

Land Bank Governance and Agrarian Justice: The Risk of Land Grabbing and State Responsibility in Contemporary Agrarian Reform

Muhammad Dias Saktiawan

Faculty of Laws, Sultan Agung Islamic University, Indonesia, E-mail:
Muhammaddiassaktiawan@unissula.ac.id

Abstract. *This article critically analyzes the existence of Land Banks in contemporary agrarian reform, placing them within the perspective of agrarian justice and state responsibility. Based on the assumption that land is not merely an economic asset, but rather the basis of life and social justice, this research examines the philosophical foundations, legal construction, and governance and authority of Land Banks, which have the potential to facilitate legally legitimized land grabbing practices. This research uses a normative-critical approach by combining legislative, conceptual, critical-theoretical, and limited comparative approaches. The research findings indicate that the institutional design and authority of the Land Bank reflect a shift in the rationality of agrarian law from a redistribution paradigm to asset management and development interests, which risks obscuring the corrective function of agrarian law. This article emphasizes that state responsibilities under agrarian law must be interpreted substantively, encompassing normative, preventive, protective, and remedial obligations to prevent land grabbing and protect community agrarian rights. These findings contribute to strengthening critical agrarian law discourse by offering a conceptual framework for reassessing the role of the Land Bank to ensure it remains aligned with the principles of agrarian justice and rights protection.*

Keywords: *Bank; Justice; Land; Responsibility.*

1. Introduction

From an agrarian law perspective, land cannot be reduced to a mere economic object or factor of production. It must be understood as the material basis for human survival and the foundation of social justice. The relationship between humans and land is fundamental, encompassing economic, social, cultural, and even political dimensions. Therefore, legal regulation of land requires an approach that is not only normative and positive, but also ethical and philosophical. According to Boedi Harsono, national agrarian law was designed from the outset to position land as a source of prosperity for the people, so that every form of land ownership and use must be subject to the principles of justice and social function (Boedi Harsono, 2008). Thus, the state is positioned not as a land owner, but as a ruler who holds a public mandate to regulate and guarantee fair land distribution.

Agrarian reform arose from the realization that unequal land ownership structures are the result of a long historical process, ranging from colonialism and feudalism to the penetration of modern capitalism. Within this framework, agrarian reform is not intended as a mere administrative policy, but rather as a social transformation project aimed at overhauling unjust agrarian power relations. According to Satjipto Rahardjo, law should function as a tool of social emancipation, not merely a formal mechanism that perpetuates inequality (Satjipto Rahardjo, 2009). Therefore, the success of agrarian reform must be measured by its ability to provide distributive justice and expand people's access to land, not by how quickly land can be allocated for economic development purposes.

However, developments in contemporary agrarian policy indicate a shift in the state's rationality in viewing land. Land is increasingly being treated as a land asset that must be managed efficiently to support economic growth, investment, and infrastructure development. This shift is reflected in the establishment of the Land Bank, an institution granted broad authority to acquire, manage, and distribute land under state control. Normatively, the Land Bank is claimed to be a strategic instrument to support agrarian reform and the provision of land for the public interest. However, from a critical agrarian law perspective, this claim cannot be readily accepted without a thorough examination of its legal design and governance.

Legally, the main problem with the Land Bank lies in its unclear authority structure, which tends to conflate regulatory functions with direct control. The state, through the Land Bank, acts not only as a regulator that sets norms, but also as a dominant actor that controls and allocates land. According to Bernhard Limbong, this configuration has the potential to create a structural conflict of interest because the state is in a position that makes it difficult to distinguish between its role as regulator and as a party with a direct interest in the land (Bernhard Limbong, 2013). As a result, the principle of state control over land, which should be public and corrective in nature, risks shifting into an instrument of land accumulation legitimized by law.

Furthermore, the legal design of the Land Bank demonstrates the weakness of substantive guarantees for community agrarian rights. Formally legitimate administrative procedures are often used to justify land acquisition, without adequately considering the impact on smallholder farmers and indigenous communities. In such circumstances, agrarian law loses its progressive character and becomes an instrument for legalizing large-scale land ownership. Franz von Benda-Beckmann asserts that land laws that ignore the social context tend to produce injustice, as the law operates within unequal power relations (Franz von Benda-Beckmann & Keebet von Benda-Beckmann, 2020).

From a sociological perspective, the existence of the Land Bank correlates with the escalation of agrarian conflicts in various regions. Land control by the state or corporations through formal mechanisms often results in the marginalization of local communities from their living space. This phenomenon is known as contemporary land grabbing, namely land grabbing that occurs through legal instruments and public policies, rather than direct violence. According to Saturnino M. Borras Jr., modern land grabbing is most dangerous when it is institutionalized by

the state through regulations, as it provides legal legitimacy to exclusive and undemocratic land control practices (Saturnino M. Borras Jr. et al., 2023).

In practice, communities affected by the Land Bank policy often find themselves in a highly asymmetrical position. Limited access to information, weak bargaining power, and minimal participation in decision-making processes make it difficult for them to defend their rights. Land that previously served as the basis of their livelihoods is diverted in the name of public interest or national development, without a just redress mechanism. This situation demonstrates the gap between the normative goals of agrarian reform and the social realities resulting from state agrarian policies.

This situation emphasizes that the Land Bank issue is not merely a technical issue of land management or the efficiency of state asset management, but rather a structural problem concerning the state's responsibility under agrarian law. The state cannot hide behind formal legality if its policies actually deepen inequality and produce social exclusion. According to Philip McMichael, a state that fails to control the logic of accumulation in its agrarian policies will lose its corrective function and instead strengthen capital's dominance over land resources (Philip McMichael, 2021).

Based on this description, it can be concluded that the Land Bank finds itself in a problematic position within contemporary agrarian reform. On the one hand, it is projected as an instrument for land provision and support for agrarian reform; on the other, its legal design and governance practices open up space for institutionalized land grabbing. This situation demands a critical and in-depth study of agrarian law to assess the extent to which the Land Bank remains aligned with the principles of agrarian justice and how state responsibility should be interpreted and implemented within this context.

2. Research Methods

This research employs a critical-normative approach (critical doctrinal legal research) with an emphasis on conceptual, normative, and structural analysis of agrarian law. This approach was chosen because the issues studied are not solely related to the applicability of legal norms (law on the books), but rather to how law works to shape and legitimize power relations over land (law in context). Thus, this research goes beyond describing legislation, but seeks to uncover the legal rationality, policy ideology, and social implications of Land Bank governance in contemporary agrarian reform.

In addition, this research combines several complementary legal approaches, namely the statute approach, the conceptual approach, the critical and theoretical approach (critical legal approach), and the limited comparative approach. A normative analysis is conducted critically on the authority structure and mechanisms of land ownership, supported by an examination of the concepts of agrarian justice, the social function of land, land grabbing, and state responsibility, as well as a reading of agrarian law in a political-economic context, with a limited comparison to land banking practices in Global South countries.

3. Result and Discussion

3.1. Philosophical Foundation and Legal Construction of Land Banks from the Perspective of Agrarian Justice

In agrarian legal theory, land is never positioned as a neutral legal object. Land is always situated within a complex field of social, economic, and political relations, so that every legal regulation regarding land essentially reflects the choice of values and orientation of state power. Therefore, the interpretation of the Land Bank cannot be separated from the philosophical foundation of Indonesian agrarian law, which was historically established to correct structural inequalities in land ownership. Boedi Harsono emphasized that national agrarian law, since its inception, was intended as a corrective legal system, namely a legal system tasked with dismantling the legacy of colonial inequality and restructuring agrarian relations in a just manner.

a. Land as the Basis for Social Justice and the Right to Life

Philosophically, land in Indonesian agrarian law is understood as the material basis for fulfilling the right to life and human dignity. Land is not merely a factor of production, but rather the primary medium for the social, cultural, and economic sustainability of society. This conception aligns with the Aristotelian view of distributive justice, which holds that fundamental resources must be distributed proportionally for social balance. In a modern context, John Rawls affirms that the distribution of basic resources must be assessed based on its impact on the most disadvantaged groups (John Rawls, 1971). This principle has direct relevance in agrarian law, given that unequal access to land almost always has the greatest impact on small farmers and indigenous communities.

In Indonesian agrarian thought, this principle is embodied in the principle of the social function of land. Maria SW Sumardjono explains that social function is not simply a limitation of individual rights, but rather a normative principle that places land ownership and control within a framework of social responsibility (Maria SW Sumardjono, 2015). This means that land rights lose their ethical and legal legitimacy when their use results in social exclusion or deepens inequality.

b. State Control of Land as a Public Mandate

The concept of state control over land is often misunderstood as a form of state ownership. However, in Indonesian agrarian law, state control is a public trusteeship. The state acts as a manager of the people's mandate to regulate, not as a private authority. Boedi Harsono emphasized that state control must be understood as public authority limited by the goals of social justice and the people's prosperity.

However, in the context of the Land Bank, the legal construction of state authority has undergone a significant expansion. The state not only establishes norms but also actively accumulates, manages, and distributes land through a single institutional entity. This expansion

creates a fundamental philosophical problem: when the state acts as both regulator and landholder, the line between public mandate and institutional interests becomes blurred. Bernhard Limbong warns that this configuration is prone to creating structural conflicts of interest, as state oversight mechanisms become ineffective (Bernhard Limbong, 2012).

c. Shifting Rationality of Agrarian Law: From Redistribution to Asset Management

Legally, the Land Bank was established with a narrative of efficient land management and accelerated development. This narrative marks a shift in the rationality of agrarian law from a redistribution paradigm to a managerial-economistic paradigm. Land is positioned as a land asset that must be optimally managed to support investment and economic growth. This shift demonstrates what Karl Polanyi called the process of disembedding, namely the detachment of land from its social context and its full integration into market mechanisms (Karl Polanyi, 2001).

From a critical agrarian law perspective, this shift is problematic because it contradicts the corrective objectives of agrarian reform. Agrarian reform requires the state to limit the logic of accumulation and correct inequality, not simply manage land efficiently. When the Land Bank emphasizes land stock control over redistribution, it has the potential to become an instrument for normalizing agrarian inequality.

d. Normative Conflict between Land Banks and the Principles of Agrarian Justice

The conflict between Land Bank and agrarian justice can be identified through several main normative aspects:

1) Goal Conflict

Agrarian justice is oriented towards equal access to land, while the Land Bank tends to be oriented towards providing land for development purposes and strategic investment.

2) Functional Conflict

The social function of land requires the use of land for the common welfare, while the Bank T mechanism

Anah opens up space for land allocation based on the needs of large-scale projects.

3) Subject Conflict

In agrarian justice, the main subject is the people as rights holders, whereas in Land Bank practice, the dominant subjects are often the state and business actors.

Franz von Benda-Beckmann asserts that land laws that fail to take power relations into account will result in institutionalized injustice, even if all legal procedures are met. In this context, the Land Bank has the potential to transform agrarian law from a correction instrument to an instrument of legitimizing land ownership on a large scale.

In international literature, land banking generally develops in the context of urban land management and property market stabilization. El Molla and Anderson note that land banking in many countries is designed to control land speculation, not for agrarian redistribution (El Molla & Anderson, 2019). This demonstrates that conceptually, land banks originate from legal traditions and market economics. Saturnino M. Borras Jr. asserts that when the concept of land banking is adopted by Global South countries without strong normative adaptation, these institutions often become gateways for legally legitimized land grabbing (Saturnino M. Borras Jr., 2010). Therefore, the transplantation of the Land Bank concept into the Indonesian agrarian legal system must be rigorously tested against the principles of agrarian justice that form its normative foundation.

This philosophical and legal analysis demonstrates that the Land Bank's problem is not simply an institutional design issue, but rather a fundamental orientation of agrarian law. If agrarian law is allowed to shift into an instrument of asset management and accumulation, the principle of agrarian justice will be reduced to mere normative legitimacy. From a progressive legal perspective, the state is required to limit itself to protect vulnerable groups and maintain the social function of land. Therefore, the existence of a Land Bank can only be justified philosophically and legally if:

- a. Placed firmly within the framework of redistribution and correction of agrarian inequality;
- b. Limited by the principle of the operational, not symbolic, social function of land;
- c. Equipped with strong public accountability mechanisms.

3.2. Governance and Authority of Land Banks as an Instrument of Legitimacy for Land Grabbing

In contemporary agrarian discourse, the Land Bank has emerged as an institutional mechanism expected to address land availability for agrarian reform and development purposes. However, when juxtaposed with the reality of structural agrarian conflict and inequality in land ownership, the Land Bank's governance and authority require a critical examination to assess whether this institution truly strengthens the principles of agrarian justice or instead becomes an instrument of legitimacy for institutionalized land grabbing practices. This analytical approach will detail the institutional aspects, authority, legal framework, and socio-political implications inherent in the Land Bank.

Land Bank, as a land institution, is positioned in the agrarian legal system as an entity mandated to:

- a. Acquiring land through various available legal mechanisms;
- b. Managing state land, including land returned by rights holders or considered abandoned land;
- c. Allocating land to designated recipients based on specific policy objectives.

Within a normative framework, this authority is intended to facilitate the provision of land for public purposes. However, structurally, this function opens up space for land accumulation through formally legitimate administrative procedures, which some critical studies have viewed as legalized accumulation—accumulation disguised with legal legitimacy, but in substance potentially reinforcing agrarian inequality. This institutional construction differs fundamentally from the design of conventional agrarian institutions, which focus more on social control and the protection of community rights. Institutions such as the Land Bank should strengthen public control mechanisms, guarantee citizen participation, and uphold the principle of land's social function. However, in practice, the combination of broad authority and weak oversight mechanisms can lead the Land Bank to act like a "regulator and market actor," thus legitimizing large-scale land acquisitions without adequate social controls. Indonesian agrarian expert Bernhard Limbong observes that this concentration of authority is prone to creating institutional conflicts of interest that are difficult to effectively monitor through conventional legal mechanisms. This argument emphasizes the need for analysis of the position of the Land Bank not only as an administrative organization, but as an entity operating in the field of unequal agrarian power relations.

Furthermore, in an effort to understand how Land Bank governance can function as an instrument of legitimacy for land grabbing, it is necessary to identify in detail the aspects of authority that are potentially problematic:

a. Land Acquisition Authority

The Land Bank is authorized to acquire land categorized as:

- 1) State land;
- 2) Abandoned or unregistered land;
- 3) Land released by the right holder;
- 4) Land that is part of the agrarian reform program or strategic development.

Problems arise when these land acquisition criteria are too broad or vaguely defined, allowing the state to take over land actually used and controlled by local agrarian communities, including smallholder farmers or indigenous communities, without rigorous social verification mechanisms. When this definition is combined with regulations that expedite acquisition based on the "public interest," the procedural administrative basis can mask significant social dislocation. From a critical agrarian law perspective, land acquisition that is not balanced by social verification obligations and rights protection will transform land rights into products that are easily transferred through administrative means, rather than through a process that considers the rights and interests of affected communities.

b. Authority to Determine Priority for Land Allocation

The Land Bank also holds the authority to prioritize land allocation for specific recipients. The problem is, this prioritization process is often closed and non-participatory. When allocation priorities are primarily influenced by economic development agendas or investment needs, small groups such as subsistence farmers, indigenous peoples, or other local communities are marginalized. According to Maria SW Sumardjono, prioritization that fails to consider the objective needs of the community risks alienating land from those who have historically relied on these resources for their survival. Thus, the authority to determine allocation priorities without an evaluation mechanism oriented towards agrarian justice increases the opportunity for legitimacy of land grabbing.

c. Authority in Managing Land as an Asset

Land banks not only acquire and distribute land but also manage it as an asset. This management includes determining usage schemes, establishing lease agreements, and coordinating with investors or developers. When management focuses more on economic value or commercial utilization, agrarian land that previously provided a livelihood for local communities can transform into commodity land exploited by large economic actors. In this case, the authority to manage land assets becomes a mechanism that can strengthen capital accumulation on land, as its formal legality provides legitimacy and protection against land ownership transfers through contracts or investment schemes that appear to comply with legal requirements.

On the other hand, there is a fundamental difference between legal formalism and substantive legal justice that is highly relevant in understanding Land Bank governance. Formal legitimacy relates to compliance with administrative procedures and written regulations, while substantive legitimacy concerns the social impact and fairness of legal decisions.

a. Formal Legitimacy

Land banks generally operate within the realm of formal legitimacy: administrative procedures that meet legal requirements, the signature of authorized officials, and the official announcement of land acquisition or transfer decisions. These standards are important to ensure order and legal certainty, but they are insufficient to ensure that these decisions do not substantively violate community rights.

b. Substantive Legitimacy

Agrarian justice demands substantive legitimacy, namely legitimacy seen in terms of social impact and favoring the most vulnerable groups. Within this framework, law should not be seen simply as a collection of legitimate rules, but as an instrument that produces just outcomes.

Satjipto Rahardjo emphasized that law must be understood as a tool of social emancipation (Satjipto Rahardjo, 2009). This means that legal legitimacy is only complete if it successfully liberates society from structural inequality, not merely protects the status quo or a political-economic development agenda. When the Land Bank's authority is exploited to accumulate land in the name of efficiency or investment, but without any real rights protection, the Land Bank's

formal legitimacy risks becoming a false legitimacy that provides legal justification for land grabbing practices that harm the community.

Furthermore, Land Bank governance operates within a context of power asymmetry between the state/investors and local communities. This asymmetry arises from several factors:

a. Unequal Access to Information

As a state institution, the Land Bank has access to data, administrative resources, and policies that are not readily available to affected communities. When communities lack access to adequate information, they are not in an equal position to negotiate their rights or challenge legal decisions.

b. Limited Advocacy Capabilities

Local groups often lack the legal capacity or resources to advocate against Land Bank decisions, further weakening their bargaining position in the administrative process.

c. Dominance of Pro-Investment Regulations

When Land Bank governance prioritizes investment needs or strategic development, regulations that should protect community rights become secondary. This situation reinforces a pattern where dominant economic interests dominate the agrarian agenda, while local community rights are marginalized.

This asymmetry of power is a structural condition that allows land grabbing practices to occur without the need for direct physical violence; simply through seemingly legitimate administrative procedures.

Finally, Land Bank governance practices often demonstrate weak internal control mechanisms and external accountability:

a. Weaknesses of Legislative and Judicial Oversight

When the Land Bank's authority is not effectively supervised by legislative or judicial institutions, decisions that have implications for land acquisition have the potential to escape substantive testing against the principles of agrarian justice.

b. Suboptimal Public Participation

Public consultation mechanisms or community participation in Land Bank governance are often symbolic rather than substantive. Yet, participation is a key element of democratic and just rule of law.

c. Absence of Firm Governance Sanctions

When Land Bank governance results in negative impacts on community rights, the absence of clear sanction mechanisms for officials or responsible parties weakens accountability.

According to Maria SW Sumardjono, institutional accountability in land affairs must include responsibility for social impacts, not just compliance with administrative procedures (Maria SW Sumardjono, 2015). Without this kind of accountability, the Land Bank has the potential to become an uncontrolled legal instrument of technocracy.

3.3. The State's Responsibility in Preventing Land Grabbing and Protecting Community Agrarian Rights

In the context of contemporary agrarian law, the state is not only a regulator and steward of land administration, but also a key actor mandated to substantively guarantee agrarian justice. The issue of land grabbing, which in academic and policy terms refers to large-scale land acquisition through seemingly legal mechanisms, emphasizes that state responsibility cannot be viewed simply as compliance with administrative procedures. The state must be understood as having a substantive responsibility to prevent land grabbing practices, protect community agrarian rights, and ensure that legal instruments are not exploited to facilitate exclusive and discriminatory land tenure.

Theoretically, the state's responsibility in agrarian law includes several main dimensions:

- a. **Normative Dimension**– The state is obliged to ensure that agrarian laws and land policies are implemented fairly and consistently with the principles of distributive justice and the social function of land.
- b. **Protective Dimension**– The state is obliged to protect the agrarian rights of community groups, especially those vulnerable to dislocation or marginalization.
- c. **Preventive Dimension**– The state must prevent and anticipate practices that have the potential to become land grabbing through legal design, monitoring mechanisms, and proactive prevention policies.
- d. **Remedial Dimension**– The state must provide an effective redress mechanism when agrarian rights violations occur due to land policies.

When these dimensions are analyzed together, it becomes clear that the state's responsibility extends beyond administrative compliance, but also to a substantive obligation to make agrarian law a tool for social justice. In this context, the state faces a dilemma between pursuing national development goals and fulfilling its mandate to protect land rights. According to Boedi Harsono, the state's responsibility under agrarian law does not end with formal regulations but extends to regulations that provide redistributive and protective impacts for vulnerable social groups. The UUPA and the Indonesian legal perspective place the principle of the social function of land at the forefront as a benchmark for the success of land policies.

Furthermore, the term "land grabbing" refers to a phenomenon where large-scale land acquisition occurs through seemingly legitimate administrative or legal channels, but in fact harms local communities and results in social exclusion. In the realm of agrarian law, the state acts not only as a rule-maker but also as an implementer and overseer of land policy implementation.

The state has a dual obligation: first, to ensure that regulations do not provide loopholes for powerful actors to accumulate land without considering social impacts; and second, to ensure that legal mechanisms are not exploited to disregard community rights protected by national agrarian law. Maria SW Sumardjono emphasized that positive legal changes must always be directed at strengthening the social function of land and protecting community rights, not simply facilitating the investment process.

Problems arise when the state uses agrarian political instruments to accelerate development or attract investment, often by obscuring the distribution of risks and benefits for local communities. In such circumstances, the state faces an internal conflict between its role as a facilitator of economic development and as a protector of agrarian rights. Therefore, the state is obliged to take preventive measures to prevent land grabbing practices through three key instruments:

a. Firm and Progressive Regulatory Design

The state must develop clear and progressive regulatory designs to prevent land acquisition from occurring solely on the basis of legal formalities. Strong regulations should limit the authority of institutions like the Land Bank and explicitly integrate elements of agrarian rights protection, including:

- 1) A clear definition of land that can be acquired.
- 2) Special protection for the traditional rights of indigenous peoples and small farmers.
- 3) A mandatory social impact evaluation mechanism before land can be transferred.

This kind of regulatory design is an important preventive tool to avoid incidents where formal legal legitimacy becomes a pseudo-legitimacy that masks negative social impacts.

b. Participatory Mechanism and Free, Prior and Informed Consent (FPIC)

The state must implement the principle of meaningful participation for affected communities, including the principle of Free, Prior, and Informed Consent (FPIC), in land decision-making processes. FPIC is not merely an administrative slogan, but an operational mechanism that ensures that local communities provide free, informed, and informed consent in good faith. The absence of this mechanism in practice risks encouraging land acquisition without fair consent. According to Koentjaraningrat (in the context of Indonesian agrarian socio-cultural context), recognition of the customs, living space, and cultural values of agrarian communities is the moral

foundation of national agrarian law (Koentjaraningrat, 1985). The state must ensure that land policies do not damage the socio-cultural basis of society.

c. Independent Oversight and Accountability Mechanisms

The state must create independent oversight mechanisms and strong accountability for any decisions that potentially impact community rights. Institutions such as the Ombudsman, independent human rights bodies, and administrative courts must have effective authority to review and halt practices or policies that could potentially constitute land grabbing. In many cases, weaknesses in internal and external oversight serve as a gateway for formal legitimacy to mask the reality of social exclusion. Maria SW Sumardjono emphasized that accountability in agrarian law must assess the impact of policies, not simply compliance with administrative procedures.

In addition, the state has a protective obligation to protect legally recognized community agrarian rights. This obligation includes:

- a. Legal protection for the customary rights of indigenous peoples and the property rights of small communities;
- b. Guaranteeing security of land ownership through registration and legal protection against agrarian disputes;
- c. Provision of fair compensation mechanisms and social repositioning when land acquisition occurs.

According to Miriam Budiardjo, the protection of agrarian rights must be interpreted as part of human rights that not only include land ownership, but also access to resources, economic sustainability, and the cultural honor of the community (Miriam Budiardjo, 2010). Such protection must be substantive, not merely formal. Therefore, the state must ensure that the legal process for land disputes is fair, expeditious, and without discrimination. Administrative Courts and State Administrative Courts play a crucial role in assessing administrative decisions that violate community rights, but these institutions often face resource and accessibility constraints.

Following up on the restoration of community rights, when agrarian rights violations occur, the state has an obligation to provide effective redress mechanisms. Remedial obligations include:

- a. Restitution for land unjustly taken;
- b. Equal and dignified compensation;
- c. Socio-economic rehabilitation of affected communities.

Regulations that do not explicitly stipulate remedial mechanisms create legal loopholes that facilitate the administrative legitimacy of land grabbing practices. Compensation schemes that

are solely monetary and do not address the social basis of the community often fail to redress the substantive losses suffered. Indonesian agrarian law expert Bernhard Limbong emphasizes that rights restoration must consider not only economic losses but also the social and cultural losses experienced by communities due to the loss of access to land.

4. Conclusion

Based on a philosophical, legal, and critical analysis of the existence of the Land Bank within the framework of contemporary agrarian reform, it can be concluded that the Land Bank is an institution that is normatively projected as an instrument for land provision and support for agrarian justice, but structurally contains serious problems in the design of its authority and governance. The legal construction of the Land Bank shows a shift in the rationality of agrarian law from a redistributive paradigm to a managerial-economistic paradigm that positions land as a development and investment asset. This shift has implications for the reduction of the principle of the social function of land and the weakening of the corrective orientation of agrarian law as envisioned in the UUPA. The Land Bank's broad authority to acquire, manage, and allocate land, unbalanced by substantive accountability mechanisms and meaningful public participation, has the potential to become an instrument of legitimacy for institutionalized land grabbing practices. Administrative legality often serves as a formal justification for land acquisition, while the social impacts of exclusion, marginalization, and the loss of livelihoods for agrarian communities receive insufficient attention. In this context, agrarian law no longer functions as a tool to correct inequality but risks becoming a means to normalize land ownership on a large scale. Furthermore, the state's responsibility under agrarian law cannot be limited to procedural compliance with laws and regulations. The state bears a substantive responsibility to prevent land grabbing, protect community agrarian rights, and ensure that all land policies result in distributive justice. When the state fails to control the logic of accumulation in its agrarian policies, the public mandate for state control over land loses its ethical and constitutional legitimacy. Therefore, the existence of a Land Bank can only be justified if it is clearly positioned within a framework of rights protection, limiting accumulation, and strengthening agrarian justice.

5. References

Books:

- Benda-Beckmann, Franz von, dan Keebet von Benda-Beckmann. 2020. *Property in Social Continuity*. Dordrecht: Springer,
- Borras Jr., Saturnino M., dkk. 2023. *Land Grabbing and Global Capitalist Accumulation*. London: Routledge,
- Budiardjo, Miriam. 2010. *Dasar-Dasar Ilmu Politik*. Jakarta: Gramedia,
- Harsono, Boedi. 2008. *Hukum Agraria Indonesia: Sejarah Pembentukan Undang-Undang Pokok Agraria, Isi dan Pelaksanaannya*. Jakarta: Djambatan,
- Koentjaraningrat. 1985. *Manusia dan Kebudayaan di Indonesia*. Jakarta: Djambatan,
- Limbong, Bernhard. 2013. *Bank Tanah*. Jakarta: Margaretha Pustaka,



- _____. 2012. *Konflik Pertanahan: Studi Teoretis dan Praktik di Indonesia*. Jakarta: Margaretha Pustaka,
- McMichael, Philip. 2021. *Development and Social Change: A Global Perspective*. Thousand Oaks: Sage Publications,
- Polanyi, Karl. 2001. *The Great Transformation*. Boston: Beacon Press,
- Rahardjo, Satjipto. 2009. *Hukum dan Perubahan Sosial*. Bandung: Alumni,
- _____. 2009. *Hukum Progresif: Hukum yang Membebaskan*. Jakarta: Kompas,
- Rawls, John. 1971. *A Theory of Justice*. Cambridge: Harvard University Press,
- Sumardjono, Maria S.W. 2015. *Pengelolaan Tanah Negara dan Reforma Agraria*. Yogyakarta: UII Press,
- _____. 2008. *Tanah dalam Perspektif Hak Ekonomi, Sosial, dan Budaya*. Jakarta: Kompas,

Journals:

- Borras Jr., Saturnino M. (2010). "The Political Economy of Land Grabbing in the Global South." *Journal of Peasant Studies* 37, no. 4 : 575–582.
- El Molla, Mohamed, dan John Anderson. (2019). "Land Banking and Policy Tools in Urban Land Management." *Land Use Policy* 85 : 342–350.