

Does Indonesia Need a Land Bank Agency?

Examining the Role of a Land Bank Agency in Indonesia's
 Spatial Planning Practice



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Colophon

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Cover Picture: The Rice Farm in Subang, Indonesia by Claudia Fernández Ortiz

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Preface

This is my final thesis for the master's program in Environmental and Infrastructure Planning at the University of Groningen. This thesis discusses the establishment of a new institution called the Land Bank Agency in Indonesia. My interest in this subject was immediately aroused since I took the course EIP Interactive Workshop. At that time, I need to submit a paper about institutional design. At that time, the institution where I work, the Ministry of Agrarian and Spatial Planning/National Land Agency, faced problems with institutional dynamics introduced in the lectures. Then, my thesis topic became clear when my supervisor, Prof. Ronald agreed with this topic. This thesis, which I worked on with great pleasure, could not be written without the help of a couple of people: in this preface, I want to thank these people.

First of all, I want to thank my supervisor, Prof Ron. Thank you for your time and critical reflections on this thesis over the past year. Without your guidance, It is impossible to me finishing this thesis.

Secondly, I want to thank the people willing to spare some time to share their knowledge with me. The empirical case study on Indonesia's case could not be possible without their generosity. Last but not least, I want to thank my fiancé for helping me with all the support.

Abstract

The major agenda of Indonesia's land management program is agrarian reform which consolidates and distributes land for social justice. However, instead of strengthening the existing institution and implementing the agrarian reform agenda, Indonesia established a new institution called the Land Bank Agency. This institution can aggravate land management practices in Indonesia because one of its functions is to encourage land for investment and economic growth. Therefore, a major question emerges: Does Indonesia need a Land Bank Agency?

To conduct this research, different aims were created. First, identify the reason for Indonesia's establishment of the Land Bank Agency. Then, explore the operationalization of land banking practices in Indonesia. By identifying the reasons and drawbacks of the current land banking practices, this study is expected to draw recommendations for the Indonesian government to improve land bank policies and practices. This study uses the descriptive explorative analysis with the qualitative inductive method. Data were collected from various scientific literature, publication, mass media, and articles related to land bank practice in Indonesia.

To conclude, it seems that many lands and spatial planning issues could be solved with the existence of the Land Bank Agency. However, to align with the agrarian reform agenda, the Indonesian government needs to revise several land bank objectives because the current land bank authority overlaps with an existing institution.

Keywords:

Land Bank Agency, Agrarian Reform, Land Issues, Spatial Planning

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LIST OF ABBREVIATIONS

ATR/BPN (*Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional*) – In English: Ministry of Agrarian Affairs and Spatial Planning/National Land Agency. Ministry-level institutions at the central government level handle land and spatial planning affairs.

BPN (*Badan Pertanahan Nasional*) In English: National Land Agency. Provincial and regional level institutions have a vertical relationship under the Ministry of ATR / BPN, which handles land administration affairs.

BUMN (*Badan Usaha Milik Negara*) – In English: Indonesian state-owned enterprises.

CHAPTER I

INTRODUCTION

Indonesia has various land use and spatial planning problems, such as high land prices, urbanization, urban sprawl, and land disputes. Moreover, Indonesia's land problems are also related to land ownership inequality and land shortage for infrastructure development. Despite having a leading actor in land administration and spatial planning, the Ministry of ATR/BPN, land programs are not yet optimal. Thus, the government established a new institution called the Land Bank Agency in 2021.

Under the agrarian reform program, land banking is the instrument used for managing the spatial planning practices in Indonesia. Recently, the Land Bank Agency, a special state-owned non-profit institution, performed the land banking practices in Indonesia, which has the authority to manage, store, and distribute land. However, land administration and spatial planning are still under the authority of the Ministry of ATR/BPN. So, the presence of the new institution raises the question, "Does Indonesia need a land bank?". To answer those main questions, this thesis then uses two sub-questions: why did Indonesia establish the Land Bank Agency, and how is the land bank operationalization. Using those two sub-questions, recommendations will be drawn at the end of this thesis for a better future implementation of land bank practices.

1.1 Background

Land and its values play an important role in social activities and development. With the constant growth of human population, the need for land as a living space or future asset is inseparable. However, the high demand for land is imbalanced with the land supply. Research by Firman (2004) and Winarso (2000) state that the high need for residential land is inverse to the land supply, resulting in an uncontrolled increase in land prices. In addition, the high demand for land is also inseparable from the phenomenon of high urbanization. People tend to migrate to big cities, affecting a massive change in land use. The limited land supply for settlements, rising land prices, and high-rate urbanization implicate the phenomenon of urban sprawl (Pamungkas & Winarso, 2018). Thus, urban sprawl inhibits socio-economic activities and disrupts the spatial planning practice in Indonesia.

The problem of limited land supply also happens to the land demand for infrastructure and public facilities. According to Haris (2009), infrastructure development aims to drive people's economic growth and improve the quality of life and human welfare. Thus, if the land for infrastructure development is limited, it will hinder the infrastructure projects. The delay in infrastructure construction will cause losses for many parties, including the government,

developers, and the community. These effects are result from the government's difficulty in accessing land for infrastructure development.

Based on the phenomenon of limited land supply for infrastructure development and to facilitate the provision of land for investors, the Indonesian government established the Land Bank Agency. According to BPN (2021), the functions and objectives of this institution are to provide land for the public interest, social development, economic equality, land consolidation, agrarian reform, and social justice. In the form of a special state-owned non-profit institution, the Land Bank Agency is expected to overcome various problems related to land and achieve the goals of the national land agenda. Thus, the land bank plays a role in strengthening land-use planning in the future.

However, it turns out that some parties have different views on the establishment of the Land Bank Agency. Although conceptually, the land bank could solve various land problems and attract investment that increases the economy, Sumardjono (2018) states that the land bank formation creates new problems in the form of unequal justice. The reason for establishing the land bank that leans toward investment is contrary to the agrarian reform agenda: redistribution and consolidation of the land for social justice. Thus, the presence of the land bank will aggravate land problems. Land banks are feared to create economic inequality and injustice, especially for poor communities, instead of being a catalyst for regional economic growth, social justice for communities, and equitable development.

1.2 Problem Definition

The brief explanation shows two opposing views regarding the establishment of Indonesia's Land Bank Agency. On the one hand, as a new institution, the presence of the land bank may solve the land and spatial planning issues which led to social justice and equity of the land. On the other hand, the land bank agency seems to create more inequalities. Therefore, the land bank functions, objectives, and operationalizations still need improvement. Then, the main question of this study is, "Does Indonesia need a Land Bank Agency?"

To answer the main question, this study explores Indonesia's land banking practice. This study is carried out in three main stages to explore the practice of land bank in Indonesia. Firstly, exploration of the land bank concept, followed by the debate on the necessity of the land bank in Indonesia. Next, identification of the reason behind the establishment of the land bank agency. Afterward, explanation of the operationalizations of land bank in Indonesia. The last part is a conclusion drawn from findings from the previous section.

1.3 Research Questions

From the problem definition and introduction above, it is understood that establishing a land bank agency raises pros and cons. The pro-party is optimistic that the land bank agency will solve various land and spatial planning problems and strengthen the current spatial planning in Indonesia. Meanwhile, the opposing view argues that land bank agency creates social injustice because they focus on economic growth and investment. Thus, this thesis's purpose is to answer the main question of this study: **"Does Indonesia need a land bank agency?"**

To answer this question, the following sub-research questions are addressed:

1. Why did Indonesia establish the land bank agency?

The theoretical question focuses on identifying the reasons for Indonesia's establishment of the land bank agency. Even the introduction mentions several reasons for Indonesia's establishing the land bank; however, it is still fragmented. By identifying the reason as a whole, afterward, this study identifies the correlation between the background's establishment and the land bank policy's goals. Last, examining the recommendations on whether Indonesia needs a land bank and which goals need to be revised.

2. How has Indonesia's land bank been operationalized?

The practical question focuses on analyzing the practice of the land bank agency in Indonesia. By exploring land bank operationalization, this thesis identifies the advantages and weaknesses of the current land bank practices. In the end, recommendations will be drawn for better land banking practices in Indonesia.

1.4 Scientific Relevance

This study is expected to contribute to the scientific development of land use management and spatial planning in Indonesia because land banking is one tool in land use management related to spatial planning practices (Puspasari & Sutaryono, 2017). Thus, two scientific relevance are taken by studying Indonesia's land bank agency and land banking practices. First, to provide a thorough understanding that the planning science is complex, and as planners, planners must deal with the complexity of governance dynamics. In addition, this study teaches that policies issued by the government do not always come ideally due to the dynamics and complexity of planning. Therefore, policy evaluation must be carried out to improve policy practice further.

1.5 Societal Relevance

The practice of land use management is inseparable from various problems, such as policy inconsistencies at multiple scales, conflicts of interest, land disputes, and land ownership inequalities. Thus, there are three societal relevancies in this study. First, from the political view, this study could become a recommendation and guidance for decision-makers to revise the existing policy that is still unconstitutional and overlapping. From an ethic and cultural view, this study provides an understanding of the role of land as a tool to achieve social justice and equity. Furthermore, from the economic view, this study provides an insight that land is an important component in the development programs that could have a positive or negative impact depending on its use.

In addition, the societal relevance of this study could impact various actors/stakeholders, both state and non-state stakeholders. For example, for the Ministry of ATR/BPN, this research will answer the challenges of the current and future land and spatial planning issues. For the community, this research provided an insight that the government policies aimed at the welfare and justice of the community so that people could have trust and support every government program and policy.

In general, the result of this study may give insights that the new land bank agency could become an interesting topic to be reviewed because it is related to land and spatial planning problems in Indonesia. For all policymakers, the result of this study could be used wisely to determine the best solution to overcome the current or future land management problems. Thus, the results of this study could become an input for the board of Indonesia's land bank agency to strengthen the operationalization of land banks and for the Indonesian government to remain focus on the main objectives of social justice and equity in the practice of land bank.

1.6 Research Methodology

Research Design

According to Yin (2003), research design enables a researcher to choose and determine the most appropriate tactics to achieve research goals. Research design consists of main questions, case study propositions, data collection, analysis method, and research boundaries. Additionally, research framework is drawn to make logical connections between the research findings and the questions. This study uses the qualitative inductive approach and an exploratory case study to answer the research question mentioned in the introduction. The case of the land bank in Indonesia is selected. Then, considering the unclear need of Indonesia for a land bank agency, this study identifies Indonesia's reason for establishing the land bank agency. Considering the operationalization of the land bank agency, this study explores the drawbacks of the current land bank practices.

Moreover, in regards for analyzing and answering the research questions, this study uses literature reviews to recover empirical evidence. Qualitative data analysis tools such as MAXQDA and the set codes are used to analyze the qualitative data to acquire the information for the discussion. Last, recommendations are drawn from the key findings in each chapter and get finalized in conclusion. Each step of the research strategy is presented in Appendix 1.

Case Study

The research analysis uses the establishment of Indonesia's land bank agency as a case study. Yin (2003) mentions case study is a research method used to analyze a phenomenon in its real-life context, especially when the boundaries are unclear. Therefore, the phenomenon discussed in this study is the establishment of the land bank agency as a new institution. Although the land bank policy has been established, the pro and cons of this agency have not been explored yet. The result of this study is expected to become an input for the better implementation of land bank practices in the future.

Data Collection and Analysis

This study uses the qualitative inductive approach to gather as much information as possible. Literature reviews are required to develop a theoretical framework for conceptual thinking. Then, the discussions are held based on the content analysis. This study uses an exploratory and explanatory analysis.

Literature review data was obtained from 33 works of literature (can be seen in appendix 3) and processed using the MAXQDA 20 application. The data processing process is as follows:

1. Input the entire literature into the application.
2. Identify variable data to answer research questions.
 - a. Variable reasons for Indonesia to establish a land bank.
 - b. Variable of land bank operationalization mechanisms in Indonesia.
 - c. Variable advantages and disadvantages of land bank practice.
3. Codify the key person against all data variables.
4. Present and describe finding data into the results of the study.

In short, conclusions are drawn from the research analysis. The data for empirical evidence are collected through secondary data sources. Secondary data are gained through document analysis such as literature, books, research reports, government reports, and relevant publications. For more details, the list of literature and the key person is explained in appendix 3 and 4.

Boundaries Case of Analysis

Baxter and Jack (2008) suggest that placing boundaries is extremely important as a guide since researchers often try to answer questions that are too broad and lack theoretical and contextual focus. Boundaries are essential to determine the scope of the research and keep the questions intact with the research objectives. Placing key boundaries, such as a) time and place; b) time and activity; c) definition and context, are highly suggested.

Accordingly, key boundaries are proposed to narrow down the scope of the study. First, regarding the place, the physical boundary is in terms of a country – Indonesia. Nonetheless, the area of focus is the land bank practice in Indonesia, as the core of institution practice in implementing the land bank policy. By definition, the theoretical scope is largely important to gain more insight into the existing literature and critically reflect on the topic under the study. Therefore, the conceptualization of land bank and land banking practices, governance, and spatial planning become the key terms, placing theoretical boundaries on the study and will describe more in the chapter literature reviews.

In addition, as the actors and institutions are constantly changing and evolving, the time of the study was determined. This study started in January 2022, and the data were collected from February to June 2022. Lastly, the key activity focused on the land bank practices in Indonesia.

Literature review

A literature review is the most relevant and key element in a qualitative study. Baxter and Jack (2008) states that looking for the existing literature is important as a base for the discussion, helps operationalize the definitions, and most importantly, supports the theoretical framework. The purpose of the literature review is not only to summarize the existing literature on the key concepts but also to present credible, comprehensive, and unique insights regarding the topics.

This study starts with a literature review exploring the land bank concept. This knowledge is important to understand the land bank, its definition, and its main component. The literature review on the land bank also assisted in the theoretical framework. Then, the land bank concept in Indonesia is discussed to deliver the information that supports the conceptual framework and methodology. Specifically, the literature review about the land bank practice in Indonesia is reviewed to define and understand the key to the discussion, which further lead to a comprehensive understanding of the issue that will resolve the land bank practices. In addition, the practice of the land bank in several states in the United States is introduced to gain more insight into the concept of land bank in another country. Lastly, the debate views on the land bank are discussed to support the research analysis and, most importantly, provide evidence and support for the discussion.

1.7 Research Framework

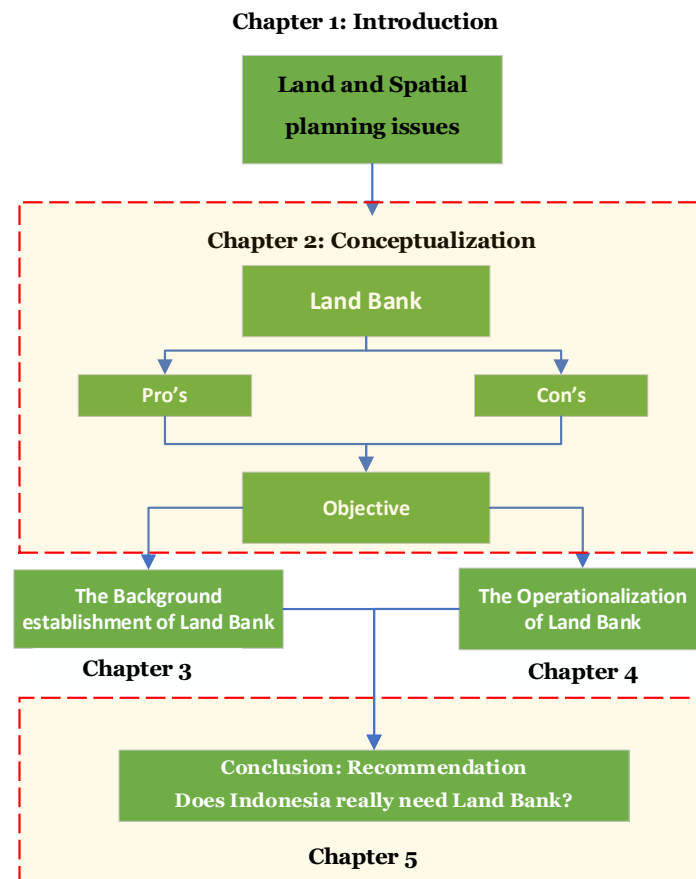


Figure 1.1 Research Framework

(Source: Analysis, 2022)

In summary, this thesis's research framework and chapter organization are presented in Figure 1.1. The study begins with the introduction in Chapter I, including backgrounds, research objectives, research questions, theoretical frameworks, methodologies, and research structures. Furthermore, Chapter II explains the conceptualization of the land bank. Then, Chapters III and IV answers the research objectives of this study. Lastly, the recommendation of the land bank practices is presented in Chapter V, the conclusion part.

CHAPTER II

LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 Introduction

In this chapter, the discussion begins with the conceptualization of land banks. Then, a review of the land bank operationalization in Indonesia, followed by a debate on the ongoing land bank practices. At the end of this chapter is the description of a successful land bank practice in the United States as an example. Last, the conceptual model of this thesis as guidance for the analysis chapter is introduced.

2.2 Conceptualization of Land Bank

There are various definitions of a land bank. Evans (2004) defines land banks as an activity of selling or leasing, acquiring, and managing the land. In addition, land banks are also defined as activities of holding land for strategic purposes (Damen, 2004). In terms of institutional status, Alexander (2005) and Harrison (2007) state that land banks are non-state organizations such as public or community-owned entities, while Evans (2003) and O'Brien et al. (2005) define land banks as state-owned institutions, similar with a government agency.

Differences in the form of the institution affect the activities, operationalization, and objectives. For example, according to Van Dijk & Kopeva (2006), land banks aim to improve the agricultural structure and reallocate the land for other purposes with a general public interest. This purpose applies specifically to the practice of land banks in the Netherlands¹ that overcome land fragmentation. Other purposes of land banks, such as managing property abandoned by the owner for strategic purposes, apply in the land bank practice in the United States (Alexander, 2011)².

From the various activities, organizational forms, and goals of land banks, there is no single definitive description of the land bank. The term land bank varies on the institution's objectives. The land banking concept can be applied in various ways depending on the context and whether the private or public sector applies it. Several land bank activities only focus on saving

¹ Land banking in the Netherlands refers to distributing parcels with the intention to improve the farm structure (Dijk, 2003).

² Land banking is the process or policy by which local governments acquire surplus properties and convert them to productive use or hold them for long-term strategic public purposes, while land banks are public authorities or special purpose not-for-profit corporations that specialize in land banking activities (Alexander, 2005).

and managing land as an asset, following the real term of "land and bank," while the others land bank have more activities, such as managing and acquiring land for public purposes. Therefore, the definition of land banks will vary depending on the context and purpose of the land bank. However, some similarities of the land bank could be drawn, for example, activities to obtain land or reserve land for public purposes and community welfare, or a process of buying land and property at the current price and then storing and developing it for certain purposes to increase the land value. As Harrison (2007) statement, three fundamental land bank activities are land acquisition, land development, and land management. Thus, land banking is the practice of purchasing land to hold the land for certain purposes, and a land bank is an agency or institution that manages land banking activities.

2.3 The Institutional Form of Land Bank

As briefly mentioned in the definition of the land bank, land banks could be non-state or state-owned agencies. The non-state agency is called Private Land Bank, which is fully administered by the private sector. Examples of private land banks include investment, development companies, industrial estates, and others (Alexander, 2011; Limbong, 2013; O'Brien et al., 2005; Pamungkas & Winarso, 2018). The state agency means that the land bank is also part of a government agency, or it can be called Public Land Bank (Alexander, 2011; Busroh & Santiago, 2017; Limbong, 2013). This state agency involves public institutions and aims to provide public services, and the operationalization is completely under government control. In addition, there is also the Mixed Land Bank, whose implementation is carried out jointly between the government and private sector (Mungkasa, 2016). This type of land bank was formed to overcome limited funds, which the private party could provide as the capital, but the main purpose is still to prioritize public interests.

In short, the land bank is defined as an institution, either state or non-state-owned, with the function of storing, managing, and empowering land for the benefit of the community, which operates within a certain regulatory framework and objectives, while land banking is a process by which a government authority collects land, usually on the fringe of an urban center, to sell it for development at some future date.

2.4 Land bank and Land use Planning

According to Food and Agricultural Organization (FAO, 1993), land-use planning is the systematic assessment of land and water potential, land-use possibilities, and economic and social conditions to select and implement the optimal land-use options. In another reference, land use planning refers to land use management or spatial planning. According to those definitions, it aims to identify and implement land use that will best meet people's needs while

protecting future resources. Thus, the definition represents the land bank as land use planning because the practice of the land bank is also land-use planning or spatial planning. The correlation between the land bank and land use planning is presented in Figure 2.1.

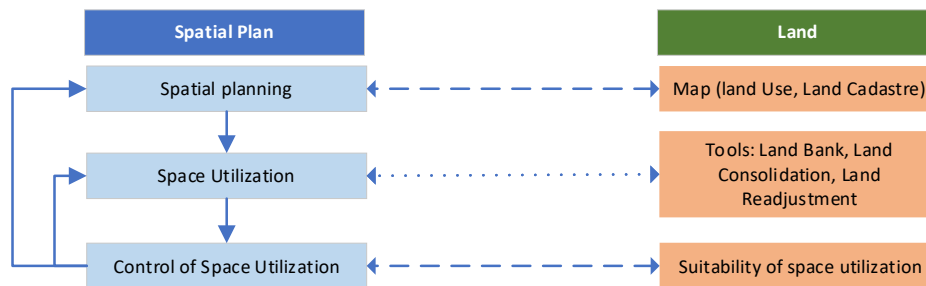


Figure 2.1 Land Bank as Tools on Spatial Planning Practice

(Source: Puspasari & Sutaryono, 2017)

In Figure 2.1, it seems that a land bank is a tool of spatial planning practice. As Limbong said, the land bank is an instrument of land management. According to Puspasari & Sutaryono (2017), the land bank is presented as one of the land use management tools. If practiced properly and correctly, the land bank can control the implementation of spatial planning practices in a country. For example, through the land manager function, the existence of a land bank becomes a tool that ensures land utilization following the allocation of land that has been determined in the spatial planning due to land use carried out by the land bank that will follow the spatial planning rules (Mungkasa, 2016).

Land Bank: Spatial Planning Tool for Social Justice

As an operationalization, the land bank becomes a tool to control land prices. Due to land is a social asset with strong community values, also relating to histories, customs and traditions, cultures, and identities that combine to form an essential bedrock of social capital (Mungkasa, 2018). And at the same time, the land is an important economic commodity, offering the potential for development to benefit communities and neighborhoods and create wealth and income. Yet here, land can become commodified and misused in conventional market processes leading to speculation and inflation if the government cannot manage land properly.

In addition, the land bank also can provide land for infrastructure development according to spatial planning. Through the functions of land purchasers, land valuers, and land keepers, the practice of land monopoly and land speculation by the private sector can be prevented by keeping the land controlled by the government and the utilization following the existing spatial planning. Most importantly, as with the agrarian reform agenda, the practice of land banks could alleviate poverty by allowing the poor an opportunity to get land to build a place to live. This goal is aligned with the government planning that gives the task to the land bank to provide

land for low-income people so that the poor and landless who have difficulty accessing land due to financial incompetence will be helped by the presence of land banks. All the things that have been mentioned above are undeniably concrete examples of the positive effects of the land bank practice as part of land use planning in Indonesia.

2.5 Introducing the case: Indonesia's Land Bank Agency

In Indonesia, land banks are defined in Government Regulation 64 of 2021 about Land Bank Agencies and the Job Creation Law³. The Land Bank Agency, by definition, is a special institution *sui generis*⁴, a legal entity formed by the central government that is given the authority to manage land. According to BPN (2021), the agency ensures the availability of land in the context of public interest, equitable economy, social interests, development interests, economic equality, land consolidation, and agrarian reform.

To carry out this authority, the land bank agency has a role in planning, acquiring, obtaining, managing, utilizing, and distributing land area. It follows Harrison's (2007) statement that land banking in developing countries is mostly associated with accessing land for a public purpose, managing land markets, and directing land speculation. Furthermore, Limbong (2013) and Sumardjono (2021) also explain six functions and activities of land banks in Indonesia, that are:

- (1) Land Keeper: to invent, develop, and record the land databases, administration, and provision of land information systems,
- (2) Land Warrantee: to ensure the provision of land for infrastructure development, ensuring land value and the equitable land market, and securing an optimal land purpose,
- (3) Land Purchaser: to tenure land, determine the land price related to the perception of the land value,
- (4) Land Valuer: to conduct an objective land appraisal in creating a value system to determine the land value that applies to various purposes,

³ Job Creation Law number 11 of 2020, popularly known as the Omnibus Law, regulates regulatory changes in various sectors with the aim of improving the investment and realizing legal certainty. The main objectives of the Job Creation Law are to encourage investment, accelerate economic transformation, harmonize central-regional policies, provide ease of doing business, overcome overlapping regulatory problems, and to eliminate ego-sectoral. (Source: <https://www3.bkpm.go.id> retrieved on 2 March 2022).

⁴ *sui generis* the land bank: an Indonesian legal entity formed by the central government and given the authority to manage land. (Source: pid.atrbpn.go.id. Retrieved on 22 March 2022)

- (5) Land Distributor: to guarantee reasonable and fair distribution of the land-based on its value, securing the spatial planning, and provision and distribution of land,
- (6) Land Manager: to manage the land as part of management, conducting analysis, determining strategies and management related to land.

In summary, the authority of land banks in Indonesia is presented in Table 2.1 as follows:

Table 2.1 Duties, Functions, and Objectives of Indonesia's Land Bank Agency

Land Bank Functions	Objectives
<ul style="list-style-type: none"> • Land manager*: planning, management, utilization • Land keeper*: planning • Land purchaser*: acquisition, procurement • Land distributor*: distribution • land valuer*: planning • land warrantee: planning, utilization *) Managed by the Ministry of ATR/BPN	Ensuring the land availability in the framework of an equitable economy for the public, social and development interests, economic equality, land consolidation, and agrarian reform

(Source: BPN, 2021; Limbong, 2013; Sumardjono, 2021)

In summary, the authority of land banks in Indonesia is presented in Table 2.1 as follows:

Table 2.1 shows the complexity of the duties and functions of the land bank agency in Indonesia. Land banks are expected to be able to provide land for the community, as well as organize, regulate, and control while overcoming the existing land problem. Also, the land bank agency's presence looks promising for Indonesia's agrarian reform agenda: land justice and equality for the community. As Harrison (2007) said, the government prefers a land banking program over other mechanisms to address the state goals because successful land banking can ensure allocative efficiency and distributive equity.

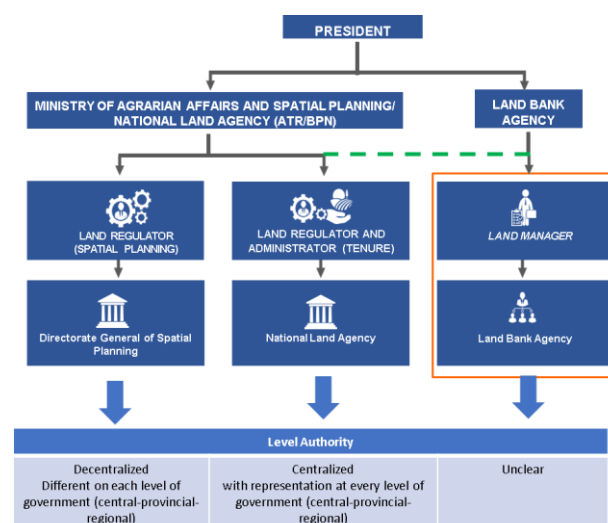


Figure 2.2 The Position of The Land Bank Agency in Existing Indonesia's Land Governance

(Source: Simbolon, 2021)

According to Simbolon (2021), the land bank in Indonesia functions as a *land manager*, completing the function of *land administrator*, which is currently under the authority of the Ministry of ATR/BPN. In terms of institutional structure at the central level, the land bank agency's position is shown in Figure 2.2.

The Indonesian government established the land bank agency under government regulation 64 of 2021. Therefore, the institutional form of a land bank in Indonesia is a public land bank with duties and functions according to Table 2.1. However, the structure of the land bank agency needs to be elaborated. The government regulation on land banks does not clearly state the division of its authority with other government agencies. So as said by Sartika (2022), there are indications of overlapping authority related to implementing land policies with the Ministry of ATR /BPN. The presence of the land bank institution will only create a dualism of land management actors.

2.6 The Indonesia's dilemma on the Establishment of the Land Bank Agency

2.6.1 Overlapping Authority

Although there is clarity in terms of functions and objectives under Government Regulation Number 64 of 2021 concerning land bank agencies, as well as the position of land bank institutional levels at the central level, as shown in Figure Figure 2.2, the urgency of the Indonesian government's to establish a land bank agency is widely questionable by some land practitioners. For example, according to Kartodihardjo (as cited in Adetunji, 2022), there is an indication that the land bank's function overlaps with the Ministry of ATR/BPN. Table 2.1 shows that the Ministry of ATR/BPN still carries out some land bank functions.

In addition, the land bank agency's authority also overlaps with the main objective of the Ministry of ATR/BPN to implement the national land agenda. There is an agrarian reform⁵ program in the form of structuring, consolidating, and distributing land to the community for social justice and welfare. This agenda is currently under the authority of the Ministry of ATR/BPN since the Agrarian law in 1960. Thus, according to Zakaria (2019), the overlapping authorities between two institutions lead to ineffective spatial planning implementations.

⁵ Agrarian Reform, or can be called Agrarian reform is a form of agrarian reform involving the changing of laws, regulations, or customs regarding land ownership. In Indonesia, the purpose of Landreform based on the Basic Agrarian Law is to realize fair and equitable control and ownership of land in order to improve the welfare of the people, especially farmers.

2.6.2 Social Injustice: Inequality of Land

In addition to indications of overlapping authority and dualism of land management actors, the operationalization of the land bank also raises many questions. For example, there are unclear sources and processes of land acquisition, an unclear status of land after the acquisition, and unclear land use after the land is managed by the land bank agency (Adetunji, 2022; Sartika, 2022). The land bank regulations also mention that the community does not own land. Therefore, if a land bank takes over state land, the acquiring process has the same potential to seize community land because the definition of state land according to the Basic Agrarian Law is land owned by the community that has not been/cannot be proven ownership. In addition, if a land bank has acquired state land, then the land status belongs to the land bank and is inclined to be directed to investors for investment activities and commercial rather than being distributed to the community for social and welfare purposes. Even if the land bank distributes state land to the community, the problem is that the status of the land is not changed to the people's property, only rights for management. Again, this principle is contrary to the agrarian reform agenda because the source of land, in the form of state-owned land, should be distributed and handed over fully to the community.

The presence of the land bank is also contrary to the agrarian reform agenda in terms of the policy approach. Sartika (2022) mentions that the agrarian reform program's background is land tenure inequality and various land problems. So, the Indonesian government launch an agrarian reform program in the form of arranging land for distribution to small communities. Land for social justice, as mandated by agrarian reform, is essential for society due to broadening access to land equitably (Sumardjono, 2018). Equitable land access enables the poor to benefit from occupying and utilizing the land. Land for social justice is needed due to unequal land ownership patterns persist in both urban and rural areas. Most poor urban dwellers live in informal settlements with limited access to economic opportunities and essential services. Addressing the spatial inequalities in the cities is a key part of efforts to broaden access to land as required by the constitution.

Meanwhile, the land bank's policy approach is land optimization to boost investment and economic growth. As part of the job creation law, the focus of the land bank is to provide land for infrastructure development, which aims for the public interest. Moreover, the land bank agency's fundamental approach still uses an economy-based approach. Thus, opposing approaches between social justice and economic growth. The presence of a land bank, according to Sumardjono (2018), will only hinder the agrarian reform agenda and even

aggravates the risk of agrarian conflicts and the implementation of spatial planning practice in Indonesia.

In terms of land for social justice, what is important to consider is that government needs to revolute by making programs that lead to equity of the land for society. When the mistake of the government has happened in the past is inevitable due to mismanagement of the land, land for social justice is the best concept introduced by agrarian reform currently. Given this reality, it may be appropriate for the government to pursue social justice through land reform policy.

However, as this land bank case illustrates, even when the government has the best intentions to manage the land, using the land bank policy to pursue social justice is a strategy fraught with difficulties. The inevitable problems of bureaucratic impediments, turf wars between government departments, limited budgets, and limited capacity conspire to reduce the effectiveness of a planned approach to achieving social justice (Boudreaux, 2010). Additionally, the land bank agency, which has a paradigm for economic growth not in an ideal way as a land manager when referring to the social justice principle.

2.6.3 Agrarian reform versus Land Bank: an ongoing Debate

As summarized in Table 2.2, the new Land Bank Agency has a huge authority, from providing land for the public, social, and economic interests to implementing Indonesia's land agenda of agrarian reform. In fact, according to Sumardjono (2021), the beginning of the land bank establishment uses an economic approach by overriding the norms of social justice and equality. Furthermore, he states that the new approach to land management with economic principles does not have the power of philosophy and urgency because of the importance of implementing the agrarian reform agenda fully and sustainably. However, this duty is the responsibility of the Ministry of ATR/BPN. So, according to Sumardjono, it is peculiar that the paradigm of a land bank based on economic growth is contrary to the agrarian reform agenda mandated by the Agrarian Law. Agrarian reform can represent a social movement that focuses on equity and social justice for the community. The slogan of agrarian reform in the form of "land for the people" have high hopes for justice and equality for land tenure in Indonesia (Wiradi, 2005). Land as a resource is distributed fairly to the community to create a favorable economic balance for all Indonesian people. The state regulates, owns, and distributes land through agrarian reform for social justice and community welfare.

Nevertheless, the new land bank policy should not be a full-fledged capitalism movement that only cares about individual interests. Even the establishment of the land bank is based on the job creation law, which has a policy focus on investment in the context of economic growth.

Indeed, the existence of the land bank institution that functions as a land manager is still under the control of the government, which means that the government still has the authority to use the land under the national land agenda.

Table 2.2 Summary of debate on the land bank agency

	Existing Land Policy	New Land Bank Policy	Problems
Purpose	Agrarian reform Agenda. The land is distributed and fully utilized by the community	Land Bank: Economic Functions, business orientation, investment, commercial, and economic growth	Different principles of establishment, philosophy, and paradigm (Sumardjono, 2021)
Land source	State land and abandoned land	Unclear	Unclear objects
Land status	Freehold title	Rights for management	Contrary to the agrarian reform agenda
Implementation	Social justice (priority for poor and land less)	Economic (without priority for poor and landless)	Indications of land liberalization, land speculation, and land monopoly
Institutional Authority	Land Administrator	Land Manager	Indications of overlapping authority
Institutional Problems	conflicts of interest and overlapping authorities	Unclear funding, level operationalization, and human resources	High risk of corrupt practices, agrarian collusive, and realtors to the land mafia

(Source: Analysis, 2022)

Doubts on the urgency of establishing a land bank agency in Indonesia, the first purpose of this thesis is to identify and find out the background of Indonesia's reasons for establishing a land bank. From the reasons for the land bank establishment, this thesis identifies the correlation between the background, function, and authority of the land bank. Furthermore, this thesis also identifies the factors that hinder the achievement of the land bank agency objectives. Later the output of the analysis in the first objective is proof that land banks are needed in Indonesia. However, the government needed to revise the land bank policy and practice so that they do not overlap with the Ministry of ATR/BPN authority and align with the national land development agenda.

To respond to the debate, based on the discussion about the land bank concept in Indonesia, it is appropriate that the land bank's policy needs to be improved to align with the existing agenda in the form of Agrarian Reform for social justice and welfare. The land bank has good goals as a land manager in Indonesia, but the presence of the existing institution, the Ministry of ATR/BPN, still carrying out its duties and functions as a land administrator should also be considered as one of the actors in the land sector.

Thus, through this thesis's final output, this thesis provides recommendations regarding what land bank policy items need to be improved to align with and follow the ideals of the national land agenda. There are at least two main stages that need to be carried out. First, identification

of the problem by drawing a common thread from the reasons and aims Indonesia established a land bank and identification of the weaknesses and advantages of the current land bank practices.

2.7 International Practice: Land Bank in the United States

In line with the study, it is necessary to better examine the successful land bank practices in other countries to understand the operationalization land bank in Indonesia. Although it is difficult to present a comprehensive analysis of international best practices in land banking, the practice of the land bank in the U.S. provides concrete evidence of a successful implementation of land banks.

The term 'Land Bank' is used in the U.S. to describe a governmental entity that focuses on converting vacant, abandoned and tax-delinquent properties into productive use (Alexander, 2011). Furthermore, the utility of land banks is community can ensure that tax foreclosed property is sold or developed with the long-term interest of the community and surrounding property owners in mind (Alexander, 2005). The explanation clearly shows that the land bank is a state-owned legal entity tasked with acquiring vacant land and abandoned and tax-delinquent properties.

Moreover, in terms of activities, land banks have also been utilized as proactive land reserves institution in selected communities. Practical experience from the U.S. shows that land banks can be very successful, although their history is rather recent. Most of land banks have their key objective to promote neighborhood revitalization by utilizing abandoned and derelict buildings. Research by Alexander (2011) mentions that the development of the land bank in the U.S. is divided into three generations.

The first generation of the land bank was believed to be created in St. Louis in 1971, operated by local governments to manage properties that have little to no value to private parties and to put these properties back into productive use (O'Brien, 2005). Following that are the establishment of land banks in Cleveland, Louisville, and Atlanta. At this stage, the land bank practices had been said to be successful but rudimentary. Each of these land banks did facilitated the conversion of some of the inventory of vacant, abandoned, and tax-delinquent properties back into productive use. For example, throughout the 1980s and 1990s, the St. Louis land bank had managed and transferred up to 500 parcels of property each year (Alexander, 2011). Here, the function of the land bank for land acquisition, development, and management were already good.

Despite the successful practice, Harrison, Alexander, and O'Brien take some lessons from this first-generation land bank practice. First, reflecting on the acquisition process, the land bank in this generation lacks the capacity for efficient and effective acquisition due to no land banks having any dedicated or internally generated source of funding for operations. Land banks had to rely upon local governments' direct or indirect general operating support. Second, the absence of regulations governing the use of land once acquired, whether privately owned by investors or held by the land bank, the land bank cannot make full use of the land on its own. Third, a land bank's exercise of powers and authority are not adequately grounded in intergovernmental collaboration, whether mandatory or permissive. At this stage, the land banking operates simply as a city's side program (as in the case of Cleveland), or as an embedded program of another public authority (as in the case of St. Louis), with the consequence of being vulnerable to other political and institutional priorities. So, the activities of land banks were not a national or a regional priority agenda as the new land bank in Indonesia. However, despite all these things, the first generation who were pioneers of the land bank practice provides valuable lessons for the later generations.

The second generation of land bank practice is improved than the first generation (Alexander, 2011) by dealing with the unique challenge of their community. The land banks that have arisen on the back of new legislative efforts and changing socio-demographic factors are best understood as belonging to the second generation of land banks. The first land bank in the second generation was established in Michigan. With responsibility for the tax-foreclosed inventory, its powers and authority were little more than those in the first generation of land banks, yet it quickly became the largest single landowner in the entire county. As of 2011, 35 cities had in this generation had formed land banks—each created to deal with the unique challenges of their particular community. For example, in northern Michigan, the land bank supports affordable workforce housing in the high land cost resort community. Or in Saginaw, the land bank acquires tax-foreclosed houses for demolition, cleaning up, and excusing housing supply. In smaller rural regions, land banks manage and repurpose abandoned properties on a smaller scale. Here, Michigan's land bank practices are flexible, allowing communities of all types to use this tool consistent with their own needs and capacity.

Reflecting on this generation, it is clear that the land bank practice in the U.S. is learning from the previous generation while adapting to the uniqueness of the existing region. Land banks in small cities do not necessarily need to perform all the functions. Instead, they only need to adapt to the uniqueness of their respective problems.

In addition, the third generation of land banks practice is more focused on improving regulation form than practical substance. The local government is simply concentrating on building on the

knowledge and experiences of the first two generations in this generation, attempting to offer the prospects of the development of the land bank most straightforwardly and clearly possible. Moreover, in this generation, the government is trying to make the practice of the land bank not only focus on single area but also collaborate with the land bank in another area to manage land and to add value to the region. For example, Pennsylvania and New York introduced parallel land banks, enabling reform legislation so that the practice of the land bank becomes more effective and efficient. In this generation, the lesson that can be learned is that the land bank will always need improvement, including the need for integration and collaboration with other regions. Although there are not many lessons to be learned from this generation, the land bank practice still indicates that in the past 40 years in the U.S., the government has always tried to address the better land bank practice.

Does Land the Land Bank in the United States incorporate social justice?

According to Alexander (2011), most land banking systems in the U.S. focuses on facilities urban revitalization. It is much narrower in scope to secure the land market rather than focus on equality or prosperity of people. Thus, it can be said that the land bank practice in the U.S. is less concerned with social justice like redistributing land for poor people because the land market mechanism in the U.S. provides many opportunities for private developers to invest, and their goal is getting profit from the revitalization of the land they have obtained. Indeed, the local government is an intermediary actor by controlling the land regulation. However, the community's welfare is not a primary objective.

Even though land bank practice in the U.S. is not lean on social justice and equity-like what Indonesia does, several lessons could be drawn for developing land bank practices in Indonesia. Synthesizing the land bank practices in the U.S., as stated by Harrison (2007) and O'Brien et al. (2005), the following eight features are the most important contributing factors to the land bank's successful practice. The features below play a big role in guiding the land bank practice for Indonesia cases. Those are presented below:

1. The objectives of land banks should be narrow, focused, and specific.

Clear and specific objectives will eliminate conflicting land use goals and clarify the function of the land bank across multiple departments (planning, housing, zoning) both within a city and with partnering organizations (e.g., as other statutorily defined responsible parties). Alexander (2005) states that too many goals, functions, and expectations will decrease a land bank's ability to fulfill any of its responsibilities effectively. For Indonesia, this case is most important. The concept of the land bank, which tends to be inconsistent, overlapping authority, and unconstitutional, gives the

impression that the land bank in Indonesia is a haphazard and superpower because it exceeds the capabilities of the existing authority.

2. Coordination is crucial.

Coordination is needed in many places and sessions. The success of a land bank relies on coordination amongst the various actors. If there are inefficiencies within local, regional, or state authorities, the success of the land bank will be severely undermined.

3. To acquire land, a precise land acquisition process is required.

Any procedure related to land expropriation should be clear to avoid prolonged conflicts. Although Indonesia already has this rule, in the case of land needs for infrastructure development, it still has weaknesses in the form of uncertainty in completing the acquisition process. Thus, problems with the acquisition process will delay infrastructure development.

4. An independently established entity is required to manage the distribution of land.

Independent legal entities separate from state authority have more control and flexibility in pursuing a narrow focus of the land bank objectives. This condition allows them to move through legal and real issues as a non-profit entity in collaboration with public agencies but still independent of ordinances or other local anomalies that may slow down land acquisition and distribution. They are free to qualify for public and foundation funding while maintaining close ties to local public officials they cooperate. However, in the case of Indonesia, it seems that this lesson is difficult to implement. Standing alone outside the state's control will provide overpower for the land bank while carrying out government duties for social justice.

5. An integrated management information system is essential.

It is a critical component of the land bank operations to streamline title, acquisition, and disposition issues. Clear title is a key barrier to acquiring and moving the property to productive use. A database or informative management integrated with geographic information system (GIS) software can help quickly identify key properties, ownership, and other pertinent information. Indeed, the updated information technology in the Ministry of ATR BPN could ease the land administration.

- Municipalities or states should include the goals of land banking in their strategic planning.

Developing a citywide approach to land bank planning integrated with a long-term strategic vision is a key practice. Close collaboration has proven beneficial in communities. Critical points for land bank practice in Indonesia also apply here. As a new institution, the land bank has not been integrated with spatial planning at the central and regional levels. The implementation of the land bank that has not aligned with the implementation of the Ministry of ATR/BPN as the old authority that carries out the land administration and spatial planning is the main attention for improvising future programs and activities.

- Expropriation procedures should be efficient.

Land expropriation is still an obstacle in Indonesia due to the length of time for land status changes (for example, from property rights to management rights). Again, it needs good coordination between the authority that conducts land administration (the Ministry of ATR/BPN) and the land bank as the new authority.

- Funding is required to be efficient and progressive

Financing options should be flexible and assembled from a variety of unique sources. Reliance on one funding source is unrealistic, and pursuing funding from both public and private sources, such as foundations, is an ongoing process. Funding is also important attention for Indonesia's land bank practices. In the analysis chapter, it will be investigated further because the central government still capitalizes the land bank practice at the institutions level.

Table 2.3 Summary Conceptualization of Land Bank Practice: the U.S. and Indonesia

<i>Aspect</i>	<i>Summary</i>
<i>Background</i>	One of the backgrounds for Indonesia's establishing land Bank is providing ease of investment and implementing agrarian reform for social justice. Indonesia did not face the problem related to abandoned properties like the United States. The similarity between Indonesia and the U.S. is that there are still abandoned lands that their owners do not immediately utilize.
<i>Institutional Form</i>	The institutional form land bank agency in Indonesia is a special state-owned institution. Currently, the agency is only at the central level and no clarity of the structure at the provincial or regional level. In contrast, the land bank practice in the U.S. is at the local government level as non-profit organizations. The U.S. land bank has clear aims to address problematic properties.
<i>Authority</i>	The land bank agency in Indonesia has the authority to acquire, develop, and distribute land. Meanwhile, in the U.S., the authority differs depending on the regional case.

Operationalization

Indonesia and the U.S. have similarities. The organizational operations include land acquisition, land/stored property management, and land development.

Source: (Alexander, 2011; O'Brien et al., 2005; Pamungkas & Winarso, 2018)

From Table 2.3, the international land banking experience suggests that land banking is viable when regions need to secure access to their land for development purposes. Land banking is one option for securing land for development in strategically located areas. The lesson from the U.S. land banking practices could become key improvements for implementing the land bank practices in Indonesia.

In the case of the land bank in Indonesia, we need to learn from the U.S. experience of the land bank. The broad objective, overpowering, overlapping authority, and unconstitutional objectives of agrarian reform are the main factors that indeed hamper the land bank practice. Learning from the case in the U.S., the success of the land bank practices did not run instantly. They have been practicing the land bank for centuries, with three generations perfecting each other. Thus, for Indonesia, it is important to pay attention to every input and shortcoming of the current land bank practice to achieve its success as the U.S. has done.

2.8 Conceptual Model

Based on the conceptualization of the land bank that was explained in the earlier section and the successful practice of land banking in the U.S., the conceptual model of this thesis, as shown in Figure 2.3:

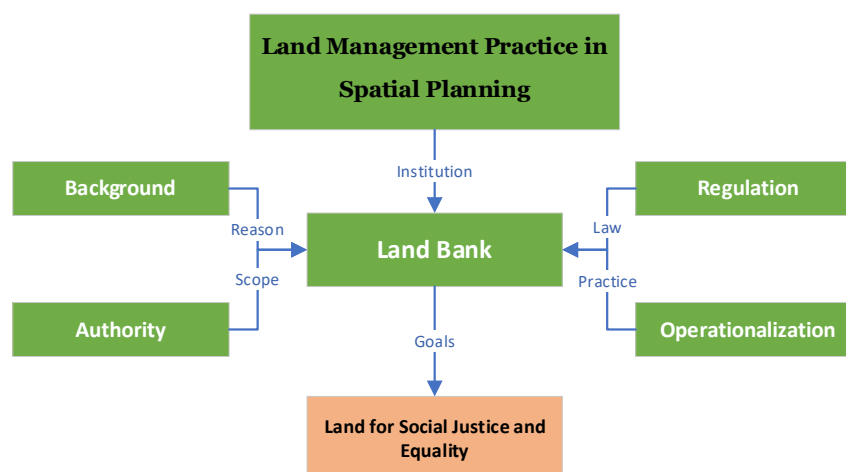


Figure 2.3 Theoretical Framework

Land banking, as a tool in land management in spatial planning, is undergone by institutions under the name land bank. There are at least four components inherent in land bank institutions: institutional background (the reason for the establishment), institutional authority,

regulations and laws, and practical operationalization. The four components are interrelated to achieve the land bank's goals, for example, land for social justice.

In conclusion, this thesis believes that Indonesia's new land bank institution still has broad objectives, overlapping the authority with the current ministry and deviating the agrarian reform as the national land agenda. Thus, the analysis in the next chapter presents various findings to improve the land bank practice further.

CHAPTER III

BACKGROUND OF ESTABLISHMENT OF INDONESIA LAND BANK

3.1 Introduction

This chapter reflects on empirical findings from a literature review (journals, mass media, government reports, and regulations). In general, this chapter consists of three principal sections. The first is the explanation of data findings derived from simplifying and synthesizing the literature process. The results indicate that several variables cause Indonesia to form a land bank. Following that is a critique of Indonesia's conceptualization of land banks.

Thenceforth, the second section compares empirical findings and conceptualizations of the land bank presented in the literature review chapter. The outcomes of such comparisons are analyzed and used as a guide for answering the main research questions.

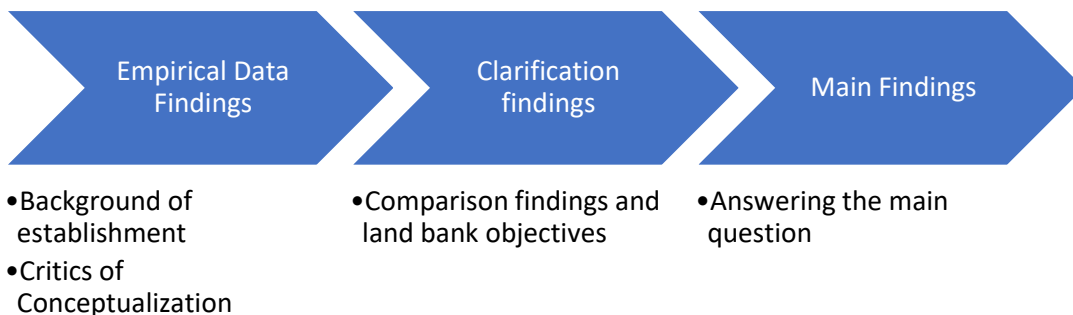


Figure 3.1 Step Analysis

After comparing and clarifying the findings, the final section of this chapter answers the main question and draws recommendations for improving the land bank practice in Indonesia.

3.2 Findings: Backgrounds of the establishment of Indonesia's Land Bank Agency

Literature is gained from various sources to obtain the background of establishing the land bank. For instance, seminars and scientific presentations, a set of research journals, government reports, laws and regulations, and news which contains information on the development of land banks. More details of the source of the research data can be seen in appendix 3.

According to the findings of this study, Indonesia has two main factors as the cause of land bank agency establishment. The first is the law and regulation factors, and the second is the land and spatial planning factors. The details elements can be seen in Table 3.1.

Table 3.1 Cause Factors of the Establishment of the Land Bank Agency

Main Factors	Sub-factors	Variable Establishment
Regulation Factors	Regulation Objectives	Agrarian reform agenda (<i>Agenda reforma agraria</i>)
		Constitution (<i>Amanat Undang-Undang Dasar 1945</i>)
		Omnibus law (<i>Undang-undang cipta kerja</i>)
Land and Spatial Planning Factors	Infrastructure Development Issues	Land shortage for infrastructure development (Kekurangan tanah untuk pembangunan infrastruktur)
		High land price (<i>Tingginya harga tanah</i>)
		Difficulties land acquisitions (<i>Kesulitan akuisisi lahan</i>)
		Uncontrolled land price (<i>Harga tanah tidak terkendali</i>)
		High housing price (<i>Tingginya harga perumahan</i>)
		Lack of housing for landless (<i>Terbatasnya rumah murah</i>)
		Project delay (<i>Keterlambatan proyek</i>)
	Land Tenure Issues	Weak land administration (<i>Lemahnya administrasi pertanahan</i>)
		Land disputes and conflicts (<i>Konflik dan sengketa tanah</i>)
		Land ownership inequality (<i>Ketimpangan kepemilikan tanah</i>)
		Land grabbing (<i>Perampasan tanah</i>)
		Land speculation and capitalization (<i>Spekulasi dan kapitalisasi lahan</i>)
		Abandoned land (<i>Tanah terlantar</i>)
	Land and Spatial Planning Issues	Ecological damage (<i>Kerusakan lingkungan</i>)
		Urban sprawl (<i>Pertumbuhan kota acak</i>)
		Disaster prone (<i>Rawan bencana</i>)
		Faulty spatial planning practice (<i>Salah praktek tata ruang</i>)
		Land conversion (<i>Konversi lahan</i>)
		Slum areas (<i>Area kumuh</i>)
		Poverty issues (<i>Kemiskinan</i>)

(Source: Analysis, 2022)

From two main factors, the discussion in this thesis is divided into four major sub-factors, the first is regulations which represent the regulatory factors. The following are infrastructure development, land tenure issues, and spatial planning issues, which represent the land and spatial planning factors.

First, the regulatory factor is essential to pay attention to as the cause of establishing a land bank agency. Considering that Indonesia is a country of law, all policies, both in general and land policy, must be based on the constitution. Regulatory factors also regulate all institutional and policy activities so that the implementation of policies will be right on target. If the regulation is absent, the program will be unfocused and have a big change on the failure policy implementation.

The second factor causing Indonesia to establish a land bank in Indonesia is the issue of infrastructure development. Numerous scientific references and analysis results reveal that the land for infrastructure development is crucial in Indonesia since Indonesia still has difficulty obtaining the land (Land Acquisition Law, 2012; Triramdhani et al., 2020). Therefore, the existence of a land bank is required to overcome the issue of a shortage of land for infrastructure development in Indonesia.

The third factor is land tenure issues which turned out as factors that caused to establishment of a land bank agency. According to Indrajit et al. (2021), even though Indonesia has the Ministry of ATR/BPN, which manages the land administration, the practices are not satisfying. Many land cases still happen in Indonesia (United States Agency International Development, 2010). Those occurrences are explained more in the following section. The last factor is land and spatial problems. Those are also complex factors caused by many land-use deviations and high land conversion, disrupting national spatial practices.

Need to take into account that the factors of the establishment of the land bank are interrelated. For example, researchers cannot assume that the Indonesian government established a land bank exclusively because of the land shortage for infrastructure development. Undeniably the land shortage is mainly caused by land tenure issues (rejection of people in the acquisition process or the high land prices due to urban sprawl). Those interconnected factors make the land bank discussion more thought-provoking. For more details, this thesis explains the factors causing the establishment of land banks in Indonesia sourced from the literature review analysis in the next section below.

3.2.1 Indonesia's Land Regulations

As a top of the reasons behind the establishment of a land bank, several regulations and rules have become the basis for land management practices in Indonesia. The land bank does not immediately exist without the support of legal regulations. The following section briefly describes a series of laws supporting land bank agency issuance. The laws consist of the highest level, which is still conceptual, to the lowest level, which focuses on practical rules.

The Highest Level: Constitutions and Basic Agrarian Law

At the highest level of Indonesia's land regulation, there are two primary laws, Indonesia's Constitution (*Undang-Undang Dasar Tahun 1945*) and the Basic Agrarian Law (BAL). Indonesia Constitution in article 33, paragraph 3 provides clear regulations regarding land in Indonesia. The article state that "earth, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." Thus, according to this article, it is clear that the government is obliged to maintain and manage land as an

inseparable part of Indonesia's state assets. This article also mandates the state to regulate land ownership and use.

The second law categorized as the highest level is the Basic Agrarian Law (*Undang-undang nomor 5 Tahun 1960 tentang UUPA*). Those laws concerning basic regulations on Agrarian Principles. One article states that "the state has the authority to regulate and organize the land, water, and space as well as regulating legal relations between people and legal actions related to earth, water, and outer space." This clearly mentions that the state has the authority to manage and control the land. Similar to Constitution mandate.

The state has the authority under the Basic Agrarian Law to regulate, manage, and organize a land administration system so that it is used and utilized for the greatest prosperity of the people. The term land for social justice appears here. Land usage not only benefits the government; however, land aims for the welfare of the Indonesian people.

The Medium level: Omnibus Law

The Omnibus law or Jobs Creation Law (*RUU Cipta Kerja*) number 11 of 2020 is categorized as a medium level of the law due to this law mandating the establishment of a land bank agency. However, the issuance of this law is about legal regulation for enhancing investments and creating more jobs in Indonesia. Here, the contradiction of land for social justice and land for investment and economic growth emerge.

Indonesia's Omnibus Law introduces provisions to simplify business licensing procedures and changes to existing labor law. Regards to land policy, the Omnibus Law widens the scope of land procurement for public purposes to include: land procurement for oil and gas industries, special economic zones, industrial areas, tourism areas, food security areas, and technology development areas that are initiated and controlled by the government and state-owned and regional-owned enterprises. The Omnibus Law stated that the establishment of a land bank has a special authority to ensure the availability of land in the context of a just economy for the public good, social good, national development interests, economic equity, land consolidation, and agrarian reform.

The breakthrough in the Omnibus Law on job creation, from the land acquisition cluster, is the establishment of a Land Bank. This is a new thing in Indonesia, which serves as one of the solutions to land problems in Indonesia. President Jokowi conveyed that the existence of the Land Bank was significant in guaranteeing the community to own land and land. (Limbong, 2013, p 29)

According to the Omnibus Law, the land bank is the government-formed body that implements land planning, acquisition, procurement, management, utilization, and distribution. Furthermore, a land bank is expected to be an instrument for maintaining land availability for the benefit of both the government and the private sector. In addition, the land bank could be as function to guarantee free problems of disputes or conflicts.

Lowest Level: Land Bank Agency Law

After the central government enacted the Omnibus Law, at the end of 2021, the central government also issued government regulation number 64 of 2021 concerning land bank agency. This law is categorized as low level due to specifically mentioning the land bank agency's organizational structure. Thus, this regulation officially stated that Indonesia had to establish the land bank Agency.

The land bank agency regulation not only mentions the organizational structure, but it emphasizes the function of a land bank to do the planning, acquisition, procurement, management, utilization, and distribution of land institutions that aim to ensure land availability within the framework of economic and social justice. Additionally, this regulation also discusses the formation of a land banking agency, the authority, responsibility, institutional design, and how the agency handles the land. In general, as stated by Sumardjono (2020), the function of a land banking agency is the land keeper, land warranty, land purchaser, land value, land distributor, and land management.

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As mentioned in the literature review chapter, the land bank has six functions outlined in the regulation. All functions support each other to achieve the objectives of the national land agenda. In the statute, it appears that the establishment of a land bank is indeed linear with the national development agenda. It can be seen from the state constitution's mandate to the land bank law. Moreover, there was already an institution of the Ministry of ATR/BPN, which had the authority to carry out land administration functions in Indonesia. Then because of the Omnibus Law and land bank agency regulations, the government formed a land bank.

Land Bank shifting the paradigm?: From Social Justice to Economic growth

What needs to be noted here is when there is a shift in the concept of land for social justice to land for economic purposes. The two previous regulations, namely the constitution and the Basic Agrarian Law, clearly state that land in Indonesia is used for the people's prosperity. The state is mandated to use, manage and distribute land for social and welfare purposes. The two regulations also recognize that land is an asset, and every community has the right to use for the common good.

In Omnibus Law, the general interest is for business activities such as special economic zones, tourism areas, and priority projects set by the President. (Sumardjono, 2020, p. 3)

Nevertheless, the land is also considered a commodity to increase regional economic growth. The function of land is shifted by employing the economic growth paradigm. Land is both an asset and an item that can be traded. This is a crucial point in establishing a land bank because the land bank's position is being questioned.

Here, it is clear that the Omnibus Law and Land Bank Policy depart from capitalism's economic side, not from justice and equality. Indeed, the existence of land in human life has dual functions, social asset and capital asset. As a social asset, the land is a means of binding social unity among the community for life. While understanding capital assets, the land is a capital factor in development. However, the land bank policy likely prioritizes the land supply of industrial enterprises, large plantations, and the construction of luxury housing known as "real estates," particularly in the center of large cities. Furthermore, the process of changing land policy, which should have been pro-life, turned out to be pro-capitalist and liberalist (Joni, 2016). This is undoubtedly getting further from land function for equitable distribution and social justice, principally for the poor people.

Key Findings: The Contradictory Paradigm of Land Bank Agency

Indonesia's Constitution and Basic Agrarian Law saw land as an asset for the community's welfare (social justice principle)

The Omnibus Law and Land Bank Agency laws are inclined to the economic principle, which prioritizes land as a commodity for investment (economic growth principle)

3.2.2 Infrastructure Development Issues

Infrastructure development issues are the second factor in establishing a land bank agency in Indonesia. Currently, Indonesia has been actively building infrastructure. However, the increasing intensity of infrastructure development is inhibited by less availability of land. Consequently, the government was challenged to acquire land. In addition, the increased number of inhabitants also increases the need for land for settlements and public interest. Thus, infrastructure development issues are one of the reasons for the government to establish a land bank agency.

Limited land supply affects to Increase of the Land Prices

As previously stated, Indonesia is experiencing limited availability of land for infrastructure development. The high land demand for infrastructure development is an imbalance with land availability, resulting in a disproportion between land supply and demand. Consequently, land prices have soared, and the government has difficulty acquiring land for infrastructure development.

According to Utomo (2021), the significant land needs in Indonesia are caused by a national strategic project. However, land availability becomes the main obstacle in infrastructure development. The main reasons are the practice of speculation that causes land scarcity. At the same time, the government has difficulties accessing the land owned by the private or individual sectors. They own the strategic land located in the urban area. Consequently, they became land speculators. Therefore, when governments have projects at their location, the land acquisition process will be complicated, with complex negotiations between the actors.

As long as the demand is constantly increasing, the land price is automatically growing. According to research by Winarso (2000), infrastructure development affects the increase in land prices. However, there are also causes of increasing land prices, for example, due to the practice of speculating the cultivation of landowners. Speculators keep the land and deliberately keep the land to be resold when the price is high. Meanwhile, the demand for land for development continues to increase; thus, the land value has become uncontrollably increased.

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The problem of land acquisition is a problem that regularly arises because of land speculators. When a development project is announced before the land acquisition is conducted, there is a tendency that the price of land at the construction site will rise significantly. (BPN, 2020, p.8)



Figure 3.2 Housing is one of the infrastructures that low-class people need

(Source: www.kompas.com on 22 March 2022)

Land speculators frequently take advantage of infrastructure development projects by controlling land prices before the government's land acquisition process. They simulated land prices at potential infrastructure sites, and land prices increased significantly. Furthermore, speculators obstructed the land acquisition process since the government could not purchase land at a reasonable price. The worst effect is that the development project is hampered or even fails. Suppose this issue is not quickly anticipated and handled by the government as a regulator and land administrator, various spatial planning problems will increase and emerge soon.

In addition to speculation, the increase in land prices was also triggered by population growth. According to Vitriana (2017), high population density causes spatial changes in the periphery of cities. This condition indicates that the peri-urban area, previously a rural area dominated by agricultural activities, has gradually turned into a residential area with urban characteristics dominated by trade and service activities. Due to the development of urban regions not offset by the availability of land for settlements, the land becomes a valuable object, and its value becomes increasingly expensive. The phenomenon of high land prices followed von Thunen's theory, which explained that the distance of a land location to the center of growth would have consequences on its land price. Suppose the location of the land is adjacent to an urban area with a high population. In that case, the land's value becomes expensive compared to a location far from the business center.

Even though the increase in land prices is a natural phenomenon since the land is a good commodity with an economic value, this is necessary to consider when land prices are increasing unreasonable and uncontrollable. The primary effect is on the lowest social class level, and the poor cannot afford to access and own land. The inability of the poor to access the land causes the inequality phenomenon.

What should government do with land bank?

Here, the phenomenon of land for social justice again plays a role in overcoming poverty. The state should be present in this position to address the phenomenon of injustice as well as the scarcity of land for infrastructure development. The state should control land prices and keep land prices from moving like a free market. Socialist policies with justice and equality need to be used. The government must know that land is an asset and that the poor have the right to own land. They can store or utilize the land so that it has added value since the role of land is so important, specifically for the lives of the poor.

Therefore, the presence of a land bank for infrastructure development is unavoidable, making the national development program a success. According to Pamungkas and Winarso (2018), one of the benefits of the land bank is to support the implementation of land acquisition for the public interest. Suppose the land acquisition process by the land bank for the public interest can run faster and more effectively. The land acquisition process could be more immediate since one of the Land Bank's functions is the land warrantee. The government can use it to support development. Tanawijaya (1995) stated the smooth provision of land for infrastructure development would support the success of the national development agenda.

In addition, the land valuer role also positively affects infrastructure development. As a land valuer, the land bank can control land prices; thus, land prices are stable. Land valuers will play a significant role for various parties. For example, the land bank can quickly provide land to be built immediately for people who want to need land for private homes. Alternatively, Government-Owned Enterprises, which should build settlements for the poor (explained in the next chapter), can ask for assistance from the land bank agency to prepare land for settlements so that the function of Perumnas is not confused with the acquisition process. Due to the complicated acquisition and purchase of land, Perumnas can focus only on providing housing for the poor.

Although infrastructure development is one of the reasons for establishing a land bank, the land acquisition process still involves multiple parties. The land acquisition involves agencies that need land; thus, a coordination function is necessary between stakeholders. With the presence of a land bank, this may be possible to shorten the land acquisition process. The

brevity and conciseness of the land acquisition process affect the timely completion of infrastructure, and ultimately, the existence of a land bank will also support the national development agenda.

Talking about land acquisition for the public interest, in actuality, currently, ATR/BPN also has the authority. Hence if the land bank agency operates, this is possible that in the future, there will be two institutions that take care of land acquisition for the provision of infrastructure. This is necessary to clarify the division of authority between the land bank Agency and the Ministry of ATR/BPN since it is feared that land acquisition authority will overlap. For example, in the U.S., the land bank has the authority to acquire property the owner has abandoned. Simultaneously, the local government has the power to assist in developing land from an administrative standpoint. This mechanism can be applied in Indonesia. Simultaneously, the local government has the authority to assist in acquiring land from an administrative standpoint. This mechanism can be applied in Indonesia. For example, the Land Bank has the authority to acquire land, and ATR/BPN assists the land bank in obtaining it from a legal perspective. The collaboration between land institutions will strengthen land use management practices in Indonesia.

Key Findings: Potential solving land for infrastructure development issues and strengthening of current Institution

Land banks can facilitate national infrastructure development through land valuers, land keepers, and land managers.

The presence of a land bank creates the potential for institutional dualism because land acquisition is under the current institution Ministry of ATR/BPN.

The government needs to create a clear division of authority for land bank agencies; hence there is no dualism of authority.

3.2.3 Land Tenure Issues

Land tenure issues are one cause of establishing a Land Bank Agency in Indonesia. There are various causes behind land tenure issues. In the first place is the weak land administration system. From the weak land administration system, the most noticeable effect is a large number of unregistered land parcels (Arnowo, 2021) which causes land conflicts and disputes as well as land ownership inequality.

Weak land administration, land conflicts, and land disputes

Weak land administration in Indonesia is the beginning cause of various land problems. The poor land administration system also affects the injustice of land ownership because there are land grabs in various places in Indonesia. Weak land administration causes poor people to be unable to register their land as assets. Subsequently, large corporations owned by the wealthy community came up with acquiring the land because the land status was not registered in the state. The poor became helpless due to they could not put up a fight with big corporations. From that phenomenon, the so-called land grabbing occurs.

The land is used as an object of investment and speculation, resulting in the land not being able to be enjoyed by the people. The land seems to be controlled only by profit-oriented parties, and the state seems no longer able to protect natural wealth in the form of land for its people. (BPN, 2020, p.7)

According to Sartika (2022), land grabbing in Indonesia occurs by large corporations utilize business and investment to do the speculation and land grabs. Generally, the government will fully support large corporations investing in abandoned land. For example, what has occurred in Indonesia is an investment in the plantations, mining, or manufacturing industries. In that case, as long as the company has requirements to access the land and is not in dispute, land can be given to the company quickly. Indeed, the government cannot hold the company from acquiring the land. That phenomenon represents land capitalization and liberalization because the land is only used by large corporations with the intention of economic growth, setting aside justice and equality, which have been mentioned under the objectives of agrarian reform in Basic Agrarian Law.

The weak land administration is shown by Indonesia's few mapped land parcels. According to BPN (2020), the number of registered and mapped land parcels is below 50% of the total of Indonesia's land area. This figure is quite astonishing considering that Basic Agrarian Law has been established for a long time, since 1960. Nevertheless, many lands are not well registered and preserved by the state.

People do not control many government lands, are displaced, and are not adequately inventoried by the state because of the poor land administration system. Many public and social facilities' lands have unclear status, as well as many government land assets that are also illegally occupied by the community. (Suyudi, 2018, p.30)

According to Suyudi, the function of land administration in Indonesia is not optimal. Many lands have not been inventoried despite their high value to the country. The community will utilize the land if the administration of ownership is apparent. Similarly, if the land's status is clear, the state can use it for social purposes. If the state does not know who owns the land and where it owns it, it will impact almost all land use processes. Hence, the completeness of the land administration system is an absolute requirement for an activity to be optimal in its land management practices. Conflicts and land disputes will inevitably occur if land administration conditions remain ineffective.

As previously stated, land conflicts and disputes are affected by poor land administration, and this is also a problem that Indonesia has not resolved (KPA, 2015). The complexity of the conflict is so high that involving various stakeholders.

Disputes and conflicts agrarian or land when this is very complex, both which are horizontal and vertical. Agrarian conflict is a central issue and is the tip of the iceberg of various types of primary and historical land problems in Indonesia (Marbun, 2021, p.2)

As Marbun said, Indonesia's complexity of conflicts and land disputes is high and looks like an iceberg. This phenomenon is true considering that throughout 2014 there were at least agrarian conflicts involving 105.887 households with a conflict area of 2.8 million hectares (Sanjaya and Djaja, 2021). Over time, the number of conflict cases is increasing yearly. According to Kartodihardjo (2021) and Marbun (2021) and based on data from the Directorate General of Handling Agrarian Issues Ministry of ATR/BPN, at the end of 2019, the number of land disputes reached 198.000 households. The drastic increases indicate that land administration in Indonesia needs improvement. Also, land tenure issues have become one of the main issues in solving land problems.

Ownership Inequality

In addition, according to Sutaryono and Utomo (2021), inequality in land ownership, which is part of the land tenure issue, is also a reasonably strong reason for the establishment of the land bank. According to Widodo (2017), 68% of land in Indonesia is currently controlled by one percent of business people groups and large-scale corporate bodies, and the rest is contested by 99 % of society. Winarso (2000) also said that the land in Indonesia was controlled only by

a group of people. Consequently, those who control the large land can play the land price (speculator objects); therefore, the land price becomes uncontrollable and causes an increase in land prices.

There are severe land tenure and ownership problems, which are still quite unequal in land tenure between the weak and robust economic classes. The land is used as a commodity traded by land speculators, so there is an uncontrollable increase in land prices. (Suyudi, 2018, p.26)

By speculators, the land is used as a commodity object so that the solid economic class partially controls the assets of the weak economic class. In the end, most of the population (farmers, indigenous peoples, fishers, small communities in rural areas, small communities in urban areas) control only a tiny part of the land. Even the poor are unable to access the land. All of these conditions show that there are symptoms of severe land ownership inequality between large-scale land tenure units and small-scale land tenure units.

Efforts to break the injustice of land

To balance the inequality of land ownership and reflect the sense of justice in society, the Basic Agrarian Law mandates the government to carry out agrarian reform. The agrarian reform program should reduce agrarian conflicts because the land will be distributed to the community fairly. Until now, agrarian reform has been a foundation for achieving the goals of the land management system in Indonesia.

Reflecting on the various variables that caused the establishment of the land bank previously described, it can be seen that land banks have a fundamental role in solving these various problems. The government established a land bank to solve the various land tenure issues. However, as mentioned before, several issues are also the responsibility of the Ministry of ATR/BPN.

The Ministry of ATR/BPN is still the only official state institution with authority in the land sector. It should be questionable when ATR/BPN cannot adequately resolve the various land tenure issues. However, the complexity of spatial planning governance in Indonesia and the poor land administration system can be the main reason for the non-completion of various land problems in Indonesia. When adhering to the principle of positivism, through the six functions of the land bank, the presence of a land bank will enrich and help ATR/BPN solve these various land tenure issues.

However, while looking at the complexity of spatial planning governance in Indonesia, the question needs to be asked whether the function of the land bank does not collide with the

tasks and functions of the existing institution ATR/BPN? So that the point that can be taken from this section is the need for firmness and a clear scope of authority between ATR/BPN and land banks in carrying out their functions in spatial planning and land. So that in practice, it can be more organized and structured, not overlapping and encouraging each other to achieve the goals of the national land agenda.

Key Findings: Potential solving land tenure issues and strengthening current institution.

Land banks can overcome land tenure problems through the functions of land administrators, land managers, and land warrantees.

However, land banks also create institutional dualism because land disputes and land conflicts are authorities under the ATR/BPN institutions.

Government need to create a clear division of authority for land bank agency so that there is no dualism of authority.

3.2.4 Land and Spatial Planning Issues

Land and spatial planning is also a central issue in establishing a land bank. Though spatial planning practices are under the control Ministry of ATR/BPN with various regulations, the implementation is still not optimal. The main obstacles are land conversion and fragmentation, which are caused by non-restrictive spatial planning rules. In addition, it is exacerbated by the pliable actors in maintaining spatial planning. In the future, if the practice of spatial planning is still as it is now, regional development will be restrained.

Land Conversion and Land Fragmentation

Land conversion is the most crucial issue in Indonesia. Although land conversion is a form of logical consequence of the phenomenon of regional growth, land conversion can be a frightening problem when there is no control from the government. Research by Winoto (2005) states that around 3.1 million ha or 42% of fertile irrigated rice fields in Indonesia are threatened with shifting function to built-up land due to settlement expansion. In addition, Irianto's (2009) research states that infrastructure development (for example, the Trans Java toll road) accelerates land conversion by 10-20 times compared to the previous condition. Likewise, the government has the tools to control land by regulating regional spatial planning documents. However, in practice, the spatial planning documents are only a legal product that development actors rarely comply with. Even though spatial planning is a control tool for

utilizing the land, its implementation is inconsistent. Sometimes spatial planning revisions are carried out in the middle of spatial planning implementation, causing confusion among stakeholders in charge of spatial planning.



Figure 3.3 Dense Rainforest in Kalimantan poses a threat to land conversion

(Source: mongabay.com, retrieved on 22 May 2022)

The indecisiveness of government actors, either local or central level, results in uncontrolled land conversion. The implementation of spatial planning becomes haphazard and uncontrolled because of the discontinuous monitoring process. The weakness of the supervisory function causes the public and business actors to violate spatial planning easily, for example, the regulation to protect agricultural areas in Indonesia. Because the local government misinterpreted the spatial planning rules to protect agricultural land, the local government permitted the people to build settlements in agricultural areas. Therefore, there are many spatial violations throughout regions. Lack of knowledge and understanding between government agencies as the primary control in the use of space is one thing that needs to be addressed.

Furthermore, land conversion is an actual occurrence in Indonesia. A further effect of the land conversion problem is land-use competition between sectors, such as agriculture, industry, mining, and public works (infrastructure, settlements, industry). The competition has both positive and negative impacts. On the one hand, land competition will increase the bargaining power, and however, on the other hand, it marginalizes actors from the middle to lower economic class. Furthermore, this can lead to land conflicts. Therefore, to minimize land-use competition conflicts, this is necessary to have strict spatial planning tools for land use users.



Figure 3.4 Deforestation in Kalimantan, Indonesia

(Source: kompas.com, retrieved on 14 May 2022)

Apart from the land competition, land fragmentation is a spatial issue that deserves attention. According to Tauchid (2009), land fragmentation in Indonesia occurs due to poor farmers' ownership of agricultural land. Initially, the poor owned large areas of land, and due to structural economic pressures, they relinquished part of their land ownership by selling it or renting it out to wealthier farmers. Consequently, poor peasants no longer own farmland. If they still control the land, sometimes the location of the land is not concentrated in one cluster.

Additionally, land fragmentation in Indonesia occurs due to the inheritance system. The landowner inherits the land to his descendants, subsequently dividing the land apart. Consequently, agricultural land becomes narrow. According to Setiadi (2007), the small area of agricultural land controlled by farmers clearly shows the land fragmentation phenomenon. Furthermore, land degradation also plays an essential role in land and spatial planning issues. Massive development activities risk the environment. Deforestation and environmental damage due to industrial and manufacturing movements are the highest cause of these issues. Suppose the various factors contributing to land degradation are not well controlled. In that case, land degradation threatens the sustainability of land functions, resulting in environmental damage.

The land bank role: Overcoming the land and spatial planning issues

Referring to the function of land bank, it has a significant role in resolving spatial issues. Through the functions of the land keeper and land manager, the existence of a Land Bank controls space utilization for development actors. However, we need to consider that current Indonesia's spatial planning practice is under the authority Ministry of ATR/BPN. Apart from being the maker of spatial planning rules, the Ministry of ATR/BPN also controls space utilization nationally, at provincial and local levels. Therefore, the land bank can be one of the actors who control the land use through the function of the land keeper and land manager. In

short, the land bank function can support the Ministry of ATR/BPN institutions in solving the land and spatial planning issues.

Findings:

Although land and spatial planning are still under the authority of ATR/BPN, the presence of a land bank can strengthen spatial planning practices at the national and regional levels.

Key Findings: Potential solving land use and spatial planning issues and strengthening current institution.

Land banks can solve land and spatial planning problems through the functions of a land manager and land keeper.

However, land banks also create institutional dualism because spatial planning issues are under the ATR/BPN institutions.

The government needs to create a clear division of authority for land bank agencies; thus, there is no dualism of power.

3.3 Summary of first findings: Overcoming issues and strengthening land institutions

Based on the various cause of land bank establishment as mentioned in the previous chapter, the existence of a land bank is indeed needed by Indonesia. President Jokowi also said that the existence of the Land Bank is vital in ensuring community land and land ownership, public interests, social interests, national development interests, economic equity, land consolidation, and the big agrarian reform agenda. A land bank in Indonesia as a government agency can provide land for development for the public interest so that the infrastructure development project finishes on time. Furthermore, through the function of the Land Bank, various land problems that have occurred so far can be overcome so that the development of an area becomes effective and efficient. Each function of the land bank is by the reasons for establishing the bank as follows.

Table 3.2 The correlation between the factor establishment and the Land Bank Agency functions

<i>Main Factors</i>	<i>Background Establishment</i>	<i>Land Bank Functions</i>
<i>Regulation Objectives</i>	Constitution	Manager
	Basic Agrarian Law	Manager
	Omnibus Law	Manager
	Landbank Agency	Manager
<i>Infrastructure Development Issues</i>	Land Shortage for Infrastructure Development	Keeper, Purchaser, Warrantee, Manager
	High Land Price	Keepers, Managers, Purchasers
	Difficulties on Land Acquisition *	Valuer, Warrantee
	Uncontrolled Land Price	Valuer
	High Housing Price	Valuer
	Lack of Housing For Landless **	Warrantee
	Project Delays**	Keeper, Manager, Warrantee, Purchaser
<i>Land Tenure Issues</i>	Abandoned Land*	Keeper, Manager
	Land Ownership Inequality*	Distributors
	Land Disputes And Conflicts*	Manager
	Land Grabbing *	Warrantee, Distributor
	Speculation, Capitalization And Liberalization	Purchaser, Manager
	Weak Land Administration*	Administrator
<i>Land and Spatial Planning Issues</i>	Land Conversion*	Keeper, Manager
	Urban Sprawl*	Manager
	Land Fragmentation*	Keeper, Manager
	Ecological Damage**	Manager
	Slum Areas**	Manager
*) Under authority Ministry of ATR/BPN		

(Source: Analysis result, 2022)

The table illustrates that the land bank is considered capable of solving various problems of land tenure, infrastructure development, and spatial planning. In addition, through regulation, the land bank's function is in line with the national land agenda that has been mandated since the Indonesian constitution. Even though most of the land issues mentioned are the tasks and authorities of ATR/BPN, the land bank's function can strengthen the Ministry of ATR/BPN institutions.

Functions of Land Bank: Solving various land and spatial problems toward social justice and equity

Based on the existing findings, various land bank functions have the potential to solve various land and spatial problems to able to achieve social justice as mandated by agrarian reform. A more detailed explanation of the functional effects of the land bank is as follows:

Land valuer

Land Bank functions as a land valuer. It can reduce and control land prices in a specific area. By conducting an objective land valuation, land prices are controlled so that people can use the land, and communities or investors can obtain land at a reasonable price. Consequently, people can use the land as an asset for housing. The function of social justice and governance can be achieved. Also, with the control of land prices, entrepreneurs and investors can start a business and develop their business without having doubts about the uncertainty of land prices.

Land warrantee

As a land warrantee, the land bank can secure the provision of land for public and social facilities for the community. As mentioned before, the government has difficulties acquiring land for infrastructure, particularly for the public interest. When land banks come, they can overcome land shortages for infrastructure development and several land tenure issues. By aiming for land for the poor, they can access land as an asset and access for the future.

Land purchaser

As a land purchaser, a land bank can perform the land acquisition. Many infrastructure projects have been delayed because they have to wait for land acquisition to be completed. However, the government needs land to secure the development process. The infrastructure development process can be achieved on time by using secured land served by the government. Furthermore, using land from the government, a social program like land reform which acquires land for abandoned land could also be done quickly without any difficulties getting land.

Land distributor

As a land distributor, land banks play a role in solving land tenure issues in Indonesia. This is also the critical role in the land bank, while it distributes land to the people fairly, guarantees the distribution of land based on social interests, and prevents land distribution to land speculators. Fair land distribution is a mandate from agrarian reform, and land banks strengthen their function.

Land keeper

The land bank serves as an institution to prevent disputes, and land bank conflicts as agencies collect land (land keeper). The land bank can keep the abandoned land for future use. The land bank activities that do land acquisitions or takeovers by planning how the provisions of the law will stop the step speculators lands, bandit land, or mafia land. Because the land is already available for development, the project infrastructure will run smoothly. Since the land bank has collected land, land conversion and fragmentation will be minimal.

Land manager

All land bank roles boil down to being a land manager. Here, the land bank can manage unproductive land and arrange land use to suit regional and national spatial planning and indeed for the social interest of people. Land banks can maximize the government's role in controlling and providing land for the benefit of development and economic equity. The land bank can carry out an inventory of lands that have the potential to be managed based on the need and availability of land in Indonesia and help accelerate the provision of land for development. The land acquisition process will be faster because there are land reserves, and the government has a land manager instrument that supports national development to realize land justice.



Figure 3.5 Correlation between findings and land bank goals

In summary, through land bank agency, the land bank function able to solve various issues that the Ministry of ATR/BPN institutions have not been able to. In other words, land banks are able to strengthen Ministry of ATR/BPN institutions. The presence of a land bank, which is also the implementation of the basic functions of agrarian law, is expected to be able to complement the Ministry of ATR/BPN functions in Indonesia.

Through various functions of the land bank in Indonesia, by collaboration with ATR/BPN institutions, it could solve land and spatial planning problems to achieve land for social justice and equity. Even though potential institutional dualism occurs because several functions are under the authority of ATR/BPN institutions, creating a clear division of control could solve those problems.

3.4 Findings: the criticism of current Land Bank concepts

In the previous section, it was mentioned that land banks could strengthen land use management practices in Indonesia in order to achieve land for social justice and equity. There are several land and spatial issues that the Ministry of ATR/BPN has not covered as an existing institution. However, not all land bank conceptualizations in Indonesia are noticeable positively because the current concept have potential disadvantages, such as liberalization paradigm and injustice to poor communities. Referring to the authority of the current land bank, it overlaps with the existing authority Ministry of ATR/BPN. Also, regarding the institutional land bank paradigm, it is unconstitutional to the national land agenda, as mentioned in chapter 3.2.1 of Indonesia's land regulation. For more details, the explanation of each criticism is as follows.

Encouraging the practice of liberalization, speculation, and injustice

A land bank as a new institution that manages state land can be misused as an instrument to expand land liberalization practices. Pamungkas and Winarso (2018) said that in most current conditions, land liberalization practices had been used by land speculators using the development plans owned by the Ministry of ATR/BPN. The speculator gathers information at first; subsequently, they make initial purchases of land that the government will use for development purposes at relatively low prices. Thenceforth, they resell the land to the government at high prices. Consequently, the government experienced difficulties in terms of land acquisition in the infrastructure development process.

The enforcement of the social function of land should be the foundation of land policy in Indonesia, not just an economic function, let alone a liberal economy. (Iskandarsyah, 2021, p. 6).

On the one hand, land banks suppose a appears to eliminate the practice of land speculation by private parties or those with personal interests. On the other hand, the land bank is only Indonesia's institution controlling the land acquisition and allocation practices, thus creating another viewpoint that the land bank is a new speculator under the pretext of state interests. The land bank will confiscate the lands of the people who do not have legal access to prove that the land belongs to them.

The Land Bank is able to control customary land. This is because indigenous peoples have certain areas that are not inhabited but have a meaning as a shared living space. What is worrying is that the government has not recognized most indigenous peoples' lands. (Aribowo, 2021, p. 7).

An example of the land grabbing phenomenon is the case of the state grabbing land from indigenous peoples. The moment indigenous people owned land by the community long before the state of Indonesia existed. Furthermore, they have used the land for decades, and most of the land of indigenous peoples has not been registered due to the poor land administration system. Thus, while the land bank agency present and acquires land under the pretext of national interest, the practice of land grabbing occurs officially.

The practice of a land bank has excellent potential to legalize land grabbing and eviction of people because the state has the right to take over land under the pretext of investment or infrastructure development. As a fatal result, banking practices exacerbate structural poverty in rural and urban areas. Worse, land banks can potentially criminalize farmers, poor communities, and indigenous communities by preventing land banks from controlling land in the name of investment and development.

Liberalization or pro-poor?

Economic and investment principles that form the basis of policies also give rise to various interpretations. The government will prioritize land to be distributed to investors rather than distributing land to the people. According to Sartika:

“This land bank agenda clearly has an orientation to encourage and further strengthen land liberalization practices in Indonesia. This institution will facilitate land grabbing in the name of land acquisition for the benefit of investors.” (Sartika, 2021, p. 4)

Suppose what Sartika said is true; subsequently, the land bank violates the constitution because the community should use and utilize land, specifically for the poor. In the mandate of the Basic Agrarian Law, it is stated that the state is present to manage land as much as possible for the prosperity of the people. Sartika said that this land bank’s spirit and way of working was not to distribute it to small people but rather to legalize land whose identity is not clear to become state land or land owned by the government for later use as investment activities.

“The land bank operation will widen the land tenure gap between small communities and private and state business entities, including foreign investors. The Land Bank Agency established by the Jokowi government is like a ‘cancer’ for the issue of spatial justice in Indonesia. this institution risks being misused to annex indigenous peoples’ lands which until now have not received legal certainty from the state” (Sumardjono, 2020, p. 16)

Admittedly, liberalization and land speculation are not beneficial to the poor. As stipulated in the regulations on land banks, land use does not favor the fulfillment of the rights of small communities to land but tends to invest. Further, it was stated that the Land Bank functioned to guarantee and support the availability of land for major and regional development in support of economic improvement and investment. The meaning of this statement is clear: land bank regulations only make it easier for companies that want to control land in Indonesia under the name of investment. Additionally, land bank regulations do not favor the fulfillment of rights to small communities, fishers, farmers, and urban poor.

Regrettably, the source of land controlled by the land bank is the government's determination through state land claims. This state land includes uncertified land for farmers, fishers, and indigenous peoples – whose ownership cannot be proven. (Kartika, 2021, p.5)

Thus, the social function of land and the prohibition of monopoly on land by the private sector as mandated by the 1960 Basic Agrarian Law was violated by land bank regulation. Market logic in the land bank – make the land a commodity, not an asset for equity and the welfare of the wider community.

Overlapping authority and overpower

The establishment of a land bank institution overlaps with the authority Ministry of ATR/BPN, which is the only institution carrying out land administration and spatial planning. The Ministry of ATR/BPN has implemented various national land agendas under agrarian reform for decades. However, as mentioned in the background of land bank establishment, multiple issues have yet to be resolved. The previous analysis shows that various land and spatial planning issues are still under the authority Ministry of ATR/BPN. On the one hand, the presence of a land bank can indeed strengthen the function of existing institutions; however, on the other hand, the land bank interferes with the Ministry of ATR/BPN due to the overlapping authority. Moreover, this institution has a different motive in efforts to resolve inequality in land ownership to achieve social justice and equity. Ministry of ATR/BPN leans toward social settlement and equity, while land banks lean toward economics and investment.

If this institution intends to consolidate and distribute land, what is the difference between the Ministry of ATR/BPN? Isn't there an overlap? (Zakaria, 2021, on Media Indonesia p. 7)

In addition, the wide authority of land bank exacerbate agrarian conflicts. Land acquisition processes potentially create land conflict in local communities. By large powers and functions, land bank conceivably provide access to legalized agrarian corruption and collusion. The

reason because the regulations, the auditor for land bank operations are public accountants who hired by land bank agency. In this case, the state and community participation are absent from supervision. This is questionable because it can cause a conflict of interest.

“We assess that the land bank has strong authority. In addition, the land bank is unconstitutional because it is strongly pro-market, business-oriented, and at the same time, there is a large agrarian reform agenda in the form of redistribution and land consolidation for the poor.” (KPA, 2021, p. 8)

However, there is a difference of interest between the Ministry of ATR/BPN and the land bank. Although both are state bodies that deal with land, each institution's function is different. ATR/BPN acts as a land administrator, while the land bank agency acts as a land manager. Nevertheless, both policies deal with similar land issues. The government as a regulator needs to consider that the Land Bank Agency should not take the authority of the Ministry of ATR/BPN.

Unconstitutional: Agrarian reform opposite Landbank

Based on the Indonesian constitution and the Basic Agrarian Law, the state's role should be to guarantee land rights to the poor and prevent private monopolies. However, the land banking policy through the Job Creation Act and the land bank law violates these rules. In the context of agrarian reform, inactive cultivation land needs to be redistributed immediately to communities or landless farmers in any significant way. However, land banks redefined the true meaning of agrarian reform. Inland bank policy, agrarian reform as the act for accelerating the procurement and provision of land for investment and business.

The logic of agrarian reform regulated in this land bank is very different; the approach is optimization and investment. While the agrarian reform, initially, was related to the issue of people’s lives, justice, and the people’s right to life. (Sumardjono, 2021, p. 24)

On the land bank policy agrarian reform aims for regional development and economic growth. For more details, the comparison between agrarian reform and land bank objectice can be seen on table *Table 3.3*.

Table 3.4 Difference between Agrarian reform and Land Bank objectives

Agrarian reform Goals	Land Bank Goals
Reducing inequality of land tenure and ownership in order to create justice.	Supporting economic development and investment.
Handling land disputes and conflicts	In carrying out its functions, the Land Bank may be in charge of public functions

	(regulators) and private functions (agreement makers).
Attaining prosperity and welfare of society through the regulation of land tenure, ownership, use and utilization	From all these conditions, this is increasingly evident that this new body was indeed to become a “business care” institution.
Improving food security and sovereignty	
Improving and maintaining the quality of the environment	

(Source: Analysis, 2022)

Could land banks carry out Agrarian Reform?

To respond this question, this thesis agrees with what was conveyed by Kartika that the Land Bank should not carry out Agrarian Reform. Agrarian reform is not a land acquisition activity; therefore, agrarian reform activities cannot be carried out by the Land Bank. Agrarian reform is a socialist action with the principles of equity and social justice; land assets are distributed to the community, while the effort of the land banks is to invest and open the economic faucet for a region.

3.5 Summary of second findings: the Land bank (potentially) exacerbates land and spatial planning issues

Constitutional Problems

In conceptualization, land banks create the tap for liberalization, the practice of land speculation, land grabbing, and land monopoly by the government under the pretext of investment and economic growth, which ultimately exacerbates agrarian conflicts because they can take community land that still has unclear status. Regarding institutional authority, the land bank overlaps authority with the Ministry of ATR/BPN, and the authority to solve several lands and spatial planning issues are still under the Ministry of ATR/BPN. Indeed, the presence of a land bank could strengthen the Ministry of ATR/BPN institution. However, it could be vice versa; the presence of a land bank amputates, seizes, and interferes with the role Ministry of ATR/BPN.

In addition, the land bank's authority is too broad, with an audit system that seems unclear, making the land bank institution vulnerable as a means of corruption. Furthermore, the practice of land banks creates ineffective land institutions because there is a dualism in institutional functions, land bank as a land manager and ATR/BPN as land administrator.

Institutional Problems

In the institutional paradigm, the land bank has a different spirit principle. The land bank is more concerned with investment and the economy, whereas the Ministry of ATR/BPN leans towards equity and justice through the motive of agrarian reform, so the land bank's authority to redistribute land and implement the agrarian reform agenda is not appropriate.

Table 3.5 Critics of land bank concept

Numbers	Findings	Reasons	Ought to	Main Findings
1	Land liberalization, land grabbing practice	Land for Investment And big investors	Prosperity of the people. Land for the poor. Distributing to landless.	Constitutional Problems
2	Misinterpretation of Basic Agrarian Law	Privatization land	Land For the poor	
3	Indication of corruption	Weak supervision	Independent supervisor	Institutional problems
4	Overpower	Wide functions and power to manage land	Restricted	
5	Overlapping authority	Ministry of ATR/BPN has carried out some functions	Clear boundaries with an existing institution	



Figure 3.6 Correlation between findings and land bank goals

Figure 3.6 reveals how potential issues arising from land bank policy can stymie efforts to achieve the goals of land for social justice and equity. Therefore, the Government ought to revise and arrange the land bank policy to avoid going contrary to current regulations.

In terms of critics land bank, this thesis found two critical notions: institutional and constitutional problems. Thus, Indonesia needs to revise the objective, authority, and boundaries between the land banks and the current ministry so the practice of land banking is more focused and able to strengthen land management practices in Indonesia to reach equity welfare.

3.6 Reflections on chapter 3: Two sides on the role of the land bank

From the previous findings, establishing a land bank can be interpreted in two ways. First, the land bank has a positive impact on Indonesia's land management system because it assists ATR/BPN in carrying out all its authority functions related to spatial administration. On the other hand, land banks are increasingly creating land and spatial problems.

Findings 1:

Looking at the background factors for forming a land bank, in collaboration with ATR/BPN institutions, the presence of a land bank helps fill gaps in land problems and further strengthens land use management practices in Indonesia.

Findings 2:

Regarding critics of the land bank concept, land banks can potentially create institutional and constitutional problems. Therefore, it is necessary to revise the idea of a land bank in Indonesia to focus on achieving social justice and equity goals.

What needs to be corrected?

For better implementation of land bank agencies in the future, this thesis recommends improving the conceptualization of land banks in Indonesia with the following points:

1. Clarify the function and authority of the land bank

The powers of the land bank and ATR/BPN largely overlap. In practice, it will strengthen the ATR/BPN institutions to resolve land cases. Nevertheless, given the current complex conditions, clarifying authority between institutions defining who does what is the wisest step to avoid conflicts of interest that lead to inefficiency in governance. For example, a land bank as a land distributor only distributes land for investment purposes that encourage economic growth, however, with the primary goal of people's welfare, not a capitalist economy that benefits business people. Meanwhile, ATR/BPN also distributes land to the poor.

2. Narrowing the powers and objectives of the land bank

By limiting the land bank's authority, the emphasis will be more on achieving the land bank's organizational goals. For illustration, the contradictory control, for example, is that the land bank provides land for development. On the other hand, the land bank plays a role in land distribution. Land redistribution is the task and function of ATR/BPN; therefore, land redistribution must be removed from the land bank's authority. Hence,

it is sufficient for a land bank to have a specific task as a provider of land for development while also prioritizing the interests of the people's economy.

3. Changing the institutional paradigm

The institutional paradigm of land banks continues to prioritize land for investment; if the investment is not dammed, it will only benefit a small group of people. Thus, land banks must change their institutional paradigm to remain socialist for the benefit of society as a whole. For example, even though the land bank's function is to provide land for economic growth investment, it must still consider who will benefit the most from the investment.

CHAPTER IV

OPERATIONALIZATION OF INDONESIA LAND BANK

4.1 Introduction

The previous chapter has discussed the strengths and weaknesses of the land banks concept in Indonesia. In this chapter, the discussion will focus more on land bank practices in Indonesia. How land bank practices have been carried out in the past and how land bank operations are carried out after the government ratifies the land bank agency regulations. In addition, this chapter also identifies the weaknesses and criticisms about the current practice of land banks, so at the end of the chapter, this thesis draws recommendations for better practice in the future.

Land Bank Operationalization in Indonesia

According to Tanawijaya (2021), the practice of land banking in Indonesia has been carried out since the '50s. In Indonesia, private development companies and state-owned enterprises initially carried out land banking practices on a local-regional scale to provide housing for low-income communities. On a wider scale, national state-owned enterprises also underwent the land bank practice. After the regulations for the land bank agency are issued, the land banking practice is officially carried out by the land bank agency on a national scale. Because it is still a new institution, the operationalization of the national land bank agency, or it can be called the land bank agency, is not as optimal as land banking that has been carried out by the private sector, which was started in the past.

4.2 Findings: Land Bank Practice in multilevel scale

Before the initiation of a national land bank agency that was issued at the end of 2021, many private companies had practiced the land banking system to control land on a large scale. According to Noegroho (2012), the Land Banking practice has been implemented since the 1950s. Two typical forms carry it out. First, the private sector, and second, the state-owned enterprises, namely Perumnas, which have the authority to build housing infrastructure for low-income people. For more details, the land banking practices in Indonesia will be explained as follows.

Local scale-Private Land Banking in the Jabodetabek Metropolitan Areas

Land banking in the past can also be called the practice of land speculation. The reason is that a large company in an area controls the land, then the company uses land that was previously non-productive and remote to become land with high value due to built-up residential area.

This practice is mainly carried out in the metropolitan areas of Jakarta, such as Jakarta Province, Depok, Bogor, Tangerang and Bekasi City. The high housing demand in the city center and limited land supply trigger the private sector to seek profit by practicing land banking in surrounding Jakarta.

According to Herawati et al. (2021), Data shows that in Jakarta, Bogor, Tangerang, Bekasi (Jabotabek), there were developer company groups such as PT. Lippo Karawaci Tbk, PT. Bumi Serpong Damai Tbk, PT. Ciputra Development Tbk, PT. Agung Podomoro Land Tbk, and PT. Pakuwon Jati Tbk. PT. Pembangunan Jaya and Summarecon had controlled more than 4,000 hectares of land. Those companies have land banking activities. They were developing their businesses with a total market capitalization of millions of euros. When identifying the starting time of land banking activities, the strategies of these companies began in the 1980-1990s.

Starting from the era of the New Order government. At that time, the central government opened up investment opportunities on a large scale to overcome the economic crisis left by the Old Order government. Then, private developers buy hundreds to thousands of hectares of land on the outskirts of the Jakarta metropolitan area. At that moment, the area was still quiet and had minimal accessibility. Because it is a remote area, land prices are still relatively very low.



Figure 4.1 Left: House arranged in BSD City, right: house outside BSD

(Source: tempo.com, retrieved on 18 June 2022)

Then by the time the private sector builds the area into an elite residential area. For example, the location in Bumi Serpong Damai (BSD) City. As time went by, public infrastructure was built. As a result, it triggers growth in other activities like industry, office, trade, education, tourism and housing. All of those activities agglomerated in that location. Until now, the area has become a very busy city with complete infrastructure support. A similar condition occurs in the Cibubur area, Karawaci, Cikarang, Sentul and other metropolitan areas of Jakarta. It can be noted that the private sector purely carries out all land banking practices. The main

process they have done is private sector acquire store reserve the land for development at that time or a later. Furthermore, the government at that time felt very helpful and does not think about the huge impact of those practices. Also, the central government was unaware that the land bank practice was profitable then.

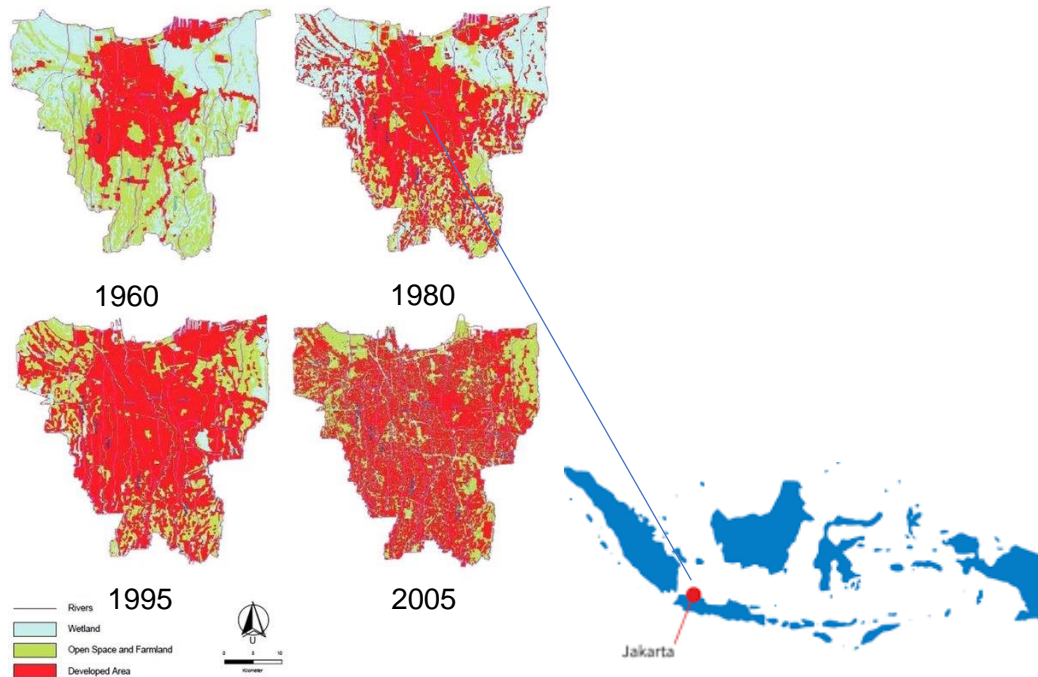


Figure 4.2 The development of residential growth in the Jakarta Metropolitan area (Source: Alzamil, 2007)

Indeed, the government also feels helped by the practice of land banking by the private sector. For example, settlements are more organized, as shown in Figure 4.1. Compared to normal residential conditions in downtown Jakarta, most of the area is slum settlements. Nevertheless, by land bank practice by the private sector, the settlements are more organized.

Until now, the private sector is still benefiting from the land banking practice that has been carried out in surrounding Jakarta. They are still expanding their property business in the country. According to (Rambey, 2020), they have already shown the steps for expansion in the new capital city project. They have a plan to secure land in East Kalimantan (Bloomberg, 2019). For example, PT Agung Podomoro Land has advertised a residential and commercial project in Balikpapan. PT PP Properti was looking for opportunities to develop around 500 hectares in East Kalimantan. Also, PT Wijaya Karya (Persero), a state-owned developer, said it was ready to take a role in taking the lead in building sectors from roads to electricity, gas and water grids (Bloomberg, 2019).



Figure 4.3 Design of New Capital Settlement

(Source: Liputan6.com, retrieved on 20 June 2022)

However, needs to be criticized when the government expects a new capital city to be built through private and public partnerships; the legal framework has not yet been established. The research results on the operation of land bank agencies which will be explained in the next section, also do not focus on collaborative land bank practices. The initial signals have raised expectations among developers and land speculators from the Indonesian government that was launched with the introduction of the new capital project. They certainly have looked at land that has the potential to be obtained and utilized. However, the government seems to be still focusing on regulations and planning. In the case of the new capital, private developers will likely be involved in building housing due to limited funds from the government. The project, estimated to accommodate 1.5 million people, will need a developer, and it is just a matter of how the government regulates land bank practices there.

Furthermore, the practice of land speculation by private companies also uncovers the fact that there are no regulations regarding restrictions on land ownership by companies in the past and possibly present. By looking from Basic Agrarian Law, this practice is unconstitutional because land speculation only benefits some groups, the private sector itself. However, the government is also powerless to prohibit or prevent the practice of land speculation because there are no existing regulations. Basic Agrarian Law did not organize a straightforward way to manage the land. Even the government seems to encourage this practice because it helps the government overcome the economic crisis and helps grow the region. The result is that the government benefits from various economic activities, but at the same time, subsequent effects are not so beneficial. The effect is felt now, and the government has difficulty accessing and obtaining land because land prices are already high following market prices due to private-sector land banking activities.

Land speculators' practice by private land banks that happened from the past is in stark contrast to the agrarian reform program that has been implemented since the Basic Agrarian Law (BAL) was enacted in 1960. Agrarian reform states that land needs to be distributed to the poor in order to be used for the maximum benefit of shared prosperity, but in reality, the implementation of the mandate was taken over by the private sector because they had more capital and thoughts that were more advanced than the government's thinking at that time.

The enactment of the Omnibus Law only regulates land banks as public institutions that are expected to be able to control land prices. It gives rise to the practice of speculation, as happened in private land banking. Even amid the decline in people's purchasing ability to buy property, some companies continue to purchase land in the Jabodetabek areas to increase their land banking activities. As a result, the high price of land makes it difficult for people to access support for their welfare, such as meeting the needs of a decent house. The practice of land banking has been carried out in the past until now by the private sector rather than the government, indicating that the Indonesian government is still not aware that land is a precious asset and commodity to be used so that investors take over this role.

Regional Scale-Public Land Bank by Jakarta Provincial Government

It is not only the private sector that practices land banks, as mentioned in the previous section, and it turns out that local government institutions are also registered to carry out land banking operations. According to Mungkasa (2016), the practice of land banks is carried out by regionally owned enterprises, namely PD Sarana Jaya. The institution is a local government enterprise that functions to acquire, hold, develop and sell land. The local government is trying to capture the potential and utilize the land for the welfare of its people.



Figure 4.4 Production Asset Development Milestones PD Sarana Jaya

(Source: Sarana Jaya, 2020)

PD Sarana Jaya has carried out various activities as a representation of the land bank agency at the regional level. since it was first established, as in Figure 4.5, PD Sarana Jaya the beginning have core activities included the provision of land lots, making the Company known as a land bank. Henceforth, Sarana Jaya has taken a significant role in supporting the public policies of the DKI Jakarta Provincial Government to improve people's welfare. That is by carrying out activities in the land acquisition and construction of housing, public buildings, industrial areas, as well as facilities and infrastructure based on the principles of business economics that are profit-oriented legal entities. Furthermore, PD Sarana Jaya is entrusted by the DKI Jakarta Provincial Government to handle the development of some strategic projects in DKI Jakarta, such as the arrangement of the Sentra Primer Tanah Abang (SPTA) area and

the development of “DP Residential 0 Rupiah”, and also to support the vision and mission of the DKI Jakarta Provincial Government to develop modern urban areas.

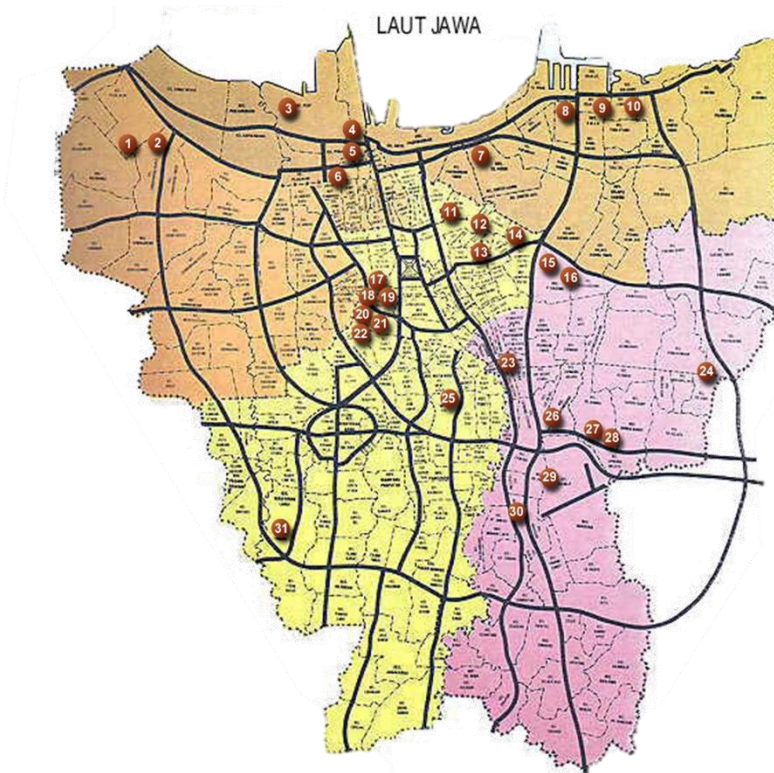


Figure 4.6 Locations for the DKI flats government program

(Source: Mungkasa, 2020)

The last program, according to Sarana Jaya Report, In 2019, Sarana Jaya received trillion rupiahs in the 2019 DKI Jakarta on APBD Budget, which was used for two grand projects, namely the “Nuansa Cilangkap DP 0 Rupiah Housing” Construction and the “SPTA Development Project.” Because of these successful activities, the total assets of Sarana Jaya were billion rupiahs in 2020, mostly derived from the realization of investment in land acquisition and construction of production assets. This company aims to assist and support the government’s general policy to promote the welfare of the people by conducting activities in the field of land provision, housing development, public buildings, industrial estates and infrastructure, utilities and facilities by adhering to the principles of the corporate economy.

The interesting practice of land banking by PD Sarana Jaya is that they have a clear vision and mission, a good management structure, clean accountability and can create profit from land banking activities. Here, PD Sarana Jaya functions as a regional company carrying orders from the Jakarta provincial government. Therefore, it can be said that the operationalization of Sarana Jaya in Jakarta can be a real example of good provincial-scale land bank practices in Indonesia.

National Level-Land Bank practices by BUMN Perumnas

At the national level, land banking practices are carried out by Perumnas, a state-owned company owned by the government, focusing on developing low-income housing projects in Indonesia. However, in contrast to the private sector, the financial strength of Perumnas is different. Perumnas is limited to the capacity of capital participation from the state, while the private sector can be more flexible because they can acquire land as long as it is considered to have the potential to be developed. Until now, the practice of land banking by perumnas includes in Bogor, Bekasi, Karawang, Malang, Bandung, Medan, Banjarmasin and others cities.

Until now, every housing location built by Perumnas also grows and develops, just as private companies have done around Metropolitan Jakarta. As of mid-2020, Perumnas has land reserves of around 1,900 ha and will need a further 20,000 hectares in the future. The interesting fact is that now in the acquiring land process, Perumnas prefer to collaborate with BUMN/BUMD to utilize unused land. With collaboration, Perumnas' innovation as a new approach not only relies on the complicated land acquisition process. Perumnas can collaborate and coordinate with land owners with productive land to develop. In addition, this innovation reduces acquisition funds spent by Perumnas. This collaborative model of cooperation at the end will benefit various companies and could achieve the institution's goals of housing for poor people.

4.3 Summary of third findings: land bank practice before Land Bank Agency

As previously explained, it turns out that there has been a land banking practice carried out by private companies and state-owned enterprises of the provincial government for a long time. Some points that can be concluded are as follows:

Level	Actor	Authority
Local	PD Sarana Jaya	State-Owned
Regional	Private Developers	Private-Owned
National	State-owned enterprises	State-Owned

- At a local level, the private land bank has been practiced for a long time by private developer companies in Indonesia, which concentrate around the Jakarta metropolitan area. They bought land in remote areas and built large-scale settlements so that they became new metropolitan centers.

- At a regional level, the public land bank is also run at the regional level by the DKI Jakarta provincial government, with land acquisition activities and the construction of flats and other public facilities.
- At a national level, the public land bank is also carried out by BUMN Perumnas, with the main focus on land acquisition and affordable housing for low-income people.

In General, a private company's practice of land bank has advantages in quickly capturing potential and opportunities that will occur in the future. Meanwhile, the disadvantage of land banking practices carried out by large developers as private companies is that they can play and control land prices to represent a natural form of land speculation practice contrary to basic agrarian law.

However, the practice of land banks by state-owned companies, both BUMN and BUMD, has the advantage of utilizing the land that aims at the community's needs, such as affordable housing. The initiations and innovations in the form of collaborative land-use practices are also noticeably positive. The next question is, how is the land bank agency operationalized after the law is formed?

4.4 Findings: The Operationalization of National Land Bank Agency

Indonesia's land bank agency officially operates after being ratified through government regulation number 64 of 2021 concerning land bank bodies. The regulation states that the land bank agency institution is a special agency (*sui generis*), an Indonesian legal entity formed by the central government, which is given special authority to manage land. What distinguishes it from the previous land banking is that, in this regulation, the land bank is no longer limited to land banking activities but has become an independent institution called a land bank agency which is under the control of the central government located in the state capital.

There are various interpretations regarding the meaning of the special agent in the regulation. Those who define the land bank institution as a private form carry out government duties. Others define a land bank as not implied in the private sector, only a corporate scheme carrying out government duties. In all, the land bank needs to emphasize that the government's task is to manage the land for the welfare of society.

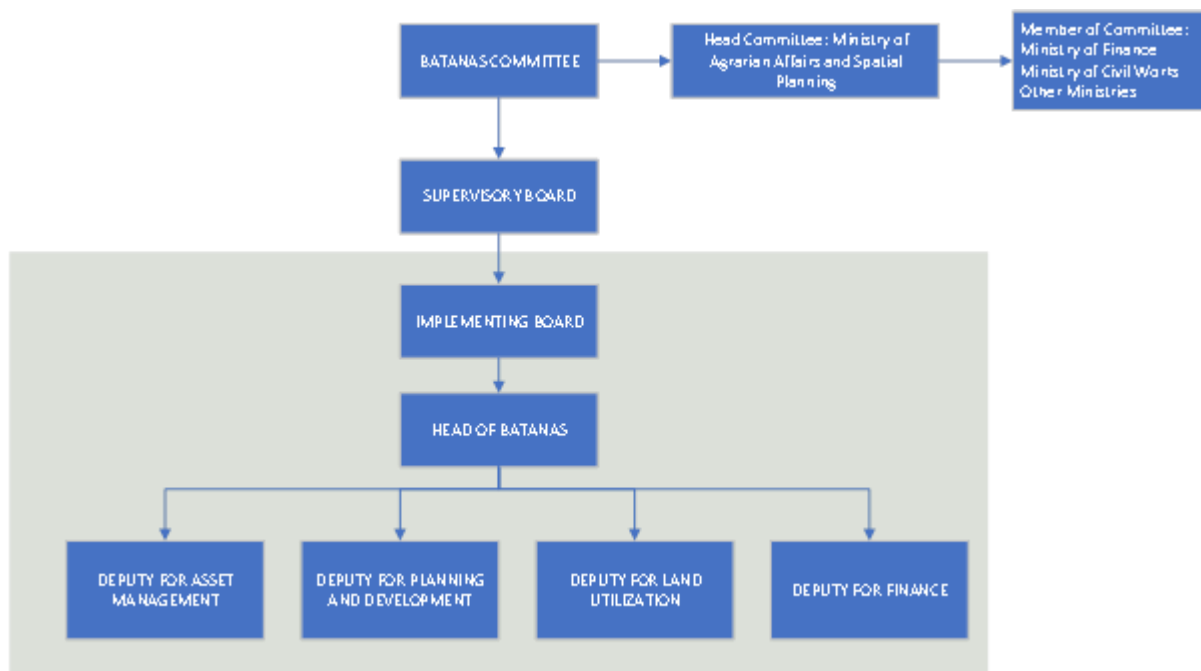


Figure 4.7 Institutional Structure of the National Land Bank Agency

(Source: BPN, 2020)

The special function of the Land Bank Agency is engaged in the national land sector. Sui generis institution means non-profit or does not make any profit from its operation. It is clear that the operation of the land bank still needs to be discussed in depth. Because the agency land bank is a legal entity, it is not part of a ministry or other governmental institution. Meanwhile, its authority includes managing land, which the Ministry of ATR/BPN previously managed.

Institutional structure

As for the institutional structure, after officially operating on 1 January 2022, the land bank is still at the central government level or can be known as the National Land Bank Agency. The organizational structure of the National Land Bank Agency consists of the Land Bank Committee, which will report directly to the President, the Supervisory Board and the Implementing Council. The President appoints the Land Bank Committee, and the Committee Chair is held by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, while members consist of the Minister of Finance, Minister of Public Works and Public Housing (PUPR) and other relevant ministers may be added. The clear structure can be seen in Figure 4.7.

Authority and Functions

Based on the regulations of the land bank agency, in the context of providing land for the public interest, the Land Bank Agency has the mandate to support the availability of land for various infrastructure developments spread throughout remote areas. From constructing roads, dams, airports, ports, oil and gas infrastructure, hospitals, government offices, and schools to markets and parking lots. In addition, the Land Bank Agency also supports guaranteeing the availability of land for social purposes, such as the interests of education, worship, sports, culture, conservation and reforestation. Specifically for agrarian reform, the Land Bank also needs to ensure the availability of land for land redistribution. At least 30% of state land allocated to the Land Bank Agency will be used for agrarian reform.

Judging from the duties and functions of the land bank, as well as its organizational structure, the land bank agency has a very large mandate to operate. The current position of the land bank agency in the National Capital and only at the central level does not yet have representatives in each region within the Republic of Indonesia is questionable. Reflecting on the existing institutions of ATR/BPN, which already have representatives in all provinces and regencies throughout Indonesia, they are still having trouble overcoming various land and spatial problems. Then how to accommodate the broad goals and role of the Land Bank Agency when the organizational structure is only at the central level and does not yet have a representative office in the regions?

Moreover, the members of the land bank are not new. Like what is shown Figure 4.7, the members of the land bank are also members of the existing ministry. This condition indicates that there are multiple positions. Consequently, the land bank agency has not been filled by professionals who specifically oversee the development of the land bank agency. The formation of a land bank agency seems only to show the case of a news organization. In contrast, the members and decision-makers are still the same people. Agency independence is difficult to achieve when organizational patterns and culture are similar to the existing institution. According to Dewi Sartika (2022) , with the same working system and scheme as the Ministry of ATR/BPN institution, it is appropriate that the urgency of establishing this land bank is questioned.

Split or merge? between land bank and Ministry of ATR/BPN

Reflecting on the practice of implementing land banking in Indonesia by the private sector and regional state-owned enterprises, it can be interpreted that the national land bank institution is not new. The position of the land bank agency is under the control Ministry of ATR/BPN, as shown in Figure 4.8. So, the establishment of the land bank agency as a news agency is questioned. Two choices are created, whether should it take the form of its special agent assigned to manage, maintain, and utilize land with a very broad function and mandate, or a land bank only as part of ATR/BPN so that its duties and functions are still under the control of one minister.

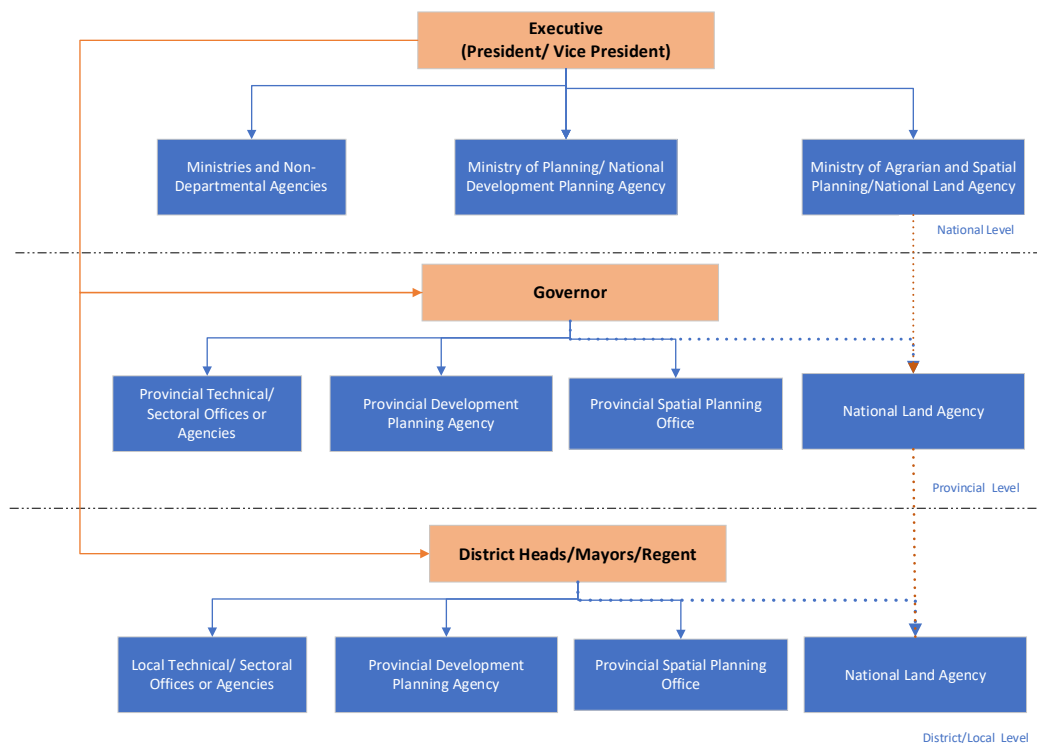


Figure 4.8 Indonesian Land Use and Spatial Planning Governance Structure

(Source: modified from Ardiansyah et al., 2015)

Why could a land bank agency be part of ATR/BPN? This condition is because the current institutional structure of ATR/BPN is quite strong compared to the institutional structure of the land bank agency, which only stands at the central level. In ATR/BPN, there are people in charge and representative offices at every level (national, provincial and regional), as shown in Figure 4.8. This tiered figure, in addition to facilitating the distribution of authority, also helps the coordination function more quickly in every decision-making.

As an illustration, consider how the authority for land management is divided and coordinated. ATR/BPN at a mid-level has the authority to administer other types of land in collaboration with

sectoral ministries. Sub-national governments (i.e., provincial and district/city) have been given a high level of authority in managing land in their respective areas. They also have the authority to issue permits related to specific types of land and natural resource management. This condition also applies at the provincial and local government levels. Using a decentralization arrangement, the national government can delegate such authority to provincial and local governments, or it can be shared-managed by the national, provincial and local governments, including the fields of spatial planning governance. The national government provides intergovernmental fiscal transfers to sub-national governments to manage their resources, including land. So in practice, the Ministry of ATR/BPN and the central ministry already have a good and tiered coordination function and collaboration to maximize the land management process. Then how to criticize the land bank agency when its position is only at the central government level?

If the organizational form is still at the central level as it is today, then the land bank practice seems difficult to achieve organizational goals. Land and spatial planning issues are spread throughout Indonesia, while the organization's office is only in the capital's center. With such a large authority, it is not easy to carry out the functions and achieve the land bank objectives set by law. Furthermore, when dealing with dynamics in the Land Management and Spatial Planning Field. As is well known, Indonesia's decentralized planning system gives freedom to a region to develop its region and allows for more participation and control from the community over regional government, including in the field of spatial planning and land. The previous top-down trend was gradually shifted to bottom-up, where the source of development planning came from below. This situation is different from the centralized approach, which is top-down, where the sources of development planning are designed from the center to be forwarded to the regions.

It is undeniable that the decentralization era contributes to the complexity of land and spatial planning issues. Often the problems will differ from one place to another, and sometimes local officials have to improve themselves to think critically and act efficiently and effectively in planning and solving spatial problems in their area. In addition, the inconsistency of spatial planning practices also exacerbates land and spatial planning issues. Policies between the center and the regions are often out of sync, thus hampering the practice of spatial planning. Land use and natural resource governance are stuck since the division of authorities, roles and responsibilities among the different layers of government remain unclear in many respects. Various laws and regulations have created overlaps and confusion, including in the conservation, environmental management and land-use sectors. The uniqueness of the problems in each region is a point that needs to be emphasized here. Learning from the

second generation of land banks in the United States, they face the problems of land issues in different ways. So, the function and authority of land banks in Indonesia should also be modeled on the United States, that problem solving must adapt to regional characteristics.

Even though, if viewed from the organizational and institutional structure, spatial planning institutions in Indonesia are quite well organized, there are many irregularities and inequalities. So what should be questioned is that when the land bank operates, it will gradually face this problem. So, it is necessary to be aware of the complexity of governance in land and spatial planning when the land bank was fully operating in Indonesia. The next section explains the progress of national land bank agency practices in Indonesia.

Progress of Land bank Agency practice in Indonesia

After Presidential Decree 64 concerning the formation of a land bank agency was issued, and regulations for the structure of land bank operations were issued through Presidential Regulation 113 of 2021, then officially from early January 2022 to June this time (this research was carried out), the land bank was operational and received funding from the government. 2.5 billion rupiah (160 million euros) for initial capital for land bank operations.

This year, the national land bank agency's activities are concentrated on gathering potential land acquisitions from vacant land, as determined by ATR/BPN. According to information made available by ATR/BPN, the national land bank can manage at least 13,000 hectares of potential abandoned land, as shown in Figure 4.9.

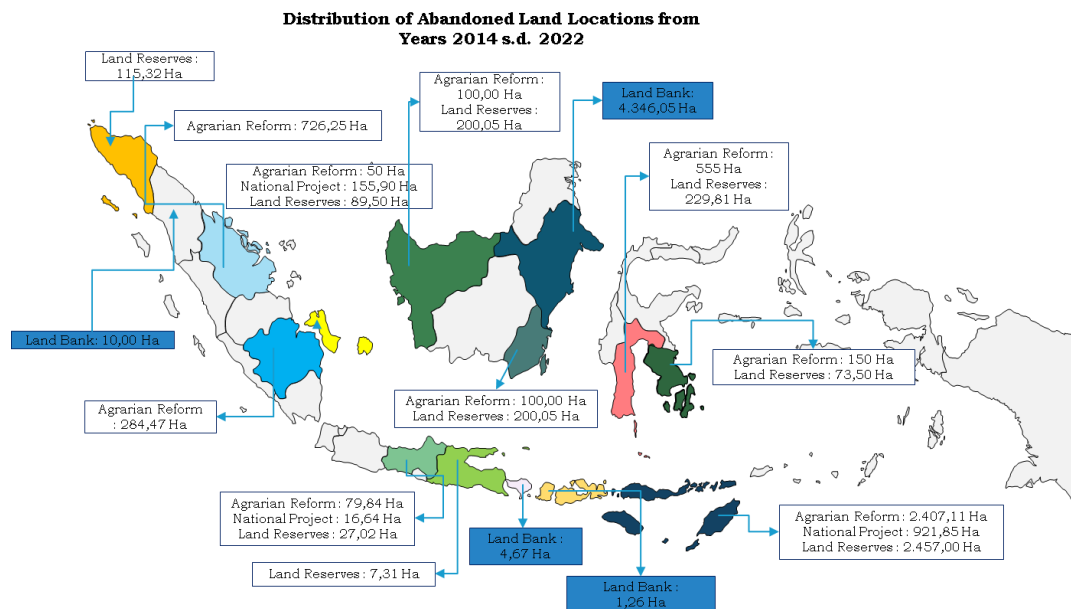


Figure 4.9 Distribution of Abandoned Land Utilization Allocation

(Source: ATR/BPN, 2020)

The hope is that the designated abandoned land will be managed and utilized by the Land Bank for the welfare of the people. As seen in Figure 4.9, the potential for land is spread in almost all regions of Indonesia. Such a wide reach, on the one hand, indicates that the land bank has a big responsibility to maximize land use. On the other hand, it is feared that the land bank will be overwhelmed because the institution is only domiciled in the state capital.

Judging from the potential of abandoned land that has been collected, as shown in Table 4.1, it can be seen that the potential utilization of abandoned land is not only for land banks because several lands are allocated for the agrarian reform program and reserve land for Strategic National Projects. BPN (2021) reports that the Land Bank agency sets a target of 2.000 Ha of land acquired from a government stipulation to achieve land assets. However, realistically, the land assets obtained are 4.392 Ha (or around 219.60% of the target). A considerable achievement for a newly formed institution. For more details, the areas acquired by the national land bank agency are shown in Table 4.1.

Table 4.1 Land Bank Agency Assets in 2022

Number	Land Resources	Areas (Ha)
1	Abandoned land from PT Delimas Suryakana, at Asahan Regency, North Sumatra	30
2	Abandoned land from PT Delimas Suryakana, at Tanjung Balai City, North Sumatra	10
3	National Land Reserves at Penajam Paser Utara Regency, East Kalimantan	4.346
4	National Land Reserves from PT Lembah Tanahlot Permai at Tabanan Regency, Bali	5
5	Abandoned Land from PT Grahawita Santika at North Lombok, West Nusa Tenggara	1
	Total	4.392

(Source: ATR/BPN, 2022)

The location distribution of land bank agency assets can be shown in Figure 4.12. The map shows that the distribution of assets of the land bank agency is still small when compared to the potential that can be obtained by the land bank, as shown in Table 4.2. However, this amount still deserves to be appreciated considering that this institution has just been established. The existence of the transfer of assets indicates that the support of stakeholders for the operation of the national land bank agency is quite good. These stakeholders include the Ministry of ATR/BPN, in this case, the Directorate General of Land and Space Control and

Control, the Regional Office of the National Land Agency in the province and the Land Office at the district level.

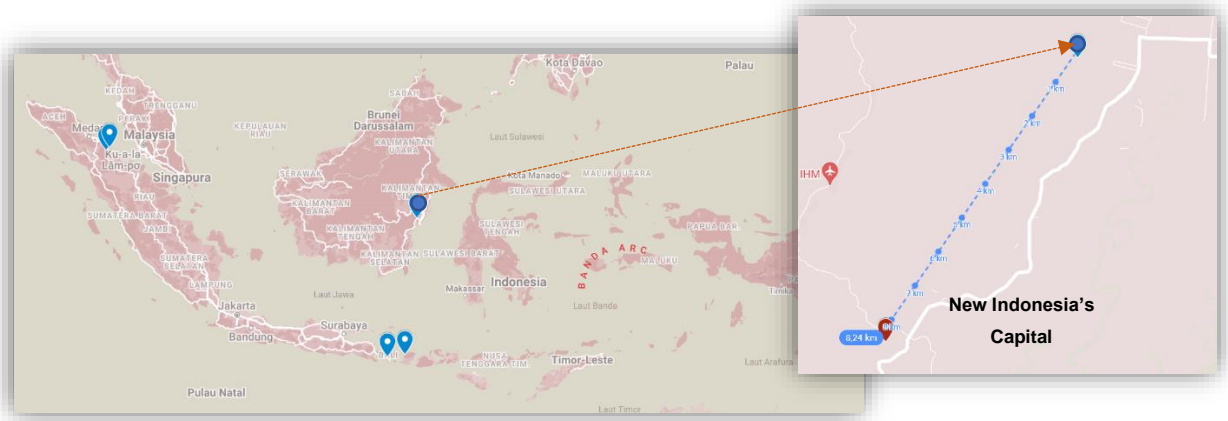


Figure 4.10 Distance from the Land Bank Agency Asset Location in 2022 to the prospective State Capital

(Source: Analysis Result, 2022)

Implementing land banking by a land bank agency is a relatively new mechanism. With all the limitations in the form of incomplete organizational structure and personnel of the national land bank agency, the land bank still proves that it can operate and obtain land to be empowered. The question is, what will be done on the 4,392 ha of land? Currently, no further information regarding land use has been obtained. Due to the broad authority of the land bank agency, there is an assumption that the land will be used to build settlements because the main problem at this time is the urgent need for housing. However, land can also be stored by a land bank and then used as an asset because the location of the land is far from settlements and the city center.

The interesting fact from the data obtained from the land bank is that the acquired land is located in North Panajam Paser, East Kalimantan. This location is as seen in Figure 4.10 is the location of the new capital candidate the Indonesian President officially announced. Such a large area of land is most likely prepared for the nation's capital because of its location close to the zero-kilometer point of the New Capital. It could be that the land is used for residential infrastructure needs, as well as the needs of other infrastructure facilities that support the development of the nation's capital. Even though in the real condition that the land of the state capital is currently still in the status of a protected forest area and is managed by the State Capital Authority, the land bank is also able to play a role in obtaining and providing land for development. Because the land acquisition scheme for the construction of the new capital and its supporting infrastructure is still unclear, information on the extent to which land bank assets are utilized near the location of the new capital cannot be assessed. Nevertheless, the

existence of a land bank is expected to be able to assist in the smooth acquisition of land for development in the new capital city.

Compared with the practice of land banking in Indonesia which has been carried out by private companies and by regional state companies, most of which are spread across Metropolitan Jakarta, it appears that the practice of national land bank agencies is still very minimal in experience and knowledge. Land banking in private companies has clear activities and purposes, namely acquiring land and then using it to build settlements and their infrastructure so that, in the end, a modern, well-organized and advanced area is formed. Similarly, the land banking practice carried out by PD Sarana Jaya, which the Jakarta provincial government owns, has a clear role, namely getting the task and direction from the provincial government to build public facilities and affordable public housing. Also, the practice of land banking by BUMN Perumnas provides housing for the poor. In addition to acquiring land, they also build land to provide housing for poor people.

Although the current practice of the national land bank institution is only at the acquisition stage, the achievements of this institution deserve appreciation. Next, what needs to be considered is that the institution must have clarity on what to do in the future. The national land bank institution has a very large and broad authority. So the government must correct or strengthen the land bank agency policy so that, in practice, it does not have obstacles due to the lack of clarity of the direction and objectives of the institution.

In conclusion, national land banks need to take lessons from the land bank practices that their predecessors have carried out. Although the practice occurs only at the lower level, based on experience, it is better in the Jakarta metropolitan area. Of course, they will be more aware of the challenges and obstacles that need to be anticipated, in the context of land bank practice, in the future. The National Land Bank, a new institution, requires lessons learned from various sections so that later the actors in the land bank agency will know the steps needed to successfully achieve the goals of the National Land Bank in Indonesia.

Obstacles to Operationalization of the National Land Bank

To further complement the operationalization of the national land bank in Indonesia, this thesis identifies the challenges and obstacles in order to achieving the objectives of the land bank agency institution. Because the Land Bank is a new institution, its operation will encounter various obstacles. This section will identify several things that need to be considered to make land bank agency practice successful in Indonesia or how to eliminate these obstacles. The main obstacles to implementing Land Banks in Indonesia that need to be anticipated based on some literature include:

- **Weak Land Administration**

Similar to the background for establishing a land bank agency, weak land administration also affects the future operations of the land bank. The number of registered and mapped land parcels in Indonesia is still very small. The government also finds it difficult to detect lands in the state general reserves or abandoned lands as land bank objects. If the administration is bad, it will be a big problem, and the land bank will find it difficult to get land assets. Thus, the completeness of the land administration system is an absolute requirement in land acquisition for land banks. Moreover, transitioning status to a land bank agency requires a complicated civil court process that takes a long time.

- **Inconsistency Aspects of spatial planning**

The discrepancy between spatial planning and development has become an often-discussed issue. The practice of land banking will be in vain when there is no support for spatial planning in every region of Indonesia. Alternatively, if a good spatial arrangement has been established, sometimes the implementation appears arbitrarily. In reality, the Land Bank practice is a spatial management tool. As a provider institution for accelerated development, the land bank will experience obstacles in carrying out its duties if the existing spatial planning components are inconsistent and sustainable. In addition, the existence of a Land Bank can be a tool that can ensure land use is following the space allocation that has been determined in the RT-RW. In addition, the provision of land through the Land Bank is anticipatory towards the possibility of land tenure for speculative purposes.

- **Financing challenges**

According to Mungkasa (2016), financing is a major challenge for land bank institutions. As has happened in the U.S., sometimes land bank practices are hampered because there is no financial support from local governments, or land banks are very dependent on providers of funds. The operational effectiveness of the Land Bank depends on a stable and sustainable source of funds.

The regional or provincial government is one of the sources of funding listed in Indonesia's land bank, in addition to the federal government. However, since regional and provincial governments already have their portions and authorities, they will give regional development agendas and programs priority over the agenda for national development programs.

- **Bad political will**
Political pressure also affects the future land bank practice's successful course. The initial formation of a land bank agency was also based on a political decision for some people who thought that Indonesia needed to create a land bank agency. Furthermore, when it is operational later, will the land bank be able to always get full support from the government and stakeholders.
- **Lack of human resources and support systems**
The existence of a Land Bank will involve large amounts of land assets. For this reason, the availability of professional staff equipped with a support system is a major requirement.

4.5 Summary of fourth findings: Operationalization of the National Land Bank practice

Findings on the practice of the national land bank in Indonesia are as follows:

- At both the regional and federal levels, land banking has been practiced since long before the creation of the land bank agency. However, the government's determination to keep enhancing Indonesia's land management system is demonstrated by establishing the land bank as a brand-new organization.
- Looking at the institutional operationalization of the land bank agency, the practice of the national land bank is quite good because it immediately moves to and directly obtains assets to be used in the future.
- However, it is a matter of common concern that the position of the land bank agency, which is still only at the national level, is feared to be an obstacle in implementing the implementation and tasks assigned by the state.
- It also has something to do with how the Land Bank Agency is organized. Although it has operated by acquiring land assets, it is feared that the incomplete organization will obstruct the implementation of land banks in the future.
- Still related to the organizational structure of the land bank agency, which is also a member of the ATR/BPN, it is worth reconsidering whether this institution is indeed a new institution that is engaged in carrying out state mandates or just a fraction of the ATR/BPN institution that focuses on handling land acquisition for development. The need for the firmness of organizational functions and institutional structures here.

4.6 Reflection on Chapter 4: Operationalization of National Land bank

- In fact, it turns out that the practice of land banking has been going on in Indonesia for a long time, long before the Indonesian land bank agency regulations were established.

Land banking is practiced by private companies around the Jakarta metropolitan area. Besides, it is also in the form of a state-owned company owned by the Jakarta provincial government.

- As mentioned earlier, "land banking" entails the purchase of large tracts of land, the construction of housing along with its supporting infrastructure, and the subsequent sale of the finished product to consumers.
- After the issuance of regulations for establishing a land bank agency, and immediately operates by collecting various data on the distribution of potential land that the land bank agency can manage. As a result, the land bank agency acquires 5 land locations spread throughout Indonesia. Suppose it is related to the function of the land bank. In that case, this process is still limited to the land keeper process because the land is obtained from the ministry of ATR/BPN.
- With the establishment of a land bank, the advantage is that the practice of land banking is carried out independently by an official organization formed by the government, no longer only practiced by local governments or state-owned enterprises.
- The shortcomings of the current land bank practice are that it still needs to improve the organizational structure by increasing the number of human resources and the need for land bank agency branches/representatives of land bank agencies throughout Indonesia, either in every province or district due to the complexity of land and spatial issues as described in the chapter previously.
- As a new institution, the land bank agency is still far from perfect, and it needs improvement during the operationalization process so that the land bank's objectives can be achieved following what has been mandated by the central government.

CHAPTER V

SUMMARY OF FINDINGS AND CONCLUSION

Chapter five summarizes findings, conclusions, and recommendations for future policy development and operationalization of land bank agencies. This research started with the main question: does Indonesia need a land bank? To answer this question, there are two sub-questions that are used to answer the main question. The first sub-question is: Why did Indonesia establish the land bank agency? And the second is, how is the operationalization of land banks in Indonesia? From the two sub-questions that have been mentioned, this study found findings related to the factors of Indonesia's establishing a land bank as well as the development of the operationalization of land bank agencies in Indonesia. From these findings, it can be concluded whether Indonesia is right and needs a land bank as a new institution in land management in Indonesia in order to achieve institutional objective land for social justice and equity. In short, an explanation related to the findings used to draw conclusions will be presented in the following section.

5.1 Summary of Study Findings

This study produced four main findings from the previous chapter of the analysis. The first and second findings were obtained from the exploration of the first research question answers, and the third and fourth findings were obtained from the exploration of the second research question the answers. From these findings, conclusions are drawn to answer main research questions



For more details, below is a summary of the findings that have been submitted in the previous chapters.

Findings 1:

There are four main factors as a background for Indonesia to establish a land bank, namely regulatory factors, infrastructure development issue factors, land tenure issue factors, and land tenure issue factors.

Through various functions of the land bank in Indonesia, the land bank is seen as capable of resolving the issue. Land bank could solve land and spatial planning problems to achieve land for social justice and equity. Even though potential institutional dualism occurs because several functions are under the authority of ATR/BPN institutions, creating a clear division of authority could solve those problems.

Findings 2:

Second findings related to critics land bank. This thesis found two critical notions: institutional and constitutional problems. Institutional criticism is concerned with the power and authority of land bank practices. Meanwhile, constitutional criticism is a criticism related to the paradigm of land banks that lean more towards land for investment and economic growth than land for equity and community welfare.

Thus, as solution to solve those critiques, the goal, authority, and boundaries between the land bank and the current ministry must therefore be revised in Indonesia to make land banking more focused and capable of strengthening land management practices in Indonesia to achieve equity and welfare.

Findings 3:

Private businesses and state-owned enterprises run by the provincial government have previously engaged in land banking activities. There were three levels of land bank practice before the land bank agency in Indonesia was formed, namely the local level by the state sector, the regional level by the private sector, and the national level by the state-owned enterprises sector.

At a local level, the private land bank has been practiced for a long time by private developer companies in Indonesia, which concentrate around the Jakarta metropolitan area. They bought land in remote areas and built large-scale settlements so that they became new metropolitan centers. At a regional level, the public land bank is also run at the regional level by the DKI Jakarta provincial government, with land acquisition activities and the construction of flats and other public facilities. At a national level, the public land bank is also carried out by BUMN Perumnas, with the main focus on land acquisition and affordable housing for low-income people.

Findings 4:

The land bank agency, formed by the central government at the end of 2021, also known as a land bank agency, has been operating since January 1, 2022. The operationalization of the land bank agency by acquiring several land areas spread

throughout Indonesia seems to have a positive result. However, as a new institution, the land bank agency still needs improvement during the operationalization process so that the land bank's objectives can be achieved following what has been mandated by the central government to social justice and welfare.

5.2 Answering the research question

The various findings that have been mentioned earlier are then used as a basis for answering research questions as follows:

From research question 1, Why did Indonesia establish the land bank agency?

The answer is because Indonesia has a mandate of constitutional regulation, need to solve various land and spatial issues, infrastructure development issues as well as land tenure issues.

From research question 2, How has Indonesia's land bank been operationalized?

The answer is that Indonesia does a good job of making land banks work by acquiring abandoned land all over the country. However, in order to be more optimal, the practice of land banking by land bank agencies in Indonesia needs to be improved in order to achieve institutional goals, namely agrarian reform and land for social justice and equity.

Then, to answer the main research question, does Indonesia need a land bank? Based on the findings previously mentioned, the answer is: Yes It does. Indonesia does need a land bank. However, looking at the organizational structure, functions, and authorities, land bank policy in Indonesia needs to be revised to not overlap with existing institutions so that they are able to achieve agrarian reform goals in the form of land for social justice and equity.

5.3 Conclusion

From the discussion in chapters 3 and 4 described earlier, it can be concluded that Indonesia does need a Land Bank agency at the national level. Due to the complexity of various land and spatial problems in Indonesia, as well as ATR/BPN as existing institutions which are still unable to overcome various land and spatial planning issues, the presence of land seems promising to strengthen land management practices in Indonesia.

However, Indonesia needs to revise the authority and function of the land bank. Because although, on the one hand, land banks can strengthen land management practices in Indonesia, on the other hand, the functions, authorities and institutional paradigms of banks are contrary to the current institutions and constitution. If not revised, land bank agencies in Indonesia have the potential to add to the complexity of spatial planning practices in Indonesia.

Thus, there is a need for revisions so that the implementation of the land bank is more focused and able to strengthen land management practices in Indonesia.

It is no less important that the operation of the land bank agency in Indonesia still requires a lot of improvement and improvement in terms of organizational structure and institutional arrangements. This condition is because the current position of the land bank organization is only at the national level, even though land and spatial planning problems occur at the regional level throughout Indonesia. Land banks need to have branches in all regions of Indonesia. The land bank size will impede the completion of the tasks and initiatives the state gives.

5.4 Recommendations

For better land bank implementation in the future, this thesis recommends improving the conceptualization and practice of land banks in Indonesia as follows:

1. Clarify the functions and authorities of the land bank by refocusing the functions of the land bank agency.

In doing so, attention must be given to establishing a land bank that acts as a “benevolent intermediary” so that land and natural resources can be used by and benefit the poor and landless. The working mechanism of the land bank must also be clarified and monitored by the public to prevent corruption and fraud. Furthermore, for the successful implementation of the land bank, it will require meaningful participation by the community and by nongovernmental organizations to ensure that the land bank is established in line with its grand vision of reducing land inequality and using natural resources for the welfare of the people. If this ever happens, it would certainly be a major change to Indonesia’s disappointing history of agrarian policy.

Clarifying the authority between institutions, such as who does what is the wisest step so that no conflict of interest causes inefficiency in governance. For example, a land bank as a land distributor only distributes land for investment purposes that encourage economic growth but with the main goal of people’s welfare, not a capitalist economy that only benefits businessmen. Meanwhile, ATR/BPN also distributes land to the poor.

2. Narrowing the powers and objectives of the land bank

By narrowing the land bank’s authority, it will increase the focus on achieving the land bank’s organizational goals. For example, the contradictory authority is that the land bank provides land for development, but the land bank also plays a role in distributing land. Land redistribution is the task and function of ATR/BPN, so land redistribution should be removed from the authority of the land bank. Thus, it is sufficient for a land bank to have a

special task as a provider of land for development but still prioritize the interests of the people's economy. Also, several measures are to create clear and structured institutions and clarify their authority compared to institutions with similar jurisdiction in the land sector.

3. Changing the institutional paradigm

The land bank institutional paradigm still prioritizes land for investment. If an investment is not restrained, only a select few will profit. Thus, land banks need to change the institutional paradigm to remain socialist for the welfare of society in general. For example, even though its function is to provide land for investment in economic growth, land banks still have to consider which will benefit the most from other investments.

4. Develop land bank organizational structure from central to regional levels

Land banks at the national level have been operating quite well, but the various complexities of land that will be faced later will not be able to be covered by only one institution at the mid-level, so land banks need to form representatives in the regions so that the coordination and decision-making functions are quickly targeted.

5.5 Implications for Spatial planning practice

This case study approach has the benefit of analyzing the land bank case in depth. However, the drawback is the generalization of the research so the detailed information sometimes overlooked. Empirical insights combined with a literature review can generalize lessons for land bank practice in Indonesia. Especially in the practice of spatial planning, the presence of a land bank as a new institution has a significant impact on achieving social justice and equitable development. Land banks are able to distribute land to the poor so that it can be used for their livelihoods, or land obtained by land banks is used to build public and social facilities. In addition, if the land bank allocates land for investment, then Indonesia will still benefit from the land bank practices because the land bank creates new jobs which in turn has an effect on economic growth. As a result, the goal of social justice and equity can be achieved.

5.6 Suggestion for further research

The development of this land bank policy is dynamic. Since this is a new institution, there will be policy changes and additions to the institutional structure of the land bank. However, should keep in mind that there are land bank agency effect in the Indonesian spatial planning system, thus it is necessary in the future to conduct research on the land bank effect for the implementation of spatial planning in Indonesia.

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Appendix

Appendix 1: Conceptualization of Research Question into Analytical Framework

RQ	Identified Explanatory Analysis	Output	Goals
Why did Indonesia establish the land bank?	<p>The reason, background of the establishment of the land bank.</p> <p>From various reasons, whether it can answer the purpose and concept of the land bank.</p> <p>What are the obstacles to achieving the objectives of the land bank, and which objectives have the potential to be addressed?</p> <p>Findings: Indonesia has many land and spatial problems that can be solved with land banks, but the objectives are overpowering and unconstitutional.</p>	<p>The reason→ objective</p> <p>Output: Proving Indonesia needs the land bank. Drawing recommendations for improving the objective of the land bank.</p>	<p>To identify the correlation between the reason for the establishment of the land bank and the land bank policy objective.</p>
How is the operationalization of the land bank in Indonesia?	<p>Operationalization of the land bank in Indonesia.</p> <p>What are the legal bases?</p> <p>What are the weaknesses of the land bank's practice?</p> <p>What issues arise in the land bank practice?</p> <p>Who opposed, and what is the reason for being opposed?</p> <p>Findings: The practice of land banks has been ongoing in Indonesia for a long time, but the practice of land banks with a new concept turned out to be overlapping authority.</p>	<p>Disadvantages and advantages of land bank practice</p> <p>Output: Describing the current land bank practice in Indonesia. Drawing recommendations for improvement of the operationalization authority of the land bank.</p>	<p>Identify weaknesses and advantages of the current ongoing land bank practices.</p>
Does Indonesia really need a land bank?	<p>Findings 1 + Findings 2 → Answering the main question</p> <p>Final Answer: Indonesia needs the land bank, but Indonesia needs adjustment in terms of policy goals and practice.</p>	<p>Conclusion: Indonesia needs a land bank, but it is necessary to change policy goals and institutional forms to focus more on achieving the objective.</p>	<p>To draw recommendations for the land bank practice in the future.</p>

Appendix 2 Research Frameworks Matrix

Research Question	Data Collection	Data Analysis	Goals
RQ1: Why did Indonesia establish the land bank?			
What is the reason Indonesia establishing the land bank?	Literature Review	Explanatory and Exploratory Analysis	<p><i>To identify the reason for Indonesia's establishment of the land bank agency</i></p> <p><i>To identify the correlation between the reason establishment of the land bank and the objective of the land bank policy.</i></p> <p><i>To draw recommendations on whether Indonesia needs to establish the land bank and which goals need to be revised.</i></p>
Why chose the land bank?			
What if there is no land bank agency?			
What are the critics of land banks?			
Is there anything that needs to be addressed?			
RQ2: How does the operationalization of Indonesia's land bank?			
To what extent are the operationalization practices of land banks in Indonesia?	Content Analysis, Literature Review	Exploratory Analysis	<p><i>To describe the existing land bank practices in Indonesia,</i></p> <p><i>To identify the weaknesses and advantages of the current land bank practices</i></p> <p><i>To draw recommendations on how land bank practices should be so that they do not overlap with the existing institutions and to follow the state agrarian reform agenda.</i></p>
What is the land bank's position, role, and function in Indonesia's current spatial planning practices?			
What are the obstacles and criticisms that have arisen?			
What component needs to be addressed?			
Main Research Question: Does Indonesia really need a land bank?			
Findings RQ1	Content Analysis, Literature Review	Exploratory Analysis	<p><i>To develop recommendations for the improvement of the land bank policies</i></p>
Findings RQ2			
Recommendation			

(Source: Analysis, 2022)

Appendix 3: Data Source

Number	Documents Type	Authors
1	Seminars\Seminar Land Bank	Simbolon (2021). Potensi Perolehan Tanah
2	Seminars\Seminar Land Bank	Sekretaris Jenderal (2021). Skema Kerja Bank Tanah.
3	Seminars\Seminar Land Bank	BPN (2020). Kajian Pendirian Bank Tanah
4	Seminars\Seminar PPSDM	Sekretaris Jenderal (2021). Skema Kerja Bank Tanah.
5	Seminars\Seminar PPSDM	Aribowo (2021)
6	Seminars\Seminar PPSDM	Iskandarsyah (2021)
7	Seminars\Seminar UGM	Utomo. (2021)
8	Seminars\Seminar UGM	Sumardjono (2021)
9	Seminars\Seminar UGM	Ismail, Nurhasan (2021)
10	Seminars\Seminar UGM	Mungkasa (2016)
11	Seminars\Seminar UGM	Hariadi (2021)
12	Journals	Marbun (2021)
13	Journals	Tanawijaya (2021)
14	Journals	Sanjaya (2021)
15	Journals	Herawati (2021)
16	Journals	Winarso (2018)
17	Journals	Lahilote (2021)
18	Journals	Ganindha (2016)
19	Journals	Busroh (2017)
20	Journals	Arnowo (2021)
21	Journals	Widodo (2017)
22	Reports and Publication	KNPA (2018)
23	Reports and Publication	Suyudi (2018)
24	Reports and Publication	Mochtar (2013)
25	Regulations	Peraturan Presiden 113 Kritikan terhadap Omnibus Law
26	Regulations	Peraturan Presiden Nomor 113 2021 Struktur Penyelenggara
27	Regulations	PP Nomor 64 Tahun 2021 tentang Badan Bank Tanah
28	Regulations	PP Nomor 124 Tahun 2021 Modal Bank Tanah
29	Newspaper	Sutaryono (2020) Memahami Urgensi Bank Tanah
30	Newspaper	Media Indonesia (2020) Eksistensi Bank Tanah dalam Omnibus Law
31	Online Media	Mass Media (2021) Kompas
32	Online Media	Mass Media (2021) Tempo
33	Online Media	Mass Media (2021) Hukumonline

Appendix 4: Key Person and Institution

Number	Name	Institution	Organization
1	Iskandar Syah	Ministry of ATR/BPN	Government
2	Perdananta Aribowo	Land Bank Agency	Government
3	Dewi Kartika	Konsorsium Pembaharuan Agraria (KPA)	NGO
4	Hadi Arnowo	Ministry of ATR/BPN	Government
5	Parman Nataatmadja	Land Bank Agency	Government
6	Maria Sumardjono	Universitas Gadjah Mada	Academics
7	Hariadi Kartodihardjo	Institute Pertanian Bogor	Academics
8	Yando Zakaria	Pusat Kajian Etnografis Komunitas Adat	NGO
9	Sofyan Djalil	Ministry of ATR/BPN	Government
10	Oswar Mungkasa	Pemerintah Provinsi DKI	Government
11	Nur Hasan Ismail	Universitas Gadjah Mada	Academics
12	Ibnu Multazam	House of Representative	Citizens' Representative
13	Taufik Basari	House of Representative	Citizens' Representative