore, the incorporation of financial inclusion plays a pivotal role in the influence of the banking model on land. This strategy aims to enhance the accessibility of financial resources for underprivileged populations by extending financial services, such as microloans and savings. Enhanced financial inclusion can bolster individuals' ability to buy goods and services, promote the growth of small businesses, and foster a more competitive economic climate.[13]

The terrestrial banking concept not only impacts economic worth but also serves as a driver for economic progress.[11] This paradigm facilitates investment in critical areas by providing funds and financial services. Investing in business capital and credit can stimulate growth in the business sector, generate employment opportunities, and enhance productivity.

Moreover, the land-based banking model is directly associated with expanding the investment and business sectors. Banking facilitates economic development by granting access to capital, which fosters entrepreneurial endeavors and corporate ventures. Expanding this corporate sector can significantly contribute to the overall economy, fostering a favorable cycle of sustainable economic growth.

III. METHOD

The objective of this study is to ascertain and examine, in reference to a fair economy, the jurisdiction of the state in regulating land banks. This particular field of study pertains to normative law and employs both statutory and conceptual methodologies. By gathering legal materials through library research, acquiring primary and secondary legal materials, conducting qualitative analysis of the legal materials, and deriving conclusions deductively, this study employs principal and secondary legal materials.

IV. RESULT AND DISCUSSION

Jeremy Bentham pioneered and emphasized utilitarianism, a legal science doctrine that serves as the foundation for legal economic analysis. This method of thinking represents a compromise when the law is confronted with two diametrically opposed concepts: justice and legal certainty. He explains economic law in the book *Economic Analysis of Law*, which includes numerous perspectives from authorities such as Jeremy Bentham and Richard Posner. It is believed that Bentham incorporated crucial components, including purity, breadth, duration, intensity, certainty, procreation, and propinquity, in order to attain the highest level of pleasure. According to him, a law can only be recognized as a law if it can provide the greatest benefit to the greatest number of people.[15]

Bentham further stated that subsistence (i.e., earning a livelihood) must be the objective of legal regulation. b. To ensure a surplus (to furnish ample necessities). c. in order to ensure security or protection. d. in order to attain equity, or equality. In response to this utilitarian paradigm, Posner developed his own economic analysis of law, but it retained the fundamental essence of Bentham's concept. Posner's legal economic analysis commences with the fundamental premise that human beings are homo economicus, which signifies that they prioritize economic values with economic reasons and considerations when acting to satisfy their economic requirements.[16]

Posner also talked about how legal economic analysis can be used to solve legal problems by using different legal definitions and assumptions to paint a picture of happiness and pleasure growth. This methodology exhibits a strong correlation with the concept of justice in the legal system. The law is employed as an economic instrument with the purpose of optimizing satisfaction. The formulation and implementation of this analysis ought to incorporate economic factors while preserving the integrity of justice in order to establish justice as an economic criterion founded upon three rational components—namely value, utility, and efficiency. man.[17]

The theory of John Rawls emphasizes that in order to uphold justice with a popular dimension, two principles of justice must be considered: first, the provision of equal opportunities and liberties for the most fundamental freedoms; and second, freedom for all. Furthermore, the capacity to reconfigure socio-economic inequalities in a manner that generates mutually beneficial outcomes for all, encompassing individuals from privileged and disadvantaged backgrounds, By drawing connections to the theories advanced by Jeremy Bentham, John Rawl, and Postner, the significance of a law of expediency and justice in ensuring a prosperous, just, and democratic society that prioritizes the welfare of the populace as a constituent of the nation that warrants preservation. The objective of the state is to fulfill the requirements of the nation.[18]

This includes not only guaranteeing the livelihoods of numerous individuals by supplying land that contributes to a comfortable living environment but also fostering the development of significant economic interests. The fundamental attribute of a contemporary constitutional state, according to Francois Venter, is the possession of a written constitution that possesses the utmost legal authority.[19]

An amendment to Article 33 of the 1945 Constitution of the Republic of Indonesia resulted in the addition of five paragraphs to this fundamental provision, which establishes economic policy as the compass for national economic policy. Legislative policy regarding a more operational economy is embodied in Article 33 of the 1945 Constitution of the Republic of Indonesia, which is subsequently transformed into laws and other statutory regulations. Article 33 of the Republic of Indonesia's 1945 Constitution establishes an unchangeable legal standard that governs economic policymakers. In accordance with Article 33 of the Republic of Indonesia's 1945 Constitution, economic policymakers must refrain from formulating economic policies that contradict the constitution.[20]

Article 33 of the 1945 Constitution embodies the philosophical essence of the fifth principle of Pancasila, "Social Justice for All Indonesian People," which leads the research findings to conclude that justice is the ideal of the Indonesian nation. The fifth principle of Pancasila embodies a robust tenet concerning the notion of justice in the pursuit of prosperity for the entire Indonesian populace. This principle encompasses various dimensions, such as economic, political, and religious justice, among others. Legal justice is the theory of justice that John Rawls, Jeremy Bentham, and Postner developed with regard to economic instruments designed to maximize pleasure. In order to achieve economic justice, government involvement is required. Government intervention in the economic sector, facilitating social security in society, and attaining social balance are among the responsibilities of the government in the economic sector. [21]

V. CONCLUSION

The founding fathers hold the Model of State Authority Regulation on State Intervention in Providing Land for Prosperity and Just Economic Principles in accordance with the notion that a robust economy is essential for the development of a strong nation. The philosophical principles upheld by the founding fathers are rooted in the teachings of Pancasila, specifically the second and fifth articles. These articles emphasize the significance of government involvement, specifically in ensuring a fair economic system for the nation. The philosophical underpinnings of Indonesia's economic development and its alignment with the economic ideological reflection of Pancasila, the state ideology, serve as a philosophical reflection. Furthermore, the regulations enforced by the Land Bank Agency serve as a philosophical and ideological reflection of the realization of Pancasila, the foundational philosophy guiding Indonesian economic development. These regulations encompass the pillars upon which the Indonesian economy is constructed—economic democracy and the people's economy—and represent a vision for a prosperous and prosperous Indonesian economy.

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