

The Antinomy of Agrarian Reform Regulations After the Establishment of the Land Bank Authority

Bayu Praditya Herusantoso
bayupradityah@gmail.com
Gadjah Mada University, Indonesia

ABSTRACT

The establishment of the Land Bank through Government Regulation No. 64 of 2021 introduces a significant framework designed to secure land availability for public, social, national development, economic equality, land consolidation, and agrarian reform purposes. This regulation marks a new phase in agrarian reform, particularly with the introduction of Presidential Regulation 62 of 2023, which replaces earlier regulations (Nos. 88 of 2017 and 86 of 2018) to streamline and enhance the effectiveness of land reforms. Despite its mandate to allocate 30% of land for agrarian reform, the Land Bank faces challenges due to overlapping land acquisition sources, which often intersect with lands designated for agrarian reform. This research utilizes normative juridical methods to analyze these conflicts between the regulations governing the Land Bank and the enhanced framework provided by the Presidential Regulation on Acceleration of Agrarian Reform. The findings highlight a significant overlap between the targeted lands for agrarian reform and those acquired by the Land Bank. This overlap results in discrepancies in land rights among subjects of land redistribution, who are affected differently depending on whether lands are under the management rights of the Land Bank. The study suggests that legal harmonization efforts are necessary to address these conflicts, recommending the application of *Lex superior derogat legi inferiori*, where higher legislation should override lower ones. Such harmonization is critical to resolve norm conflicts and ensure the equitable distribution of land rights, thereby facilitating the objectives of agrarian reform.

KEYWORDS : Antinomy, Agrarian Reform, Land Bank



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I. INTRODUCTION

The decreasing use of agricultural land by farmers is a serious problem in the agrarian sector. The Gini Index of Indonesia's land tenure inequality stands at 0.68 according to the latest data from the Consortium for Agrarian Reform, which means that 68 percent of land in Indonesia is currently controlled by 1 percent of a group consisting of entrepreneurs and large-scale capital corporations, with the remaining 32 percent being fought over by 99 percent of the Indonesian people.¹ With the condition of the agricultural land area decreasing while the need

¹ CNN Indonesia, "KPA Sebut Puncak Ketimpangan, 68% Tanah Dikuasai 1% Korporasi," diakses 31 Januari 2024, <https://www.cnnindonesia.com/nasional/20210913163421-20-693661/kpa-sebut-puncak-ketimpangan-68-tanah-dikuasai-1-korporasi>.

for agricultural land is increasing and in line with the increasing number of smallholders, this will lead to increased poverty and social inequality. The census results of the Central Bureau of Statistics show that the number of smallholders has increased in the last 10 years from 14.25 million farmers in 2013, up 18.54% by 2.64 million to 16.89 million smallholders in 2023.² This is an indication that rural poverty is increasing. Less than 0.5 hectares of land cultivated by smallholders is not able to meet their needs if they only rely on agricultural products.³

Agrarian Reform presented by the government is an effort to overcome agrarian conflicts caused by inequality in land tenure. Its implementation began through President Regulation 86 of 2018 concerning Agrarian Reform which is the implementing regulation of Act No. 5 of 1960 concerning Basic Agrarian Regulations which was then accelerated through President Regulation 62 of 2023 concerning the Acceleration of Agrarian Reform which is a replacement for President Regulation No. 88 of 2017 concerning Settlement of Land Tenure in Forest Areas and President Regulation No. 86 of 2018 concerning Agrarian Reform is a sign that the government is focused on the problem of agricultural land needs and inequality of land tenure. The land object of agrarian reform is further expanded into 3 (three) forms, namely from forest areas, non-forest areas, and from the settlement of Agrarian Conflicts.

The forms of Agrarian Reform consist of Asset Legalisation, Land Redistribution, and Social Forestry. Communities, especially farmers, get access to land ownership certificates from Land Redistribution activities to improve their living standards and welfare. The objectives of land redistribution according to: (1) Reorganising legal relations relating to land managed by various parties such as farmers, business entities, companies, and the government, taking into account the principles of justice, and socio-economic considerations; (2) Providing support to tenant farmers or farm laborers to obtain certificates of ownership rights to land through equitable and fair distribution of land which is expected to improve the welfare and living standards of farmers; (3) Ensuring dynamic stability in the ownership and use of Land Reform object land that the social and economic objectives of land redistribution can be sustainably.⁴

Concerning Agrarian Reform, in 2020, a new regulation emerged known as Act No. 11 of 2020 on Job Creation. This law became the talk of the town because it contained controversy, and its drafting process was subjected to formal testing at the Constitutional Court. On 25 November 2021, the Constitutional Court issued Decision Number 91/PUU-XVIII/2020, which ordered the Government to suspend strategic actions or policies that have broad impacts. However, despite the Constitutional Court Decision stating the need for suspension, the Government continues to issue derivative regulations from the Job Creation Law, such as Government Regulation Number 64 of 2021 on Land Bank Authority (Land Bank).

In response to Constitutional Court Decision Number 91/PUU-XVIII/2020, President Joko Widodo issued Government Regulation in Lieu of Law Number 2 of 2022 on Job Creation on 30 December 2022. This Regulation on Job Creation was issued to implement the

² Natasha Khairunisa Amani, "BPS: Jumlah Petani Gurem di Indonesia Naik Jadi 16,89 Juta di 2023," 2023, <https://www.liputan6.com/bisnis/read/5471871/page=4>.

³ Andi Irawan, "Naiknya Jumlah Petani Gurem," detiknews, diakses 8 Mei 2024, <https://news.detik.com/kolom/d-7321401/naiknya-jumlah-petani-gurem>.

⁴ Mujiati, "Perkembangan Peraturan Mengenai Redistribusi Tanah dalam Rangka Reforma Agraria di Kabupaten Boyolali," *Jurnal Bhumi* No. 39 (2014).

Constitutional Court's decision, which stated the need for improvement through replacing the Job Creation Law. Article 185 of the Government Regulation in Lieu of Law on Job Creation states the revocation and non-applicability of the Job Creation Law. Nonetheless, the regulation of the Landbank authority in the Government Regulation on Land Bank remains the same as the one in the Act of Job Creation Law that was previously formally challenged by the Constitutional Court. Therefore, despite the controversy related to the formal review of the Job Creation Law, the substance of the material in the Government Regulation on Land Bank also addresses Agrarian Reform.

One of the roles of the Land Bank is to ensure land availability through agrarian reform programs, which involve land redistribution with land provision and distribution activities. The Land Bank is committed to providing at least 30% of state land for agrarian reform programs. It should be emphasized here are aspects of land acquisition sources by the Land Bank, namely former rights land, abandoned land areas, forest area release land, arising land, reclaimed land, former mining land, land on small islands, land affected by spatial change policies, and land that has no control. The source of land acquisition is almost the same as the land object of agrarian reform from non-forest areas that will be allocated for land redistribution to accelerate agrarian reform.

Furthermore, in the context of granting land rights in land redistribution activities, it is still accommodated to issue certificates of ownership rights to residential land and cultivated land for individuals or agricultural business cooperatives. However, the Government Regulation on the Land Bank states that only Cultivation Rights, Building Rights, and Use Rights can be granted over Land Bank Management Rights. Meanwhile, Ownership Rights can only be granted with the mechanism of releasing the Management Rights from the Land Bank, provided that it has been properly utilized for housing purposes for low-income people, agriculture, and/or plantations for a minimum of 10 (ten) years. From the sources of land acquisition that overlap with the land object of agrarian reform and regarding the granting of land rights which also does not accommodate the granting of property rights again to farmers through land redistribution, we can see a conflict of legal norms.

Some previous studies on the link between the Landbank authority and Agrarian Reform have been conducted by Indra Asma Ismanto (2023) on "Kebijakan Reforma Agraria Pasca Lahirnya Badan Bank Tanah" and Roby Guntoro (2022) on "Konsep Formulasi Bank Tanah untuk Reforma Agraria dalam Perspektif Perbandingan Hukum". Nevertheless, previous studies have overlooked a critical issue: the emerging legal conflicts precipitated by the establishment of the Landbank authority. Specifically, these conflicts arise from the overlapping sources of land acquisition, where the designated lands for agrarian reform intersect and the divergent practices in granting land rights during land redistribution activities. This oversight highlights a complex landscape of legal antinomies that challenge the coherence and efficacy of agrarian reform efforts.

Based on the literature and previous research, the issue of agrarian reform regulatory antinomy is important to be carried out in the context of regulatory harmonization efforts as the purpose of the Job Creation Law. This research aims to examine and explain conceptually the problems and harmonisation of agrarian reform regulatory antinomy in terms of granting land rights for land redistribution activities after the establishment of the Land Bank authority. The results

of the research are expected to be an input for stakeholders related to the implementation of land redistribution activities to ensure the legal certainty of land rights holders. The systematic writing of this research begins with the first section, namely the introduction. The second part contains the research method. Then the discussion of conflicts of legal norms will be described in the third section, followed by the fourth section on efforts to harmonize regulations. Furthermore, it is closed with the fifth section, namely the conclusion.

II. METHODOLOGY

The methodology employed in this research involves normative legal studies. The normative legal studies approach may be defined as a research approach that specializes in the analysis of legal regulations, both in the context of the hierarchy of regulation vertically and on the subject of the harmonization of regulation horizontally.⁵ By choosing this type of research, the main attention is aimed at solving problems through the application of applicable positive norms and laws, which are then analyzed descriptively. The selection of this type of research aims to enable an in-depth study using positive law, such as the Law, and theoretical conceptual sources, which are then linked to the issues discussed. In this research, two types of approaches are used, namely a statutory approach and a conceptual approach. This approach aims to investigate and analyze the problem by referring to legal aspects and theoretical concepts. The method of collecting legal materials used is a literature study, in which legal sources are analyzed using a deductive analysis method that refers to general concepts that are then applied to explain information that has previously been selected.

III. AGRARIAN REFORM AND CONFLICT OF NORMS AFTER THE ESTABLISHMENT OF THE LAND BANK AUTHORITY

Indonesia is an Agrarian country, which means that the agricultural sector has an important role in the country's economy with several indicators, namely: (1) Strict regulations on land ownership by foreigners; (2). The existence of regulations and legal protection related to land by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency; (3). The existence of a legal framework governing agrarian and forestry; (4). Implementation of agrarian reform policies.⁶ The concept of agrarian reform in Indonesia has started since Act No. 5 of 1960 concerning Basic Agrarian Regulations was enacted. Based On Waryanta (2016) The regulations that underlie the formation of agrarian reform include:⁷

“(1). MPR Decree No. IX/MPR/2001 on Agrarian Reform and Natural Resource Management; (2). Act No. 5/1960 on the Basic Regulation of Agrarian Principles; (3). Act No. 51 of 1960 Concerning the Prohibition of the Use of Land Without the Permission of the Rightful Owner or his Proxy; (4). Act No. 26 of 2007 on Spatial Planning; (5). Government Regulation No. 8/1963 on the Control of State Land; (6). Government Regulation No. 224 of

⁵ Muhaimin, *Metode Penelitian Hukum*, (Mataram: Mataram University Press, 2020).

⁶ Aliefia Qatrunnada, et. al., “Tantangan dan Peran Pemerintah dalam Pelaksanaan Landreform di Indonesia,” *AL-DALIL: Jurnal Ilmu Sosial, Politik, dan Hukum* 1, no. 3 (2023): 1–12, <https://doi.org/10.58707/aldalil.v1i3.527>.

⁷ Waryanta, “Reforma Agraria: Momentum Mewujudkan Kemandirian Ekonomi Masyarakat Kecil dalam Mendukung Ketahanan Pangan,” *BHUMI: Jurnal Agraria dan Pertanahan* 2, no. 2 (2016): 179, <https://doi.org/10.31292/jb.v2i2.69>.

1961 Concerning the Implementation of Land Division and the Granting of Compensation; (7) Government Regulation No. 4 of 1977 Concerning the Ownership of Agricultural Land in Pieces.”

The government's focus is primarily on land restructuring and redistribution known as Landreform, which is at the core of Agrarian Reform. Land reform is a continuous and sustainable restructuring of land ownership, with an emphasis on agricultural land. The concept of agrarian reform originated to tackle issues related to land and natural resources. Essentially, the goal of implementing agrarian reform is to enhance the well-being of underprivileged farmers.⁸

The government, specifically through the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency has implemented an agrarian reform programme in favour of farmers or tenants. The agrarian reform program consists of access reform and asset reform. Asset reform involves the issuance of land certificates through asset legalization and land redistribution. Then followed by access reform, namely post-redistribution coaching and facilitation efforts. The legal basis for the implementation of land redistribution in agrarian reform is regulated in Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform. As of October 2023, the Ministry of ATR/BPN has realized land redistribution from abandoned land and forest area release of 3.9 million hectares from the target of 4.5 million hectares.⁹ As a Land Regulator, the Ministry of ATR/BPN has an obstacle in maintaining the sustainability of land redistribution, namely not having land stock. Therefore, the establishment of a Land Manager institution, like a Land Bank, is crucial to guarantee the accessibility of land in the context of agrarian reform, as the land acquisition process frequently faces obstacles.¹⁰

The manifestation of the State in regulating land comes in the form of State Control Rights according to Article 2 Paragraph (1) of the Basic Agrarian Law which states that: "The earth, water, and airspace, including the natural resources therein, are at the highest level controlled by the state as the organization of the power of all the people". It is this Right of State Control that provides the constitutional basis for the regulation of land bank agencies. The concept of land bank agencies has the principle that land banks acquire land before there is a need. By utilizing the land bank, the government can wield influence over policies that have spatial implications, encompassing aspects such as infrastructure, environment, or agriculture, within specific locations or areas.¹¹ The conceptual existence of the Land Bank serves a commendable purpose in ensuring land availability and diminishing disparities in land ownership among the community. The Land Bank procures land to support Agrarian Reform to reduce inequality in land ownership, reduce agrarian conflicts, disputes, and cases, and realize the access of economically weak communities to maximum economic resources to achieve the prosperity and welfare of the people. Therefore, the establishment of a Land Bank

⁸ Muhammad Ilham Arisaputra, *Reforma Agraria di Indonesia* (Jakarta: Sinar Grafika, 2015).

⁹ Aloysius Lewokeda, "Kementerian ATR/BPN realisasikan redistribusi tanah 3,9 juta Ha," *AntaraneWS*, diakses 4 Februari 2023, <https://www.antaraneWS.com/berita/3800655/kementerian-atr-bpn-realisasikan-redistribusi-tanah-39-juta-ha>.

¹⁰ Sutaryono, "Memahami Urgensi Bank Tanah," *Kolom OPINI SKH Kedaulatan Rakyat*, 2022.

¹¹ R Guntoro & M A Nugroho, "Konsep Formulasi Bank Tanah untuk Reforma Agraria dalam Perspektif Perbandingan Hukum," *Jurnal Kewarganegaraan* 6, no. 3 (2022): 6363–71.

must contain a balance between land acquisition for national interests and ensuring the availability of land for Agrarian Reform so that the small people, especially farmers, planters, and land cultivators, have access to make the best use of state land to realize the goals of Agrarian Reform.

The need for the establishment of a land bank is due to the increasing intensity of land needs for development, the limited availability of land, the ever-increasing price of land, and the less-than-optimal use and utilization of land, especially for the implementation of development for the public interest. On the other hand, private business entities have practiced 'land banking' in the form of large-scale land tenure as land reserves, which can be interpreted as a practice of speculation in which there is an element of land neglect.¹² After the existence of the Land Bank, Agrarian Reform is still running on its own according to the objectives and functions stated in the Presidential Regulation on the Acceleration of Agrarian Reform. In reality, Agrarian Reform is still not optimal and has many shortcomings, but with the existence of the Land Bank, which also has the goal of achieving Agrarian Reform, there is a difference in the ultimate goal of Agrarian Reform itself.¹³

The Land Bank also provides government support in guaranteeing the availability of land for the benefit of national development in the form of guaranteeing the provision of land for development carried out by the Central Government and Regional Governments to support economic improvement and investment. The Land Bank has a strategic role to play in addressing the land mafia and helping underprivileged farmers. By maintaining control over land prices and ensuring fair access to land, the Land Bank can reduce corrupt practices and exploitation by the land mafia. In addition, by providing underprivileged farmers with easier access to land, the Land Bank can help improve their welfare and reduce social inequality in society.

In normative terms, the Land Bank is tasked with multiple responsibilities, as outlined in Government Regulation No. 64 of 2021. These duties include: (a) formulating activity plans; (b) executing land acquisition; (c) undertaking land acquisition for development in the public interest or direct land acquisition; (d) managing land encompassing development, maintenance, and control activities; (e) utilizing land through collaborative arrangements with other parties; and (f) distributing land. The Land Bank has control over various types of land designated by the government, including (a) previously owned land; (b) deserted areas and land; (c) land released from forest areas; (d) emergent land; (e) reclaimed land; (f) former mining land; (g) land on small islands; (h) land affected by changes in spatial planning policies; and (i) land without existing occupation. In addition, it can also come from government lands, legal entities, business entities, or community lands. These lands are controlled by the land bank through various means of acquisition such as purchase, receipt of grants/donations, exchange, release of rights, or through the acquisition of other legal forms.

¹² Sutaryono, *Op.Cit*

¹³ Indri Asra Ismanto, Pujiyono, dan Hari Purwadi, "Kebijakan Reforma Agraria Pasca Lahirnya Bank Tanah," dalam *Problematika Kemudahan Proyek Strategi Nasional: Konflik Norma dan Tantangan Kesejahteraan* (Prosiding Seminar Hukum Aktual, 2023).

When examined closely, it can be seen that the source of land acquisition for the Land Bank overlaps with the land object of agrarian reform. Likewise, land managed by the Land Bank, although it is not land from the results of government stipulation originating from the land of agrarian reform object, obtained from other parties legally can also be used for land redistribution to agrarian reform subjects through the agrarian reform program by granting Cultivation Rights, Building Rights and Use Rights above the management rights of the Land Bank. This management right by the Land Bank, of course, is not solely for profit but prioritizes the public interest, social interest, or national development interest.¹⁴ Expansion of land acquisition for agricultural land is one form of change in the use of land resources from non-agricultural land to agricultural land.¹⁵

The granting of land rights in land redistribution activities according to the Presidential Regulation on the Acceleration of Agrarian Reform has several types, namely land ownership rights for settlements and cultivated land for individuals, and/or cooperative ownership rights for agricultural businesses; Cultivation rights for individuals, and/or business use rights for legal entities in the form of cooperatives; building rights for Agrarian Reform Subjects in the form of legal entities; Joint ownership rights for Agrarian Reform Subjects in the form of community groups; Use rights for public facilities and/or social facilities; Timed Land Rights for cultivated land that has been controlled and/or utilized by the community on management rights land for land sources of agrarian reform objects; and other Land Rights stipulated by the minister who organizes government affairs in the land sector.

The Presidential Regulation on the Acceleration of Agrarian Reform has accommodated the mechanism of granting timed land rights for land located on management rights for agrarian reform land sources, in this case, the management rights of the Land Bank. However, in the Government Regulation on Land Bank, the mechanism for granting property rights that are still accommodated in the President Regulation on the Acceleration of Agrarian Reform can only be granted through the release of Land Bank Management Rights with the condition that it has been properly utilized for housing for low-income people, agriculture and/or plantations, for a minimum of 10 (ten) years.

Concerning the source of land acquisition and the granting of land rights for land redistribution, it can be seen that antinomy occurs in the Government Regulation on Land Bank and Presidential Regulation on the Acceleration of Agrarian Reform. In addition, the Constitutional Court's declaration of the Job Creation Law as conditionally unconstitutional because it contradicts the Basic Law also shows an indication of antinomy in these laws and regulations.¹⁶ Antinomy is a condition that contradicts each other but cannot be separated

¹⁴ Anna Azharniyah dan Ahmad Suhaimi, "Keberadaan Bank Tanah Ditinjau dari Asas Kemamfaatan dan Politik Hukum di Indonesia," *Wasaka Hukum* 10, no. 2 (2022): 20–33.

¹⁵ Wahyu Beny, Mukti Setiyawan, dan Nabila Chyntia Dahani, "Model Bank Tanah Pertanian Untuk Mewujudkan Indonesia Berdaulat Pangan," *Qistie Jurnal Ilmu Hukum* 13, no. 1 (2020): 78–95.

¹⁶ Zainal Arifin Mochtar, "Antinomi dalam Peraturan Perundang-undangan di Indonesia," *Hasanuddin Law Review* 1, no. 3 (2015): 316.

because they are both related and need each other.¹⁷ The conflict that occurs between the two laws and regulations occurs but cannot be separated because they are interrelated.

IV. HARMONISATION OF AGRARIAN REFORM REGULATIONS RELATED TO LAND REDISTRIBUTION

To overcome legal antinomy or conflict between legal norms, the principles of preference apply.¹⁸ The principle of *Lex superior derogate legi inferiori* is used to overcome vertical conflicts of norms, then if there is a horizontal conflict of norms, the principle of *Lex specialis derogate legi generali* can apply.¹⁹ The legal principle is defined as the basic thought behind a concrete regulation. The nature of the principle is abstract, thus causing the principle cannot be directly applied to concrete events. The function of legal principles in law is to complement the legal system and make the legal system flexible. Legal principles can also resolve conflicts that occur in the legal system. In a legal system, conflicts between elements or parts are never allowed to drag on, because, in essence, the legal system is consistent.²⁰ The hierarchy of statutory regulations is regulated in Article 7 paragraph (1) of Act No. 12 of 2011 concerning the Formation of Legislation, which explains that the types and hierarchy of statutory regulations consist of:

“(a). *The 1945 Constitution of the Republic of Indonesia*; (b). *Decree of the People's Consultative Assembly*; (c). *Act/government regulations in lieu of laws*; (d). *Government regulations*; (e). *Presidential regulations*; (f). *Provincial regulations*; and (g). *District/city regulations*.”

Legal antinomy (conflict of norms) of laws and regulations can be resolved by applying legal principles or legal doctrines.²¹

The conflict between the Government Regulation establishing the Land Bank and the Presidential Regulation on the Acceleration of Agrarian Reform exemplifies a vertical norm conflict, where differing levels of legal authority may conflict. This conflict is addressed by the principle of '*Lex superior derogat legi inferiori*'—superior law overrides inferior law. Specifically, when implementing land redistribution, if the activities fall under the Land Bank Management Rights, they must adhere to the stipulations set forth in the Government Regulation on the Land Bank. Conversely, if the land redistribution activities concern state land intended for agrarian reform, they are governed by the broader directives of the

¹⁷ Endrik Safudin, “Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman),” *Al-Syakhsiyyah: Journal of Law & Family Studies* 2, no. 2 (2021): 201–29.

¹⁸ Sudikno Mertokusumo & A. Pitlo, *Bab-Bab Tentang Penemuan Hukum*, (Bandung: Citra Aditya Bakti, 2013).

¹⁹ Iwan Permadi, “Konstitusionalitas Keberadaan Bank Tanah dalam Pengelolaan dan Penguasaan atas Tanah oleh Negara,” *Jurnal Usm Law Review* 6, no. 1 (2023): 291.

²⁰ E. Nurhaini Butarbutar, “Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum,” *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145–57.

²¹ Kadek Widya Antari, Ratna Artha Windari, & Dewa Gede Sudika Mangku, “Tinjauan Yuridis Mengenai Antinomy Normen (Konflik Norma) Antara Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar-Dasar Pokok Agraria Dengan Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal Terkait Jangka Waktu Perolehan Hak Atas Tanah,” *e-Journal Komunitas Yustisia Universitas Pendidikan Ganesha Jurusan Ilmu Hukum* 2, no. 2 (2019): 88–99.

Presidential Regulation on the Acceleration of Agrarian Reform. This dual framework affects how land rights are granted to beneficiaries, which can vary significantly depending on the legal framework applied. Additionally, the implementation of land redistribution by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency follows specific technical guidelines that further define the process. Operationally, the Land Bank is responsible for providing the land, while coordination with local government ensures that each phase of land redistribution adheres to pre-established provisions. This structured coordination is crucial to manage the complexities of land redistribution effectively, ensuring that legal and administrative measures align with both national objectives and local needs.

V. CONCLUSION

The establishment of the Land Bank under the Omnibus Law continues to advance the agenda of Agrarian Reform, aiming to mitigate land conflicts in Indonesia. However, the coexistence of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency with the Land Bank Authority introduces potential conflicts of legal norms. This is evident in the overlapping authorities over land acquisition and redistribution, where lands designated for agrarian reform are also utilized for broader land management purposes. The Land Bank's role, as defined by Government Regulation on the Land Bank, complicates the distribution process, affecting the equitable distribution of land rights. Furthermore, the implementation of agrarian reform through land redistribution, as stipulated in Presidential Regulation No. 62 of 2023, faces challenges from these institutional overlaps, requiring a legal harmonization approach. This could be addressed by applying the legal principle of 'lex superiori derogat legi inferiori', ensuring that more specific or superior legal regulations take precedence. Thus, land redistribution managed under Land Bank's authority would adhere to its specific regulations, whereas redistribution under direct agrarian reform objectives would follow the relevant presidential regulations.

REFERENCES

- Amani, Natasha Khairunisa. "BPS: Jumlah Petani Gurem di Indonesia Naik Jadi 16,89 Juta di 2023," 2023. <https://www.liputan6.com/bisnis/read/5471871/bps-jumlah-petani-gurem-di-indonesia-naik-jadi-1689-juta-di-2023?page=4>.
- Antari, Kadek Widya, Ratna Artha Windari, & Dewa Gede Sudika Mangku. "Tinjauan Yuridis Mengenai Antinomy Normen (Konflik Norma) Antara Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar-Dasar Pokok Agraria Dengan Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal Terkait Jangka Waktu Perolehan Hak Atas Tanah." *e-Journal Komunitas Yustisia Universitas Pendidikan Ganesha Jurusan Ilmu Hukum* 2, no. 2 (2019): 88–99.
- Arisaputra, Muhammad Ilham. *Reforma Agraria di Indonesia*. Sinar Grafika, 2015.
- Azharniyah, Anna. & Ahmad Suhaimi. "Keberadaan Bank Tanah Ditinjau dari Asas Kemamfaatan dan Politik Hukum di Indonesia." *Wasaka Hukum* 10, no. 2 (2022): 20–33.

- Beny, Wahyu. Mukti Setiyawan. & Nabila Chyntia Dahani. "Model Bank Tanah Pertanian Untuk Mewujudkan Indonesia Berdaulat Pangan." *Qistie Jurnal Ilmu Hukum* 13, no. 1 (2020): 78–95.
- Butarbutar, E. Nurhaini. "Antinomi Dalam Penerapan Asas Legalitas Dalam Proses Penemuan Hukum." *Yustisia Jurnal Hukum* 1, no. 1 (2012): 145–57. <https://doi.org/10.20961/yustisia.v1i1.10614>.
- Guntoro, R. & M A Nugroho. "Konsep Formulasi Bank Tanah untuk Reforma Agraria dalam Perspektif Perbandingan Hukum." *Jurnal Kewarganegaraan* 6, no. 3 (2022): 6363–71.
- Indonesia, CNN. "KPA Sebut Puncak Ketimpangan, 68% Tanah Dikuasai 1% Korporasi." Diakses 31 Januari 2024. <https://www.cnnindonesia.com/nasional/20210913163421-20-693661/kpa-sebut-puncak-ketimpangan-68-tanah-dikuasai-1-korporasi>.
- Irawan, Andi. "Naiknya Jumlah Petani Gurem." detiknews. Diakses 8 Mei 2024. <https://news.detik.com/kolom/d-7321401/naiknya-jumlah-petani-gurem>.
- Ismanto, Indri Asra. Pujiyono. & Hari Purwadi. "Kebijakan Reforma Agraria Pasca Lahirnya Bank Tanah." Dalam *Problematika Kemudahan Proyek Strategi Nasional: Konflik Norma dan Tantangan Kesejahteraan*. Prosiding Seminar Hukum Aktual, 2023.
- Lewokeda, Aloysius. "Kementerian ATR/BPN realisasikan redistribusi tanah 3,9 juta Ha." *Antaraneews*. Diakses 4 Februari 2023. <https://www.antaraneews.com/berita/3800655/kementerian-atr-bpn-realisasikan-redistribusi-tanah-39-juta-ha>.
- Mertokusumo, Sudikno. & A. Pitlo. *Bab-Bab Tentang Penemuan Hukum*. Cetakan II. Bandung: Citra Aditya Bhakti, 2013.
- Mochtar, Zainal Arifin. "Antinomi dalam Peraturan Perundang-undangan di Indonesia." *Hasanuddin Law Review* 1, no. 3 (2015): 316. <https://doi.org/10.20956/halrev.v1n3.112>.
- Muhaimin. *Metode Penelitian Hukum*. Cetakan I. Mataram: Mataram University Press, 2020.
- Mujiati. "Perkembangan Peraturan Mengenai Redistribusi Tanah dalam Rangka Reforma Agraria di Kabupaten Boyolali." *Jurnal Bhumi* No. 39 (2014).
- Permadi, Iwan. "Konstitusionalitas Keberadaan Bank Tanah dalam Pengelolaan dan Penguasaan atas Tanah oleh Negara." *Jurnal Usm Law Review* 6, no. 1 (2023): 291. <https://doi.org/10.26623/julr.v6i1.6678>.
- Qatrunnada, Aliefia. Bakri. Herdawati. Muhammad Syarifudin. Indra Muchlis Adnan. & Didi Syaputra. "Tantangan dan Peran Pemerintah dalam Pelaksanaan Landreform di Indonesia." *AL-DALIL: Jurnal Ilmu Sosial, Politik, dan Hukum* 1, no. 3 (2023): 1–12. <https://doi.org/10.58707/aldalil.v1i3.527>.
- Safudin, Endrik. "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)." *Al-Syakhsyiyah: Journal of Law & Family Studies* 2, no. 2 (2021): 201–29. <https://doi.org/10.21154/syakhsyiyah.v2i2.2592>.

Sutaryono. "Memahami Urgensi Bank Tanah." *Kolom OPINI SKH Kedaulatan Rakyat*, 2022.

Waryanta. "Reforma Agraria: Momentum Mewujudkan Kemandirian Ekonomi Masyarakat Kecil dalam Mendukung Ketahanan Pangan." *BHUMI: Jurnal Agraria dan Pertanahan* 2, no. 2 (2016): 179. <https://doi.org/10.31292/jb.v2i2.69>.