

**IMPLEMENTATION OF THE DUTIES AND FUNCTIONS OF THE  
LAND BANK AGENCY IN COLLECTING ABANDONED LAND BASED  
ON GOVERNMENT REGULATION NUMBER 64 OF 2021 MAQASHID  
SHARIA PERSPECTIVE**

**(Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency)**

**THESIS**

by

Rizki Amalia Rahmadani

NIM.210203110066



**CONSTITUTIONAL LAW STUDY PROGRAM (SIYASAH)**

**FACULTY OF SHARIA**

**MAULANA MALIK IBRAHIM STATE ISLAMIC UNIVERSITY**

**2025**

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**2025**

## STATEMENT OF AUTHENTICITY OF THESIS

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For the sake of Allah SWT,

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**(Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency)**

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Malang 06 March 2025



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**(Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency)**

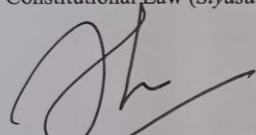
Therefore, the supervisor stated that the thesis had met the scientific requirements to be submitted and tested by the Board of Examiners.

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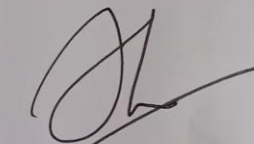
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No.	Day/Date	Consultation Materials	Signature
1.	Frid/11-10-2024	Discussion of Research Title and Object	
2.	Wed/13-11-2024	Research proposal discussion	
3.	Wed/22-01-2025	Discuss results of Proposal Seminar, rev part 1	
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5.	Wed/05-02-2025	Chapter 2 Discussion	
6.	Frid/07-02-2025	ACC Chapter 2	
7.	Mon/10-02-2025	Chapter 3 Discussion	
8.	Wed/19-02-2025	ACC Chapter 3	
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11.	Wed/05-03-2025	ACC Chapter 4 and Revised Chapter 5	
12.	Thurs/06-03-2025	ACC Final	

Malang, 06 February 2025

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Head of the Constitutional Law Study Program (Siyasah),

Dr. Musleh Harry, S.H., M. Hum

NIP. 196807101999031002

## **MOTTO**

"Justice is a contract of benefit, created to prevent people from being hurt or harmed."

**-Epicurus-**

يَوْهُوَ مَعَكُمْ أَيْنَ مَا كُنْتُمْ

*"He is with you wherever you are"*

**(Q.S. Al-Hadid :4)**

"Seek peace of mind, not pleasure."

**-KH. A. Tamim Romly, SH. M.Si-**

## FOREWORD

Bismillahirrahamanirrahim,

All praise be to Allah SWT for His grace and grace so that the researcher can complete the writing of the thesis entitled "IMPLEMENTATION OF THE DUTIES AND FUNCTIONS OF THE LAND BANK AGENCY IN COLLECTING ABANDONED LAND BASED ON GOVERNMENT REGULATION NUMBER 64 OF 2021 MAQASHID SHARIA PERSPECTIVE (Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency)". Prayers and greetings may always be bestowed on the Prophet Muhammad PBUH who has freed us from the shackles of the age *of ignorance* . The preparation of this thesis aims to meet one of the requirements to obtain a Bachelor of Law degree in the Constitutional Law Study Program, Faculty of Sharia, UIN Maulana Malik Ibrahim Malang.

In the process of completing the study and writing this thesis, the author received a lot of help from teaching, guidance, and direction from various parties both directly and indirectly. For this reason, the author would like to express his infinite gratitude to:

1. Prof. Dr. M. Zainuddin, M.A, as the Rector of the State Islamic University of Maulana Malik Ibrahim Malang.
2. Prof. Dr. Sudirman, M.A., as the Dean of the Faculty of Sharia, Maulana Malik Ibrahim State Islamic University, Malang.
3. Dr. Musleh Herry, S.H., M.Hum., as the Head of the Constitutional Law Study Program of Maulana Malik Ibrahim State Islamic University Malang, as well as the Supervisor who has spent time in the midst of his busy life, provides criticism, suggestions and directions to the author in the process of writing this thesis, so that the author can complete this thesis well, and patiently guide the author in the process of preparing this thesis. .
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5. Dr. Mustafa Lutfi, S.Pd., S.H., M.H., as the author's guardian lecturer, thank



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10. The writer's family who warmly welcomed the land of the region (@teenneedwinn), Irma Aminullah, thanked her for being a tutor and never stingy with the knowledge she gained. Kamilliya Noer Rakhmah, thank you for encouraging the author to complete his studies well, thank you for believing in the author's ability, and being a brother who always warmly embraces his sister. Nuraida Manurung, thank you for accompanying the author, especially in the final study period, thank you for always entertaining in the downtrodden. May Allah be pleased with this friendship,

until later.

11. The family of HMPS Constitutional Law, Sema-F Syariah, PMII Rayon Radikal Al-Faruq, where the author gained knowledge and experience other than in the lecture banku. Thank you very much for the knowledge and relationships that the author has gained.
12. *Last but not least, I want to thank me. I want to thank me for believing in me, I want to thank me for doing all this hard work, I want to thank me for having no days off, I want to thank me for never quitting, I want to thank me for always being a giver and try a give more than I receive. I want to thank me try a do more right than wrong, I want to thank me for just being me at all times.*

May all the goodness that you have done to you, mothers, brothers, and friends be repaid with greater goodness by Allah SWT. The author realizes that this thesis is not perfect, both in terms of substance and in terms of presentation due to the limitations of the author's ability. Therefore, all suggestions and criticisms are highly expected by the author for the perfection of this thesis. Hopefully the thesis that the author compiled can be used as reference material and reading material so that it can be useful for all elements of society.

Malang, 05 March 2025  
Writer

Rizki Amalia Rahmadani  
NIM. 210203110066

## TRANSLITERATION GUIDELINES

### A. Common

Transliteration is the transfer of Arabic into Indonesian or Latin, not Arabic to Indonesian translation. Included in this category are Arabic names from Arabs, while Arabic names from non-Arabic nations are written according to the spelling of their national language, or as written in books as a reference. Writing book titles in *footnotes* and bibliographies, still use this transliter.

There are many options and transliterative provisions that can be used in writing scientific papers, both those with international and national standards, as well as provisions that are specifically used by certain publishers. The transliteration used by the Faculty of Sharia, State Islamic University (UIN) Maulana Malik Ibrahim Malang uses EYD plus, which is a transliterator based on the Joint Decree (SKB) of the Minister of Religion and the Minister of Education and Culture of the Republic of Indonesia, dated January 22, 1987 No. 158/1987 and 0543.b/U/1987, as stated in the Arabic Transliteration Guidebook *A Guide Arabic Transliteration*.

### B. Consonant

The list of Arabic letters and their transliteration into Latin letters can be seen on the following page:

Arabic Letters	Name	Latin Letters	Name
ا	Alif	Not symbolized	Not symbolized

ب	Ba	B	Baby
ت	Ta	T	Te
ث	S a	S	Ice (with the dot above)
ج	Jim	J	Je
ح	H{a	H{	Ha (with the dot above)
خ	Kha	Kh	Ka and Ha
د	Dal	D	De
ذ	Z al	Z	Zet (with the dot above)
ر	Ra	R	Er
ز	Zai	Z	Zet
س	Sin	S	Ice
ش	Coins	Sy	Ice and ye
ص	S{ad	S{	Ice (with dots below)
ض	D}ad	D{	De (with a dot below)
ط	T{a	T{	Te (with a dot below)
ظ	Z}a	Z{	Zet (with dot below)
ع	"Ain	„	Inverted Apostoof
غ	Gain	G	Ge
ف	Fa	F	Ef
ق	Qof	Q	Qi
ك	Kaf	K	Ka
ل	Lam	L	El

م	Mim	M	Em
---	-----	---	----

Hamzah (Á) which is located at the beginning of the word follows its vowel without being given any signs. If it is located in the middle or at the end, then it is written with a sign ("").

### C. Vocal, Long, and Diphthong

Each Arabic writing in the form of vocal *fathah* is written with "a", kasrah with "i", *dlommah* with "u", while the long readings are written in the following way:

- The vowel (a) length = â e.g. قال becomes qâla
- Vowel (i) length = i e.g. قيل becomes qila
- Long vowel (û) = û e.g. دُونَ becomes dûna

Especially for the reading of yes" nisbat, it should not be replaced with "i", but it should still be written with "iy" so that it can describe yes" nisbat at the end. Likewise for the sound of diphthong, wawu and ya" after fathah is written with "aw" and "ay". Consider the following example:

- Diphthong (aw) = َ e.g. قول becomes qawlun
- Diphthong (ay) = ِ e.g. خير becomes an imaginary

### D. Ta'marbûthah

Ta'marbûthah is transliterated with a "t" in the middle of the sentence, but if the ta'marbuthah is at the end of the sentence, then it is transliterated using "h" for example الرسالة المدرسة to al- risalat li al- mudarrisah, or if it is in the middle of a sentence consisting of the order of *mudlaf* and *mudlaf ilayh*, then it is transliterated using a "t" connected with the next sentence, for example في

رحمة هلا becomes *fi rahmatillâh*.

#### E. Said Sandang and Lafadz Al-Jalâlah

The suffix in the form of "al" is written in lowercase letters, except at the beginning of the sentence, while the "al" in the lafadh jalalah that is in the middle of the sentence is leaned *against (idhafah)* and is omitted. Consider the following example example:

1. Al-Imâm Al-Bukhâriy says...
2. Al-Bukhâriy in his muqaddimah explains...
3. *Masyâ" Allâh kâna wâ lam yasya" lam yakun.*
4. *Billah,, azza wa jalla.*

#### F. Indonesian Arabic Names and Words

In principle, every word that comes from Arabic must be written using the transliteration system. If the word is an Arabic name from an Indonesian or an Arabic language that has been Indonesian, it does not need to be written using a transliteration system. Consider the following example:

"... Abdurahman Wahid, the former fourth president of the Republic of Indonesia, and Amin Rais, former chairman of the People's Consultative Assembly (MPR) at the same time, have made an agreement to eliminate nepotism, collusion and corruption from the face of Indonesia, one of the ways is through intensifying prayers in various government offices, but..."

Pay attention to the writing of the names "Abdurahman Wahid", "Amin Rais" and the word "salat" written using Indonesian writing procedures that are adjusted to the writing of the name. Even though the word comes from Arabic,

it is in the form of a name from an Indonesian and has been Indonesian, for that it is written in the way of "Abd al-Rahman Wahid", "Amin Rais", and not written "shalât".

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## ABSTRAK

Rizki Amalia Rahmadani. NIM. 210203110066. **Implementasi Tugas dan Fungsi Badan Bank Tanah Dalam Menghimpun Tanah Terlantar Berdasarkan Peraturan Pemerintah Nomor 64 Tahun 2021 Perspektif Maqashid Syariah (Studi di Desa Kepuhanyar, Kecamatan Mojoanyar, Kabupaten Mojokerto)**. Skripsi. Program Studi Hukum Tata Negara (*Siyasah*). Universitas Islam Negeri Maulana Malik Ibrahim Malang. Pembimbing : Dr. H. Musleh Harry, S.H, M. Hum.

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**Kata kunci : Badan Bank Tanah; Implementasi; *Maqashid Syariah***

Badan bank tanah merupakan badan negara yang baru dibentuk pada tahun 2021, sehingga memerlukan nilai evaluasi implementasi selama ini, agar dapat berkembang semakin baik. Penghimpunan tanah terlantar harus dilakukan agar menghindari digunakan secara ilegal oleh masyarakat. Tanah terlantar dapat menjadi masalah serius jika tidak dimanfaatkan secara legal. Pemanfaatan tanah terlantar di Kabupaten Mojokerto tidak berjalan dengan baik yang mengakibatkan adanya kegiatan ilegal berupa persewaan lahan. Dibentuknya badan bank tanah bertujuan agar meminimalisir adanya kegiatan ilegal berupa penyewaan lahan yang merugikan beberapa masyarakat.

Jenis Metode penelitian yang digunakan adalah Yuridis Empiris. Dengan menggunakan pendekatan sosiologi hukum. Seluruh sumber data yang digunakan diolah dengan metode kualitatif. Fokus utama penelitian ini meliputi : 1) Menemukan tantangan badan bank tanah dalam mengimplementasikan Tugas dan Fungsi dalam menghimpunh tanah terlantar di Kabupaten Mojokerto; 2) Merumuskan solusi tantangan yang dihadapi badan bank tanah berdasarkan perspektif *Maqashid Syariah*.

Hasil dan temuan penelitian ini adalah 1) Badan bank tanah belum dapat melakukan tugas dan fungsinya dengan maksimal, dikarenakan terdapat kendala dalam menjadikan tanah terlantar di Kabupaten Mojokerto menjadi aset badan bank tanah. Kendala tersebut berupa lamanya hak pengelolaan turun dari Kementerian ATR/BPN kepada instansi pengelola, yakni badan bank tanah. Pelaksanaan tugas dan fungsi badan bank tanah dapat berjalan lebih massif jika menerapkan asas dekonsentrasi, yakni dengan melimpahkan Sebagian tugasnya pada aparatur dibawahnya, yakni di jajaran daerah. 2) Tantangan yang dihadapi oleh badan bank tanah berimplikasi pada penggunaan tanah terlantar di Kabupaten Mojokerto dikuasai oleh masyarakat secara ilegal dengan PT. MIP. Berdasarkan teori kemanfaatan dan perspektif Maqashid Syariah, peraturan terkait tugas dan fungsi badan bank tanah belum mencapai kebahagiaan menyeluruh dan kemashlahatan ummat. Adapun rekomendasi yang dapat diberikan adalah membangun kantor wilayah badan bank tanah di tingkat Kabupaten/Kota, serta memperbaiki peraturan terkait agar menanggulangi tidak bermanfaatnya tanah terlantar di wilayah Indonesia.

## ABSTRACT

Rizki Amalia Rahmadani. NIM. 210203110066. **Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land Based on Government Regulation Number 64 of 2021 Perspective Maqashid Syariah (Study in Kebuhanyar Village, Mojoanyar District, Mojokerto Regency).** Thesis. Constitutional Law Study Program (*Siyasah*). Maulana Malik Ibrahim State Islamic University, Malang. Supervisor : Dr. H. Musleh Harry, S.H, M. Hum.

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**Keywords: Land Bank Agency; Implementation; Maqashid Shariah**

The land bank is a fairly new state body, so it requires the value of implementation evaluation so far, so that it can develop better. The collection of abandoned land must be carried out to avoid being used illegally by the community. Abandoned land can become a serious problem if it is not used legally. The use of abandoned land in Mojokerto Regency is not running well, which results in illegal activities in the form of land rental. The establishment of the land bank body aims to minimize illegal activities that harm several communities.

The type of research method used is Empirical Juridical. By using a legal sociology approach. All data sources used are processed by qualitative methods. The main focus of this research includes: 1) Finding challenges for land bank agencies in implementing Tasks and Functions in collecting abandoned land in Mojokerto Regency; 2) Formulate solutions to the challenges faced by land bank bodies based on the perspective of *Maqashid Sharia*.

The results and findings of this study are 1) The land bank body has not been able to perform its duties and functions optimally, because there are obstacles in making abandoned land in Mojokerto Regency an asset of the land bank body. The implementation of the duties and functions of the land bank agency can run more massively if it applies the principle of deconcentration, namely by delegating some of its duties to the apparatus under it, namely in the regional ranks. 2) The challenges faced by the land bank agency have implications for the use of abandoned land in Mojokerto Regency controlled by the community illegally with PT. MIP. Based on the theory of usefulness and the perspective of Maqashid Sharia, regulations related to the duties and functions of land bank bodies have not achieved the overall happiness and fame of the ummah. The recommendations that can be given are to build a regional office of the land bank agency at the Regency/City level, as well as improve related regulations to overcome the unuse of abandoned land in Indonesian territory.

## الملخص

رزقي أماليا رحمانى ن.م.م. 210203110066. تنفيذ واجبات ووظائف وكالة بنك الأراضي في جمع الأراضي المتروكة بناءً على اللائحة الحكومية رقم 64 لعام 2021 بشأن بنك الأراضي من منظور الشريعة الإسلامية (دراسة في قرية كيوهانبار، منطقة موجوانبار، محافظة موجوكتو. (الأطروحة. برنامج دراسة القانون الدستوري) السياسة. (جامعة مولانا مالك إبراهيم مالانج الإسلامية الحكومية. المشرف: د. ح. مصلح هاري، س. ح. م. هوم

الكلمات المفتاحية: وكالة بنك الأراضي؛ التنفيذ؛ مقاصد الشريعة الإسلامية

وكالة بنك الأراضي هي وكالة حكومية حديثة التكوين إلى حد ما، لذا فهي تتطلب تقييماً للتنفيذ حتى الآن، حتى يمكن تطويرها بشكل أفضل. يجب أن يتم جمع الأراضي المهجورة من أجل تجنب الاستخدام غير القانوني من قبل المجتمع المحلي. يمكن أن تكون الأراضي المهجورة مشكلة خطيرة إذا لم يتم استخدامها بشكل قانوني. لا تسير عملية استغلال الأراضي المهجورة في منطقة موجوكتو بشكل جيد، مما يؤدي إلى أنشطة غير قانونية في شكل تأجير الأراضي. يهدف إنشاء وكالة بنك الأراضي إلى الحد من الأنشطة غير القانونية التي تضر ببعض المجتمعات المحلية.

نوع أسلوب البحث المستخدم هو الأسلوب القانوني التجريبي. باستخدام منهج علم الاجتماع القانوني. تتم معالجة جميع مصادر البيانات المستخدمة بأساليب نوعية. يشمل التركيز الرئيسي لهذا البحث ما يلي: 1) (إيجاد التحديات التي تواجهها وكالات بنك الأراضي في تنفيذ واجباتها ووظائفها في جمع الأراضي المهجورة في محافظة موجوكتو؛ 2) (صياغة حلول للتحديات التي تواجهها وكالات بنك الأراضي استناداً إلى المنظور الشرعي المقاصدي).

نتائج ونتائج هذا البحث هي 1) (لم تتمكن وكالة بنك الأراضي من أداء واجباتها ووظائفها على النحو الأمثل، لأن هناك عقبات في تحويل الأراضي المهجورة في محافظة موجوكتو إلى أصول لوكالة بنك الأراضي يمكن تنفيذ واجبات ووظائف وكالة بنك الأراضي على نطاق أوسع إذا طبقت مبدأ عدم التركيز، أي من خلال تفويض بعض واجباتها إلى الأجهزة الأدنى، أي في الرتب الإقليمية. 2) (إن التحديات التي تواجهها وكالة بنك الأراضي لها آثار على استخدام الأراضي المهجورة في محافظة موجوكتو التي يسيطر عليها المجتمع المحلي بشكل استناداً إلى نظرية المصلحة والمنظور الشرعي المقاصدي، فإن اللوائح المتعلقة PT MIP غير قانوني مع شركة بواجبات ووظائف وكالة بنك الأراضي لم تحقق السعادة العامة ومصلحة الأمة. وتتمثل التوصيات التي يمكن تقديمها في بناء مكاتب إقليمية لوكالات بنك الأراضي على مستوى المحافظة/المدينة، وتحسين اللوائح ذات الصلة من أجل التغلب على عدم جدوى الأراضي المهجورة في الأراضي الإندونيسية.

## **CHAPTER I INTRODUCTION**

### **A. Background of the Problem**

Indonesia is referred to as an archipelagic country consisting of many islands that it owns. Where each archipelago has a lot of natural resources, including the soil and what is planted on it, as well as water as well as what is in it. Through this, it can be seen that Indonesia is a country that is very rich in natural investment.

Seeing the opportunity of these natural resources, both the government and the community have the right to enjoy this wealth. Likewise, what has been stated in Law Number 5 of 1960 concerning the Basic Regulations of Agrarian Staples hereinafter referred to as the UUPA, in article 2 paragraph 1 it is stated that the earth, water and space, including the natural resources contained therein are at the highest level controlled by the State, as the power organization of all the people.<sup>1</sup> This is based on article 33 paragraph 3 of the Constitution. It is clearly stated in the paragraph, if the natural resources owned by Indonesia are used fully for the benefit of the community. What needs to be remembered is in article 2 paragraph 1 of the UUPA that these natural resources are controlled by the state, as the highest level, as the organization of power of all the people.<sup>2</sup>

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<sup>1</sup> "Law Number 5 of 1960 (1). Pdf," n.d., 3.

<sup>2</sup> Miftahur Rachman, Mulia Akbar Santoso, Raja Desril, "A Study on the Existence and Strengthening of Land Bank Bodies in the Undang-Undang of Job Creation and Its Implications for Land Law in Indonesia," *INNOVATIVE: Journal Of Social Science Research* 4 (n.d.): 7.



Unfortunately, the organization of power of all the people, which is called the government, today does not run in accordance with the mandate given by the people and given by the constitution. It can be seen that one of the goals of the establishment of the Land Bank Agency is to achieve Agrarian Reform, as well as economic equity. But in fact, today Baank Tanah cannot achieve the goal of its establishment. Worse, the Land Bank Agency is felt to be contrary to the ideals of agrarian reform.

The Land Bank Agency is one of the state products issued through the inauguration of the Job Creation Law. Judging from its historical factors, the Land Bank Agency can be considered a problematic state agency, where since its inception, its legal strength has been shaken.<sup>3</sup> The Land Bank Agency in Government Regulation of the Republic of Indonesia Number 64 of 2021 concerning the Land Bank Agency is a special body (*sui geneis*) which is an Indonesian legal entity formed by the central government which is given special authority to manage land.<sup>4</sup> It can be concluded that the Land Bank Agency is an institution that functions to manage Indonesia's land wealth. The Land Bank Agency in carrying out its duties to obtain land can be done in several ways, namely buying and selling, land that is used for rights, abandoned land, and land that has no control over it. Also, he can

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<sup>3</sup> Malik Anwar and Wulan Chorry Shafira, "Anomaly of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Banks Reviewed from the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 concerning Formal Testing of the Job Creation Law," *Rechts Vinding Journal: National Legal Development Media* 11, no. 1 (April 30, 2022): 5, <https://doi.org/10.33331/rechtsvinding.v11i1.866>.

<sup>4</sup> "Government Regulation Number 64 of 2021.Pdf," n.d., 2.

obtain land from the government and other business entities.<sup>5</sup> Based on this, in the case of abandoned land or land that has expired, it will directly fall into the hands of the Land Bank Agency through a submission from the Regional Land Office to the Agency above it.<sup>6</sup> Meanwhile, on the other hand, Indonesia has an agency called the National Land Agency (BPN) which is then also found in each district under the name of the Land Office (Kantah). One of the tasks of BPN is also to collect abandoned land and land that has expired, so that it can still be owned by the Indonesian people.

One example of the problematic duties and functions of BPN and the Land Bank Agency is the Case of Granting Location Permits and Land Management of the former Bireuen Regency Business Use Rights<sup>7</sup>. In this case, it can be seen that the land that has expired its business use rights can no longer be owned by the original owner, then the use rights will fall to the Land Bank Agency. It can be seen that the losses are in the community that previously had a function over the land.

The existence of the arrangement of the Land Bank Agency whose land acquisition, one of which is based on the results of the government's determination in the form of abandoned land which can be an indication of the application of the principle of domein verklaring which previously

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<sup>5</sup> "Danendra and Mujiburohman - 2022 - Establishment of Land Bank Planning Availability. Pdf," n.d., 7–8.

<sup>6</sup> Mega Hardianti Point, Interview, Malang October 2024.

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"OVERLAP+OVERLAP+AUTHORITY+BETWEEN+OFFICE+LAND+DISTRICT+BIREUEN +WITH+BANK+LAND. Pdf," n.d., 10.

existed during the Dutch colonial era. Domein verklaring has the core meaning that whoever does not own land for the right of eigendom, the land becomes state-owned land.<sup>8</sup> In addition, eigendom land and land rights that arose due to Dutch law were abolished with the inauguration of the 1960 UUPA. Domein verklaring during the Dutch East Indies government caused various chaos in terms of land. The chaos was triggered by the domein theory which did not see the existence of lordship rights (beshikkingrecht). The potential that arises from the existence of the Land Bank Agency is the government's function in the context of land management as stated in Article 6 of the Basic Agrarian Law, stating that all land in Indonesia has a social function and the government has the right to procure land for social purposes. However, in Government Regulation Number 64 of 2021 concerning the Land Bank Agency, the Government through the Land Bank Agency has the power to acquire land that can come from abandoned land.

Moreover, the implication of the principle of domein verklaring in the regulations of the Land Bank Agency is the expropriation of land or land ownership for development or investment purposes. Unfortunately, this is stated again in Article 19 of Government Regulation Number 64 of 2021 concerning the Land Bank Agency which explains that the provision of land through the Land Bank Agency is one of the government's efforts in order to improve the economy and support investment.<sup>9</sup> On this basis, the Land

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<sup>8</sup> "Menghidupkan\_Kembali\_Domeinverklaring.Pdf," n.d., 7–9.

<sup>9</sup> "Government Regulation Number 64 of 2021.Pdf," 12.

Bank Agency is a government instrument that has a pro-entrepreneur or investor purpose. This is the same as one of the legal principles of *potentia debet sequi justitiam, non anecedere* which in essence is that power follows the law and it is not the law that follows power.<sup>10</sup> If a law is used for the benefit of a certain group, then the law that runs in a country is only used for the benefit of the ruler.

Mojokerto Regency is one of the districts in East Java that is included in the "Kertosusila Gate" development area. The development area of the "Kertosusila Gate" is a new breakthrough born during the era of President Joko Widodo. The purpose of this is to create a metropolitan area such as Greater Jakarta which in East Java Province is centered in the city of Surabaya. It consists of several regencies in East Java, namely Gresik Regency, Bangkalan Regency, Mojokerto Regency and City, Surabaya City, Sidoarjo Regency, and Lamongan Regency. The<sup>11</sup> merger of cities and cities that are quite large in the East Java region is also based on the proximity of areas that are almost attached to each other, as well as the equal distribution of economic goals and development infrastructure.

Mojokerto Regency has a fairly large area, with a total area of 969,360 KM<sup>2</sup> equivalent to 2.09% of the total area of East Java Province<sup>12</sup>, this district is an easy target for investors to invest and switch from the city

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<sup>10</sup> Siswoyo Siswoyo and Imran Imran, "Analysis of the Function of Land Acquisition by the Land Bank Agency Reviewed from the Right to Control the State," *Land Journal* 12, no. 2 (29 November 2022): 6, <https://doi.org/10.53686/jp.v12i2.184>.

<sup>11</sup> "Presidential Regulation Number 66 of 2022.Pdf," n.d., 9.

<sup>12</sup> "Overview of the Mojokerto Regency Area," n.d., <https://mojokertokab.go.id/gambaran-umum>.

of Surabaya and Gresik Regency which are increasingly full and dense every day. The area of Mojokerto Regency with details of the use of 371,010 Km<sup>2</sup> of land used as agricultural areas, 170,000 Km<sup>2</sup> for plantation areas<sup>13</sup>. The area above is increasingly expanding and changing functions from the beginning. This results in the possibility of the emergence of indications of abandoned land that cause land disputes. With the emergence of indications of abandoned land, the Land Bank Agency has the opportunity to transfer the function of the land to make it an asset of the Land Bank Agency. In the Mojokerto Regency area, there are 41 abandoned land owned by PT. MIP which is located in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency. In the period 2022-2024, the Mojokerto Regency Land Office overcame the exemption of the 41 Land Rights until the issuance of a court decision stating that the 41 land was abandoned land.<sup>14</sup> Until now, there has been no role of the Land Bank Agency to collect the abandoned land to then be used as an asset for more benefit for economic development and equitable distribution of public facilities in Mojokerto Regency.

In its development, Indonesia uses the principles of deconcentration and decentralization. The use of these two principles is intended to divide the functions of an agency so that it can focus more on their respective fields of work, the division can be based on top-down work relations, or it can be through the division of work area relations. It can be seen in the division of

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<sup>13</sup> "Overview of the Mojokerto Regency Area."

<sup>14</sup> Zandy Nugraha Nursaputra, November 2024.

central government duties to local governments, this is also an example of the implementation of the principle of deconcentration.

There is a value of Islamic religious values that must be present in every decision issued by state officials. The use of Sharia maqashid in daily life must be practiced so that the regulations issued by state officials remain in line with the breath of Islamic values.

This is the background for the researcher to decide to take the title, **"Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land Based on Government Regulation Number 64 of 2021 (Study in Kepuhanyar, Mojoanyar District, Mojokerto Regency)".**

## **B. Problem Formulation**

1. How is the Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency Based on the Principle of Deconcentration?
2. What are the Challenges and Juridical Implications of the Land Bank Agency in Collecting Abandoned Land in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency: Maqashid Sharia Perspective?

### **C. Research Objectives**

1. To find out the Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land in Mojokerto Regency Based on the Principle of Deconcentration.
2. To find out the Challenges and Implications Faced by the Land Bank Agency in Collecting Abandoned Land in Mojokerto Regency, Maqashid Sharia Perspective.

### **D. Research Benefits**

1. Theoretical Benefits
  - a. It is used as a reference for various parties, including readers and parties related to the science discussed to find out the implementation of the duties and functions of the Land Bank Agency in Mojokerto Regency.
  - b. It can be a means to develop and increase insight into things that can be developed in the duties and functions of the Land Bank Agency.
2. Practical Benefits can provide input to:
  - a. Government, this research is expected to be able to provide input and consideration from the government to improve the Duties and Functions of the Land Bank Agency and carry out further coordination between state institutions.
  - b. Academics, this research is expected to be a strong consideration for academics in formulating a new formula

regarding the duties and functions of the Land Bank Agency with the Maqashid Sharia approach.

## **E. Operational Definition**

Operational definitions are an important part of a study. The use of this operational definition is based on the development of public understandings and understandings related to something. The purpose of including an operational definition is to equalize the reader's perception of the results of the research that has been conducted. The definition listed is a meaning that is used only in the results of the study, if used in other studies, it may experience a shift in meaning.

The operational definition in the book Law and Legal Research by Dr. Djoni Sumrudi Gozali, S.H., M.Hum. has a meaning in the form of a definition based on the properties of the defined things that can be observed (observed).<sup>15</sup> With an operational definition, readers and researchers have the same perception related to something. In this study, the operational definitions are the diction "Implementation", "Land Bank Agency", and "Abandoned Land" which are in the research title.

### **1. Implementation**

Implementation in the Great Dictionary of the Indonesian Language means implementation, application.<sup>16</sup> In this study, the

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<sup>15</sup> Dr. Djoni Sumardi Gozali, "LEGAL SCIENCE AND LEGAL RESEARCH," n.d., 49.

<sup>16</sup> "The Great Dictionary of Indonesian," t.t., <https://kbbi.kemdikbud.go.id/entri/implementasi>, accessed on November 6, 2024.



word Implication is an application of the duties and functions of the Land Bank Agency in collecting abandoned land in Mojokerto Regency. This implementation results in the general public being able to measure and understand the extent to which the duties and functions of a government agency can run.

## 2. Land Bank Agency

The Land Bank Agency can simply be interpreted as a state agency that serves as a collector of abandoned land in Indonesian territory. In addition, the Land Bank Agency is also expected to be a benchmark for land price stability to avoid the increasingly mushrooming land mafia.

Based on Government Regulation Number 64 of 2021 concerning Land Bank Bodies, in article 1 paragraph 1 the Land Bank Agency is defined as a special body (*sui geneis*) which is an Indonesian legal entity formed by the central government which is given special authority to manage land.<sup>17</sup>

## 3. Abandoned Land

In the period of accelerated development and economic equity, there should be no abandoned land or land that has no control over it, because in fact everyone owns the land, especially in big cities and industrial cities.

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<sup>17</sup> "Government Regulation Number 64 of 2021.Pdf," 2.

Land can be said to be abandoned land if several things happen, mentioned in the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021. The following are the things that cause land to become abandoned land is if it is deliberately not used, not utilized, and/or not maintained so that it is controlled by other parties continuously for 20 (twenty) years without any legal relationship with the Right Holder and becomes a village area. Likewise, the land that is used is not like the function of the Land Rights starting from 2 years from the issuance of the right.<sup>18</sup>

Based on the Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021, abandoned land is land rights, land with management rights, and land obtained based on DPAT, which is deliberately not ratified, not used, not utilized, and/or not maintained.<sup>19</sup> Before being designated as abandoned land, the land will previously go through the status of an Abandoned Indicated Area and then further observation will be carried out before being designated as abandoned land.

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<sup>18</sup> "Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021," n.d., 10.

<sup>19</sup> "Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021," 4.

## **F. Systematics of Discussion**

In writing the research entitled "Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land Based on Government Regulation Number 64 of 2021 Maqashid Sharia Perspective (Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency)", the author will use the writing systematics that have been regulated in the 2022 Thesis Writing Guidelines of the Faculty of Sharia Tahuun as follows:

1. **CHAPTER I Introduction**, in this study begins with an introduction that contains the background of the problem raised by the author, the formulation of the problem, the purpose of the research, the benefits of the research, the operational definition, and the systematics of the discussion that functions as the flow limit in each chapter.
2. **CHAPTER II of the Literature Review** , contains previous research that is still relevant to the research topic raised, as well as a comprehensive presentation related to theories related to the Theory of Usefulness and the perspective of Maqashid Sharia which will be used as an analytical knife in researching the latest formulations for the duties and functions of the Land Bank Agency through the perspective of Maqashid Sharia.
3. **CHAPTER III Research Methods**, contains the research methods used in this study, including the type of research, research

approaches, research locations, types and sources of data, data collection methods and data processing methods.

4. **CHAPTER IV Research and Discussion Results**, contains a sub-chapter that carries the formulation of research problems, namely sub-chapters related to juridical reviews related to the Land and Abandoned Land Bank Agency, and case analysis with the principle of deconcentration. To answer problem II, a subchapter is needed related to the challenges and implications in collecting abandoned land in Mojokerto Regency, as well as the delivery of solutions that are based on the theory of benefits and the perspective of Maqashid Sharia.
5. **Chapter V Conclusion**, which contains research conclusions and suggestions from research related to the implementation of the duties and functions of the Land Bank Agency, includes the recommendations given by the author.
6. **BIBLIOGRAPHY**, a list of Bibliography used to collect references or references from the research conducted.

## CHAPTER II LITERATURE REVIEW

### A. Previous Research

Previous research should have its own place, because before researching a phenomenon, the first thing that needs to be considered is the element of renewal and differences that will be raised in the new research. In this research, the author lists 5 studies that have been conducted related to the Land Bank Agency, as follows:

1. A scientific journal written by *Afwan Anantya Prianggoro, Retno Widodo Dwi Pramono*, published by the Fusion Journal in 2023.

This journal is titled **DILEMMA OF THE FORMATION OF INTUITION OF THE LAND BANK AGENCY :P SOCIAL EQUALITY OR ECONOMIC GROWTH?**.<sup>20</sup>The results obtained from this study are the submission of criticism for the government to revise the authority and functions of the Land Bank Agency in order to reduce the complexity of land management practices in Indonesia. The update made is to the object of research that is more focused on the implementation of the Land Bank Agency in Mojokerto Regency which makes the research to be carried out will produce updates that are more appropriate and in accordance with the reality that occurs.

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<sup>20</sup> Afwan Anantya Prianggoro, Retno Widodo Dwi Pramono, "DILEMMA IN THE FORMATION OF LAND BANK INSTITUTIONS: SOCIAL EQUITY OR ECONOMIC GROWTH?," *FUSION JOURNAL 2* (n.d.).

2. A journal written by *Malik Anwar, Wulan Chorry Shafira*, published in 2022. This journal is titled **ANOMALY OF PRESIDENTIAL REGULATION NUMBER 113 OF 2021 CONCERNING THE STRUCTURE AND IMPLEMENTATION OF THE LAND BANK AGENCY REVIEWED FROM THE DECISION OF THE CONSTITUTIONAL COURT NUMBER 91/PUU-XVIII/2020 CONCERNING THE FORMAL TESTING OF THE JOB CREATION LAW.** <sup>21</sup>The difference is clearly visible this time, because the analysis knife used in this study is the Constitutional Court Decision regarding the strength of the Land Bank Agency which had wavered due to the formal testing of the Job Creation Law, in which there is a basic foundation of the Land Bank Agency. The result of this study is that the Constitutional Court stated that in essence, the Job Creation Law does not have conditionally binding legal force as long as it is not interpreted as "no improvements have been made within 2 (two) years since this decision was pronounced.
3. The next journal is **OVERLAPPING AUTHORITY BETWEEN THE BIREUEN REGENCY LAND OFFICE AND THE LAND BANK AGENCY (Case Study on the Granting of Location Permits and Land Management of the former Bireuen Regency**

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<sup>21</sup> Anwar and Shafira, "Anomaly of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Banks Reviewed from the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 concerning the Formal Testing of the Job Creation Law."

**Business Rights**), written by *Andy Isnanda, Henry Sinaga, Detania Sukarja, Faisal Akbar Nasution*.<sup>22</sup> More or less this research has similarities with the research that will be carried out, because it focuses on the implementation of the Land Bank Agency which has several things that must be improved. The result of this study is that the effectiveness or not of the Land Bank Agency in land management in Indonesia is determined by several factors, including regulations (legal regulations), the institution of the Land Bank Agency, the financing of the Land Bank Agency and other factors. Land used by the Land Bank Agency, which should be distributed to the community through the Agrarian Reform program, in which the Regional Government is the implementing committee, will later turn into business and commercial interests if the granting and determination of permits is carried out by the Land Bank Agency.

4. The fourth journal that has been published is a journal written by *Fidri Fadillah Puspita, Fitri Nur Latifah, Diah Krisnaningsih*, published in 2021 entitled **THE URGENCY OF THE PRESENCE OF THE LAND BANK AGENCY AS AN ALTERNATIVE TO RESTORING THE ECONOMY IN INDONESIA FROM THE PERSPECTIVE OF ISLAMIC**

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**LAW**<sup>23</sup>. Other than the research that will be carried out, the research conducted by Fidri Fadillah Puspita produced a conclusion that seems to agree with the current duties and functions of the Land Bank Agency, according to him With the presence of the Land Bank Agency, the community is expected to find it easier to get justice in owning the land rights they have. That way, they can use the land assets they have for their future needs. The Land Bank Agency is tasked with handling land to restore the economy in Indonesia, so that it can avoid excessive increases in land values as a result of speculation by private institutions in a city area, in addition, it has designs and potential in bidding to implement spatial planning in accordance with infrastructure plans.

5. The journal written by *Roby Guntoro, Meysita Arum Nugroho* in 2022 entitled **THE CONCEPT OF FORMULATION OF LAND BANK AGENCIES FOR AGRARIAN REFORM IN A COMPARATIVE LEGAL PERSPECTIVE**<sup>24</sup>, IS THE LAST RESEARCH INCLUDED IN THIS STUDY. THE RESULTS OF THE RESEARCH THAT HAVE BEEN CARRIED OUT ARE THE FUNCTIONS OF THE LAND BANK AGENCY IN LAND ACQUISITION ACTIVITIES BASED ON GOVERNMENT

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<sup>23</sup> Fidri Fadillah Puspita, Fitri Nur Latifah, and Diah Krisnaningsih, "The Urgency of the Presence of Land Banks as an Alternative to Restoring the Economy in Indonesia in the Perspective of Islamic Law," n.d.

<sup>24</sup> Roby Guntoro, Meysita Arum Nugroho, "The Concept of Land Bank Formulation for Agrarian Reform in a Legal Comparative Perspective," *Journal of Citizenship* 6 (n.d.).



REGULATION NUMBER 64 OF 2021 CONCERNING LAND BANK AGENCY AGENCIES overcoming the problem of the form and value of compensation for land acquisition objects, preventing the growth of inventory of land needs for development activities for the public interest and reducing the implementation of land acquisition activities. Productive land use can be done through the establishment of the Land Bank Agency which aims for the prosperity and welfare of all Indonesian people.

**Table 1.1**

**Previous Research**

<b>No.</b>	<b>Heading</b>	<b>Problem Formulation</b>	<b>Result</b>	<b>Difference</b>	<b>Updates</b>
1.	The dilemma of the formation of the institution of the Land Bank Agency: social equity or economic growth? <sup>25</sup>	What are the advantages and disadvantage s of the practice of the Land Bank Agency in Indonesia?	The government needs to revise the authority and functions of the Land Bank Agency. With this	The results of the research that have been carried out are in the form of reasons why it is necessary to revise the	1. A <i>smaller research coup</i> , focusing on Mojokerto Regency, makes the research results more

<sup>25</sup> Afwan Anantya Prianggoro, Retno Widodo Dwi Pramono, "DILEMMA OF THE ESTABLISHMENT OF THE INSTITUTION OF THE LAND BANK AGENCY: SOCIAL EQUITY OR ECONOMIC GROWTH?," *FUSION JOURNAL* 2 (t.t.).

			<p>revision, it is hoped that it can reduce the potential of the Land Bank Agency to increase the complexity of land management practices in Indonesia. It is necessary to have an institution of the Land Bank Agency in all regions of Indonesia so that it can create maximum work.</p>	<p>authority and functions of the Land Bank Agency.</p>	<p>useful and unbiased.</p> <p>2. The research method carried out uses normative research methods, while the research to be carried out uses empirical research, in Mojokerto Regency.</p>
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2.	The anomaly of Presidential Regulation number 113 of 2021 concerning the structure and implementation of the Land Bank Agency is reviewed from the Constitutional Court decision number 91/PUU-XVIII/2020 concerning the formal testing of the Job Creation Law <sup>26</sup>	What is the status of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Bank Bodies when reviewed from the Constitutional Court Decision Number 91/PUU-XVIII/2020	1. The Constitution al Court stated that in essence, the Job Creation Law does not have conditionall y binding legal force as long as it is not interpreted "no improveme nts have been made within 2 (two) years	This type of research is in the form of comparing Presidential Regulation NUMBER 113 OF 2021 CONCERNI NG THE STRUCTUR E AND IMPLEMEN TATION OF THE LAND BANK AGENCY WITH THE DECISION OF THE CONSTITU	1. The update of the research that will be carried out with the research of Malik Anwar, Wulan Chorry Shafira is the legal force of Presidential Regulation number 113 of 2021 which has <i>been incracht</i>
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<sup>26</sup> Anwar and Shafira, "Anomaly of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Bank Bodies Reviewed from the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 concerning Formal Testing of the Job Creation Law."

		concerning Formal Testing of Law Number 11 of 2020 concerning Job Creation against the 1945 Constitution.	since this decision was pronounced.	TIONAL COURT NUMBER 91/PUU- XVIII/2020. This article focuses on the position of the Land Bank Agency which was ratified at the time of testing the Job Creation Law.	
3.	OVERLAP OF AUTHORITY BETWEEN THE BIREUEN REGENCY LAND OFFICE AND THE LAND BANK		1. The effectiveness of the Land Bank Agency in land managemen	This type of research is an empirical research located in Bireuen Regency,	1. The update carried out is to find the reason for the overlap of authority in the same

	<p>AGENCY (Case Study on the Granting of Location Permits and Land Management of the former Bireuen Regency Business Use Rights)<sup>27</sup></p>		<p>t in Indonesia is determined by several factors, including regulations (legal regulations), the institution of the Land Bank Agency, the financing of the Land Bank Agency and other factors.</p>	<p>Aceh Province. The result of this study is an explanation of the cause of the overlap of authority between the Aceh land office and the Bireuen District, as well as the pressure on the land office and the central government to correct the</p>	<p>institution, namely the Land Office. 2. It can formulate the duties and functions of the Land Bank Agency so that there is no longer overlapping authority with the Land Office.</p>
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<sup>27</sup> Meli Hertati Gultom, "Samuel Frans Boris Situmorang , Ria Juliana Siregar2, Sovia Febrina Tamaulina Simamora3," n.d.

			<p>2. Land used by the Land Bank Agency, which should be distributed to the community through the Agrarian Reform program, in which the Regional Government is the implementing committee, will later turn into business</p>	<p>overlap that occurred.</p>	
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			and commercial interests if the granting and determination of permits is carried out by the Land Bank Agency.		
4.	The Urgency of the Presence of the Land Bank Agency as an Alternative to Restoring the Economy in Indonesia in the Perspective of Islamic Law <sup>28</sup>	1. What is the concept of the Land Bank Agency in restoring the nation's economy?	1. With the presence of the Land Bank Agency, the community is expected to find it easier to get	This paper takes the viewpoint that the Land Bank Agency can be the answer to the Indonesian economy, but	Opening a new perspective for the Land Bank Agency which in addition to being able to recover the Indonesian economy, there is a fact that the

<sup>28</sup> Fidri Fadillah Puspita, Fitri Nur Latifah, and Diah Krisnaningsih, "The Urgency of the Presence of the Land Bank Agency as an Alternative to Restoring the Economy in Indonesia in the Perspective of Islamic Law," t.t.

		<p>2. What are the efforts made by the Land Bank Agency in providing a fair economy.</p>	<p>justice in owning the land rights they have. That way, they can use the land assets they have for their future needs.</p> <p>2. The Land Bank Agency is tasked with handling land to restore the economy in Indonesia, so that it can avoid excessive</p>	<p>there is no comparison or further study of the duties and authorities of the Land Bank Agency that are contrary to BPN.</p>	<p>Land Bank Agency is not mature enough to carry out the mandate that has been given.</p>
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			<p>increases in land values as a result of speculation by private institutions in a city area, in addition, it has designs and potential in bidding to implement spatial planning in accordance with infrastructure plans.</p>		
5.	The Concept of Formulation of Land Bank Bodies	1. What is the urgency of the	1. The function of the Land	In this study, the output produced is	Using empirical research, which can produce a

	for Agrarian Reform in a Comparative Legal Perspective <sup>29</sup>	immediate establishment of the Land Bank Agency?	Bank Agency in Land Acquisition activities based on Government Regulation Number 64 of 2021 concerning the Land Bank Agency is to overcome the problem of the form and value of compensation for land acquisition	in the form of the function of the Land Bank Agency which can reduce problems in land acquisition activities, and the Land Bank Agency is positioned as an institution that has been good enough to function according to the needs of	result from the implementation of the duties and functions of the Land Bank Agency which in reality is not good enough for the benefit of the community.
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<sup>29</sup> Roby Guntoro, Meysita Arum Nugroho, "The Concept of Formulation of Land Bank Bodies for Agrarian Reform in a Comparative Legal Perspective," *Journal of Citizenship* 6 (t.t.).

			<p>objects, prevent the growth of an inventory of land needs for development activities for the public interest and reduce land acquisition activities.</p> <p>2. Productive land use can be done through the establishment of the Land Bank Agency which aims</p>	the community.	
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			for the prosperity and welfare of all Indonesian people.		
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## **B. Literature Review**

Literature review is included in the important points in conducting research. With the study of the literature, the author can analyze the phenomenon well. Literature Studies are used as a collection of theories or concepts that will be used as the basis for thinking and analytical knives in analyzing a phenomenon or problem.

### **1. Land Bank Agency**

In order to achieve the ideals of agrarian reform, the government created a new government agency tasked with collecting abandoned land, as well as to anticipate the rise of land brokers. It was initiated by the emergence of a land bank body in Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation which was then changed in 2023 to Law Number 6 of 2023. Before the Land Bank Agency was fully established, there was an opinion that the Land Bank Agency was unconstitutional, because at the time of Presidential Regulation Number 113 of 2021 was still in the process of formal testing

in the Constitutional Court, where the President should have been prohibited from issuing a Presidential Regulation, but still the President issued Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Banks.<sup>30</sup> Therefore, at the beginning of the establishment of the Land Bank Agency, the community focused on the strength of this newly established body. However, after obtaining its legality, with the inauguration of Law Number 6 of 2023, the community's focus has begun to fade in overseeing the establishment of this land bank body.

There is a fourth section on Land, explaining related to the land bank body which in article 125 paragraph 2 is mentioned as a special body that manages land. It also includes the function of the land bank body, namely carrying out planning, acquisition, procurement, management, utilization, and distribution of land.<sup>31</sup> Furthermore, regarding the land bank body, it is explained more specifically in the implementing regulations, namely Government Regulation Number 64 of 2021 and Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Bank Bodies.

In addition to being created for the purpose of agrarian reform, the land bank also functions one of the functions for land utilization and

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<sup>30</sup> Anwar and Shafira, "Anomaly of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Banks Reviewed from the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 concerning the Formal Testing of the Job Creation Law," 10.

<sup>31</sup> "Law Number 6 of 2023.Pdf," n.d., 670.

distribution. Furthermore, it is stated in article 3 of Government Regulation Number 64 of 2021, the land bank body has the following functions:

- a. planning;
- b. land acquisition;
- c. land acquisition;
- d. land management;
- e. land use;
- f. land distribution.

To carry out the mandated functions, the land bank body has the task to:

- a. planning long-term, medium-term, and annual activities;
- b. to acquire land that can be sourced from the determination of the government and other parties;
- c. to procure land for development in the public interest or to directly assess land;
- d. carry out land management from development, maintenance and security activities, and land control;
- e. making land use through utilization cooperation with other parties;
- f. distributing land by carrying out land provision and distribution activities.<sup>32</sup>

The above is related to the task of the land bank agency to obtain land sourced from the determination of the government and other parties. This government determination is also included in the

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<sup>32</sup> "Government Regulation Number 64 of 2021.Pdf," 4.

determination of abandoned land issued by the National Land Agency. Land that is declared as abandoned land according to the Regulation of the Minister of Agrarian Affairs and Spatial Planning Number 20 of 2021 can collaborate with the land bank agency for the inventory of abandoned land.

In addition to obtaining land through government determination, land bank bodies can also make purchases, receive grants, exchange, release rights, as well as other acquisitions that are carried out legally. The land bank body acquires land through 2 things, namely land determined by the government and land from other parties. Included in the land determined by the government are:

- a. former land rights;
- b. wasteland and land;
- c. forest area clearance land;
- d. embossed soil;
- e. reclaimed land;
- f. former mine land;
- g. land of small islands;
- h. land affected by spatial change policies;
- i. land on which there is no control.<sup>33</sup>

The land listed above is in line with what is mandated in Law Number 6 of 2023, where in article 180 it essentially reads, rights, permits, or concessions on land and/or areas that are deliberately not

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<sup>33</sup> "Government Regulation Number 64 of 2021.Pdf," 6.

cultivated or cultivated within a maximum period of 2 years from the date the permit is issued, then the permits and rights attached to them are revoked, and returned to the state. Continued in the next paragraph, that land returned to the state can be designated as assets of the land bank body. In reality, there is an ineffectiveness of the flow of determination into assets of the land bank body.<sup>34</sup> Therefore, in 3 laws and regulations, it is clearly stated that in the inventory of abandoned land, until then the land becomes an asset of the land bank, but in reality there are many abandoned lands that are not inventoried so that the impact remains abandoned.

The land bank is only domiciled in the State Capital, namely in Jakarta, but can have representative offices throughout the country.<sup>35</sup> Meanwhile, in reality, there has not been a representative office of the land bank body in areas other than in the national capital. This is felt to be one of the obstacles why there are some lands that have been decided to be abandoned and are still left untouched by the land bank to be used as assets. Based on this phenomenon, the researcher will study it using the principle of deconcentration which is commonly used as the basis for granting the authority of the central government to regional autonomy as an analytical knife.

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<sup>34</sup> "Law Number 6 of 2023.Pdf," 734.

<sup>35</sup> "Government Regulation Number 64 of 2021.Pdf," 3.



## 2. The Principle of Deconcentration

As a country that stands on several ethnic groups, and does not forget the history that states that Indonesia had become a state until then United Again became a unitary state, there is no doubt that there is a division of duties and authority between the central government and local governments. This is also based on the very large territory of Indonesia. One of the goals of the division of duties and functions between the central government and local governments is to create equity and the implementation of a more massive government and is felt to be closer to the community.

The principle of deconcentration is strongly related to the division of duties between the central government and local governments. Starting with the enactment of the principle of decentralization in 1965 marked by Law No. 18 of 1965 concerning the principles of local government, followed by the inclusion of the principle of decentralization in Law No. 5 of 1974 concerning the principles of government in the regions. In the law, it is explained that the governor as the only regional official who is given the authority as the implementer of the principle of deconcentration from the center to the autonomous regions.<sup>36</sup> In autonomous regions, the one who gets the function of decentralization is the governor who is also the executor of

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<sup>36</sup> Tri Widodo W. Utomo, "THE NORMATIVE AND EMPIRICAL STUDY ABOUT THE IMPLEMENTATION OF THE PRINCIPLE OF DECONCENTRATION IN INDONESIA," *Borneo Administrator Journal* 8, no. 3 (December 31, 1969): 6, <https://doi.org/10.24258/jba.v8i3.91>.

regional autonomy in his own region and is also the "right hand" of the central government. Meanwhile, the district/city level no longer gets the deconcentration function.

Deconcentration is an inseparable element of decentralization. The function of deconcentration in the province is the main key to the implementation of decentralization under it, namely the district/city. With the strengthening of deconcentration, a region's development policy can always be placed in a broader and strategic development context (embedding local policy into broader context of national development and interest).

The meaning of deconcentration can be said to be quite diverse. Based on Government Regulation No. 39 of 2001, deconcentration is the delegation of functions from the government to the governor as a representative of the government and/or the central apparatus in the regions. Meanwhile, in Government Regulation No. 7 of 2008, there is an addition of diction "to vertical agencies in certain regions" which reads the overflow of functions from the government to the governor as a representative of the government and/or to vertical agencies in certain regions.<sup>37</sup> In Government Regulation Number 19 of 2022, it is explained that the definition of deconcentration to the governor as a representative of the central government is the delegation of some government affairs that are the authority of the central government to

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<sup>37</sup> W. Utomo, 10.

the governor as a representative of the central government. It can be concluded that so far, the implementation of the principle of deconcentration has been carried out on the delegation from the central government to the local government, namely the governor.

According to Rosidin, deconcentration is the delegation of functions from the government or regional heads or heads of vertical agencies at the upper level to regional officials, which include:

- a. Horizontal deconcentration: the delegation of functions from the government to other government apparatus at the same level.
- b. Vertical deconcentration: the delegation of functions from a higher government to a lower government.
- c. Territorial deconcentration: the division of areas that are getting narrower, from the scope of the state, narrowing to the scope of the province and then the scope of districts/cities, to the scope of sub-districts and villages.<sup>38</sup>

The principle of deconcentration can ultimately be interpreted as the delegation of functions from the upper government, which is said to be the central government, to the government under it, namely regional autonomy. This delegation has an impact on the responsibility that remains attached to the function-giver, and the function-giver is only responsible for carrying out what has been given by the central

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<sup>38</sup> H. Rahyunir Rauf, M.Si, *Principles of Local Government Administration* (NusaMedia, n.d.), 68.

government. The basis for the implementation of deconcentration is obedience, openness, and morality.<sup>39</sup>

### 3. Utility Theory

As a state of law, it should be familiar with the theory of usefulness that is included in the purpose of law itself. The public and legal observers have become very common with the purpose of law, namely justice, certainty, and usefulness. This is very related to the theory of utilitarianism or the theory of utility from Jeremy Bentham.

Utilitarianism is an ethical theory in which the right action is an action that maximizes utility, usually defined as an action that maximizes happiness and alleviates suffering.<sup>40</sup> It can be said that the theory of utilitarianism or the theory of utility is a theory that prioritizes happiness. The greater the happiness created, the less evil that arises, the better the rules are enforced. According to some legal observers, the theory of utilitarianism is very suitable to be used to analyze the effectiveness of a regulation that has been in effect.

The purpose of classical utilitarianism theory is to calculate whether a regulation can provide benefits. Meanwhile, Jeremy Bentham developed it into a theory that is commonly used today, namely *Legal Utilitarianism*.

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<sup>39</sup> Maya Alfinia, "Deconcentration as a Principle in the Implementation of Regional Government," May 7, 2023, 6, <https://doi.org/10.31219/osf.io/j52sm>.

<sup>40</sup> Agus Purnomo and Saifullah Saifullah, "A Review of Legal Utilitarianism on the Implementation of Single Tuition Regulations (UKT) in State Islamic Religious Universities," *AL-MANHAJ: Journal of Islamic Law and Social Institutions* 4, no. 2 (September 6, 2022): 3, <https://doi.org/10.37680/almanhaj.v4i2.1810>.

*Legal Utilitarianism* Bentham has 7 variable elements that are used to determine happiness or more badness in a regulation, namely:

- a. Intensity of Happiness
- b. Duration of the grant
- c. How certain is the fulfillment of enjoyment affected by law
- d. Precision to meet happiness
- e. Consistency of happiness will produce other happiness
- f. It is unlikely that sensations will arise contrary to happiness
- g. The number of people who get happiness.<sup>41</sup>

Based on the 7 elements above, we can measure whether the phenomenon or regulation that is passed can cause comprehensive benefits for the community and reduce the harm in it. The level of happiness and pain or ugliness is measured through actions, events, phenomena, as well as the number of affected individuals.<sup>42</sup> Although according to some experts there is confusion in measuring a person's happiness, Jeremy Bentham refutes it, that the quality of people's happiness cannot be measured, but focusing on the quantity can be the answer to this thought.

#### **4. Maqashid Shariah**

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<sup>41</sup> Endang Pratiwi, Theo Negoro, and Hassanain Haykal, "Jeremy Bentham's Theory of Utilitarianism: Legal Objectives or Methods of Testing Legal Products?," *Constitutional Journal* 19, no. 2 (June 2, 2022): 12, <https://doi.org/10.31078/jk1922>.

<sup>42</sup> Rizki Ridwansyah, "The Concept of Utilitarian Theory and Its Application in Practical Law in Indonesia," *NUSANTARA: Journal of Social Sciences*, 2024, 6.

In Islam, there are types of principles that must be held tightly by all its people, in order to continue to run in accordance with the requirements of Allah SWT. In carrying out commands and staying away from prohibitions from Allah, Islam adheres to the Qur'an and the Hadith of the Prophet Muhammad SAW. To know the purpose and purpose of His commands and prohibitions, Muslims use the intellect given by Allah, but not all Muslims can understand well the purpose and reason for a command and prohibition. Therefore, it is through competent Muslim scholars who then provide the understanding and truth that Allah gives through Muslim scholars. One of the methods to find out a truth uses the Maqashid Sharia method.

Maqashid Sharia was previously under the auspices of Ushul Fiqh which then after the reform carried out by Imam Ibn Assyria, Maqashid Sharia became a stand-alone branch of Knowledge, because he argued that Maqashid Sharia and Ushul Fiqh had differences in it.<sup>43</sup> The different substance between maqashid and the science of ushul fiqh, as a science is mostly focused on the outward appearance of the text, while maqasid focuses more on the meaning behind the text, this opinion is in line with the opinion of Al-Tahir Ibn Assyria.

Maqashid Syariah consists of two words, namely Maqashid and Sharia. The word maqashid is a prular (plural) form of the word

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<sup>43</sup> Husni Fauzan, "The Thought of Maqashid Syariah Al-Tahir Ibn Assyria," *al-Mawarid Journal of Sharia and Law (JSYH)* 5, no. 1 (July 18, 2023): 2, <https://doi.org/10.20885/mawarid.vol5.iss1.art7>.

maqshad, qashd. Maqshid or qushud which is a derivation of the verb qashada yaqshudu with various meanings, such as towards a direction, goal, middle, fair, and not going beyond the limit, a straight path, the middle between excess and emptiness.<sup>44</sup> As in Q.S. Luqman Verse 19:

وَأَقْصِدْ فِي مَشْيِكَ وَاعْضُضْ مِنْ صَوْتِكَ إِنَّ أَنْكَرَ الْأَصْوَاتِ لَصَوْتُ الْحَمِيرِ

Meaning: (And be simple in walking) take a middle attitude in walking, that is, between slow and fast walking, you must be calm and graceful (and soften) lower (your voice. Indeed, the worst voice is the ugliest voice (is the voice of a donkey." ) Namely, at the beginning it is a squeak, then followed by squeaks that are very unpleasant to hear.

While the word Sharia etymologically means the road to the spring. In fiqh terminology, it means the laws that are decreed by Allah for His servants, both those stipulated through the Quran and the Sunnah of the Prophet (saw) in the form of words, deeds and decrees of the Prophet (saw).<sup>45</sup> Alal al-Fasi defines maqashid sharia as the intended purpose of sharia and the secrets set by sharia (Allah) in every law. Meanwhile, according to Wahbah al Zuhaili, maqasid sharia means the values and objectives of sharia that are implied in all or the largest part of its laws.<sup>46</sup>

<sup>44</sup> Ahmad Jalili, "The Theory of Maqashid Sharia in Islamic Law," *LEADING* 3, no. 02 (September 27, 2021): 6, <https://doi.org/10.35961/teraju.v3i02.294>.

<sup>45</sup> Julian Maharani, "Ibn Assyria's Thoughts on Sharia Maqashid in Contemporary Economics," *Scientific Journal of Islamic Economics* 8, no. 3 (October 26, 2022): 2, <https://doi.org/10.29040/jiei.v8i3.5708>.

<sup>46</sup> Jalili, "The Theory of Sharia Maqashid in Islamic Law," 6.

Based on the definition that has been described above, it can be understood that Maqashid Sharia is a form of reason and purpose of Allah as a hindrance in this life and the hereafter. The essence of maqashid sharia is in order to realize good while avoiding evil or to attract benefits and reject madharat. Therefore, the purpose of enacting an Islamic law is to create fame in maintaining the Shari'a'.

According to Imam Ibn Assyria, Allah sent down a sharia according to the basic nature of humans, namely:

1. Fitrah (al-fitrah)

Maqashid sharia is built on the basis of the greatest Islamic sharia nature, namely fitrah. Fitrah is human nature (alkhilqah) in the sense of a certain system (alnizam) that Allah swt instills or creates in each of his works, both outward (visible) and internal (invisible).

2. Al-Samahah

It is interpreted as a commendable ease for something that others find difficult. This attitude of tolerance is the glue to maintain the meaning of alfitrah.

3. Blessings

Maslahat (al-maslahat) as part of the maqashid of sharia states that the path to achieving maslahat is much wider and more diverse than that formulated by fuqoha and does not always



have to depend on nash, because a healthy, clear and upright human mind can always see and identify maslahat.

#### 4. Al-Musawah

Islam states that all human beings are treated equally before Sharia law. For Ibn Assyria it is very important to implement almusawah.

#### 5. Al-Hurriyah

According to Ibn Assyria, if a person is treated equally legally in all forms of deeds, it is called alhurriyah (independence).<sup>47</sup>

The next update is the division of Ibn Assyria related to Maqashid Syariah into 2 parts, namely Maqashid Al-Ammah and Maqashid Al-Khassah.<sup>48</sup> Maqasid al-Ammah (general purpose) of the sharia of all laws is an objective that is not only devoted to one law. Simply put, Maaqashid Al-Ammah aims to maintain the order of the ummah, as well as preserve its goodness. Ibn' Assyria limits maqasid al ammah with four conditions, namely; **First**, fixed (al thubut). **Second**, clear (al duhur), that is, it is clear that it does not cause disputes in explaining the meaning. **Third**, measurable (indibat), that is, a meaning that has detailed limits. **Fourth**, authentic (itrad), that is, if a sharia purpose is not debated due to differences in region, ethnicity, and time.

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<sup>47</sup> Maharani, "Ibn Assyria's Thoughts on Maqashid Sharia in Contemporary Economics," 4–6.

<sup>48</sup> Fauzan, "The Thought of Maqashid Syariah Al-Tahir Ibn Assyria," 9–11.

The next division is Maqashid Al-Khassah, which is the way desired by the Shari' (Shari'ah-maker) in realizing the beneficial goals of human beings or to maintain their general benefit in their deeds in particular. So that it can be understood in Maqashid al Khassah still has a wide scope of benefits, only it is realized through special actions. Ibn Assyria classifies Maqashid Al-Khassah by sorting out whether a law is an end or an infrastructure or a tool to accomplish a goal.

## **CHAPTER III RESEARCH METHODS**

### **A. Type of Research**

The type of research that includes the depth of research methods is the basic material for students and academics before fighting in research. According to Marzuki's thoughts, "legal research is also not solely a need for academics (legal scholarships) such as lecturers and law students, but also carried out by legal practitioners, such as advocates and legal consultants for the needs of legal practice (legal practice)."<sup>49</sup>

In this study, the author uses a type of empirical juridical research. Empirical juridical law research is also referred to as *empirical research*. Because it combines laws and regulations with their practice in people's lives. The purpose of using this type of empirical juridical research is to be able to know and elaborate between the law that is aspired to through laws and regulations and the law that is happening today. Empirical legal research, according to Roscoe Pound, however, is not fixated on or interested only in law and the regulation of explicit norms (law in the books), but also on norms in practice (law in action).<sup>50</sup>

By using Government Regulation Number 64 of 2021 concerning the Land Bank Agency, and analyzing the regulation to measure

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<sup>49</sup> Dr. Bachtiar, S.H., M.H., *LEGAL RESEARCH METHODS* (Unpam Press, n.d.), 62.

<sup>50</sup> David Tan, "LEGAL RESEARCH METHODS: EXPLORING AND REVIEWING METHODOLOGIES IN CONDUCTING LEGAL RESEARCH," 2021, 7.

implementation in Mojokerto Regency, the requirements for an empirical juridical research to be carried out are collected.

## **B. Research Approach**

The scientific approach is a perspective to see the discussion space that will be analyzed by the researcher. Through a research approach, a researcher can obtain data that is appropriate to the type of research chosen. There are 3 options of approaches that the data choose in empirical legal research, namely: Legal Sociology Approach, Legal Anthropology Approach, and Legal Psychology Approach.<sup>51</sup>

In this study, the sociology of law approach is used as the chosen approach. By using a legal sociology approach, researchers can correlate the promulgated law and its reality, which in this case is Government Regulation No. 64 of 2021 concerning Land Bank Agencies and the reality faced by Land Bank Agencies.

## **C. Research Location**

The location of the research can be interpreted as the location that will be used to conduct observations or research in order to obtain the desired data. The location of the research can come from the phenomenon to be raised. This research is in Kepuhanyar Village, Puri District, Mojokerto Regency. The strong reason why the village was chosen as the village studied is because in the Kepuhanayr village area there are 41 plots of

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<sup>51</sup> Dr. Bachtiar, S.H., M.H., *LEGAL RESEARCH METHODS*, 102.

abandoned land from PT. Mojokerto Industrial Park (PT. MIP) which should be an inventory from the Land Bank Agency to collect abandoned land.

#### **D. Types and sources of data**

In a research, data is an important instrument for the success of research. Without data, a study does not contain any lives in it. It can even be said that the research is flawed. This is in line with Prasetya Irawan's expression, that "the quality of research will be largely determined by the data collected. If the quality of the data is poor, invalid, and unrealistic, then the research results will also be poor."<sup>52</sup>

There are 3 types of data sources that must be met, namely primary data sources, secondary data sources, and tertiary data sources.

##### **a. Primary Legal Sources**

Primary legal sources are data obtained from the original source or the first source.<sup>53</sup> In empirical juridical research, the primary legal material is the result of an interview conducted by the researcher to representatives of the intended institution, namely representatives of the Land Bank Agency, representatives of the Mojokerto Regency Land Office, and the Head of Kepuhanyar Village, Puri District, Mojokerto Regency.

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<sup>52</sup> Dr. Bachtiar, S.H., M.H., 146.

<sup>53</sup> Tan, "LEGAL RESEARCH METHODS: EXPLORING AND REVIEWING METHODOLOGIES IN CONDUCTING LEGAL RESEARCH," 9.

b. Secondary Legal Sources

Secondary Legal Sources are material legal sources in the form of information relevant to legal issues. Secondary data is the opposite of primary data, which is data that is actually available and compiled so that researchers are easier to obtain data because they only need to find and collect this data from the source that provides it.<sup>54</sup> Secondary legal materials provide explanations, support and strengthen existing primary legal materials so that it is possible to carry out more intensive further research and construction. The form of secondary legal material can also be interpreted as a legal rule officially issued by a state institution. Included in the secondary legal materials are Government Regulation Number 64 of 2021 concerning the Land Bank Agency, the Basic Agrarian Law Number 05 of 1960, journal articles, thesis results, theses and dissertations that are equivalent to the field of research.

c. Tertiary Legal Sources

Tertiary legal sources are complementary legal materials that provide instructions or further elaboration of primary and secondary legal materials. The tertiary legal materials used are the Great Dictionary of Indonesian Discussion, Legal Language Dictionary.

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<sup>54</sup> Dr. Djoni Sumardi Gozali, "LEGAL SCIENCE AND LEGAL RESEARCH," n.d., 56.

## E. Data Collection Methods

In legal science, there is a little specificity related to the data collection that will be used. This is based on the existence of regulations that can be analyzed and associated with the phenomenon that is occurring. In general, data collection methods in law can be through the study of literature documents, interviews, and observations. The data collection method used by the author is the interview method. Meanwhile, in empirical legal research, he does not use literature documents, but uses observations, interviews, and documentation.<sup>55</sup> It does not mean that document studies are not needed in empirical legal research, document studies are still needed as a complement to explain the legal issues proposed in the research.<sup>56</sup>

### 1. Observation

Observation, also known as observation, is an activity carried out by researchers in the context of collecting data by observing the phenomenon of a certain society at a certain time.<sup>57</sup> This includes counting, recording, measuring and recording the events that take place.

The thing that the research wants to reveal when the observation is carried out is to know firsthand the abandoned land

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<sup>55</sup> PROF. MUHAMMAD SIDDIQ ARMIA, M.H., PH. D, *Determination of Legal Research Methods & Approaches* (INDONESIAN INSTITUTE FOR CONSTITUTIONAL STUDIES (LKKI), n.d.), 49.

<sup>56</sup> Dr. H. Nur Solikin, S.Ag., MH, *Introduction to Legal Research Methodology* (CV. QIARA MEDIA PUBLISHER, n.d.), 128.

<sup>57</sup> Dr. Sigit Sapto Nugroho Farkhani, S.HI., S.H., M.H S.H., M.Hum., Anik Tri Haryani, S.H., M.Hum., *Legal Research Methodology* (Oase Pustaka, n.d.), 87.

that is used as the object in this study and to know firsthand the role of the land bank body.

## 2. Interview

In simple terms, an interview can be interpreted as a meeting of two people to exchange information and ideas through questions and answers, so that meaning can be constructed in a certain topic.<sup>58</sup> By using the interview method, the author can get more complete information on the research, which was not obtained through observation, such as the challenges obtained by the land bank agency when carrying out its duties, as well as the challenges of the Mojokerto Regency Land Office when preparing abandoned land.

The type of interview used is an in-depth interview using in-depth interviews to respondents, with an open-ended question model, which aims to get a broader answer and in accordance with the respondent's knowledge.<sup>59</sup>

**Table 2.1**

Name and Position of the Respondent

<b>It</b>	<b>Respondent's Name</b>	<b>Position</b>
1.	Zendy Nugraha Nursaputra	Land Administrator in the field of disputes, conflicts, and cases of the Mojokerto Regency Land Office

<sup>58</sup> Dr. Bachtiar, S.H., M.H., *LEGAL RESEARCH METHODS*, 155.

<sup>59</sup> Muhammad Syarif et al., "LEGAL RESEARCH METHODS," n.d., 158.



2.	Ir. Slamet Hidayat	Head of Kepuhanyar Village
3.	Inyo C Hetarie	Deputy Head of the Land Acquisition Division of the Land Bank Agency

### 3. Documentation

Documentation studies are the process of finding and collecting data sourced from the form of letters, diary notes, minutes, official trips, archives, and newspapers.<sup>60</sup> Included in the documentation study in this study are letters and other relevant documents.

## F. Data Processing Methods

For empirical law research, data processing is subject to data processing methods that are commonly used in social science research. There are two approaches available, namely the qualitative approach and the quantitative approach. Simply put, the qualitative approach has *an output* in the form of analytical descriptive text generated from the results of interviews by respondents, while the quantitative approach produces *output* in the form of numbers or quantities based on statistical formulas. Given that this primary source of law is an interview, a suitable approach is a qualitative approach.

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<sup>60</sup> PROF. MUHAMMAD SIDDIQ ARMIA, M.H., PH. D, *Determination of Legal Research Methods & Approaches*, 50.

According to B.J. Nasution, there are several steps of data processing in empirical research, namely:

1. Grouping

After getting the data needed, the next thing to do is to group the data according to its type. By grouping this data, it can make it easier to classify each data obtained.

2. Classification

The purpose of classifying the data obtained is to get the information that is needed, so that it can override data that is less relevant to the formulation of the problem.<sup>61</sup>

To improve the data processing that has been formulated by B.J. Nasution, it can be equipped with 2 further points, namely by examination and conclusion.

3. Examination

The examination process is a phase to examine data and field information so that the validity of the data can be identified and applied in research. <sup>62</sup>Data generated from books and interviews must be able to ensure their originality, and be accountable in the eyes of the law.

4. Conclusion

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<sup>61</sup> Dr. Bachtiar, S.H., M.H., *LEGAL RESEARCH METHODS*, 159.

<sup>62</sup> Syarif et al., "LEGAL RESEARCH METHODS," 162.

Conclusion is the final process in writing research. It contains the results of grouping, classification, data examination and data analysis that has been carried out. The goal is to provide an explanation from the background to produce the right recommendations for further research or for parties who need related improvements.

## **CHAPTER IV**

### **RESULTS AND DISCUSSION**

#### **A. Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land in Kepuhanayar Village Based on the Principle of Deconcentration**

Since the Dutch and Japanese colonial era, the land and wealth of the original land of Indonesia have been highly targeted by many eyes. To secure Indonesian land, the Dutch government has created many regulations related to land management and ownership. These regulations were continued and used until the enactment of the Basic Agrarian Law number 5 of 1960, with the passage of the Law, the regulations that were born during the Dutch government had been revoked to then implement the Basic Agrarian Law which would later be referred to as the UUPA.

In the development of time, the UUPA has been used as the main basis in disputes and the preparation of land-related derivative regulations in Indonesia. The development of time, the interest of national and international investors to make land in Indonesia as a field to open jobs, which was then also welcomed by the government with the birth of new land rights that can be owned for a long time, which is expected to improve the economy of the Indonesian people.

Land use must be managed properly and administratively in an orderly manner, in order to achieve what has been aspired to. However, there are irresponsible individuals who are negligent in their duties in utilizing the

land that has been controlled, making the land not productive land or individuals who control land that is not in accordance with applicable regulations. To overcome this, the government assigns the Land Office in each City/Regency to conduct a routine evaluation which then cooperates with the land bank body to collect state land as an institution that is sought to be a shield for change.<sup>63</sup> To answer the analysis and implementation of the duties and functions of the Land Bank Agency will be described below.

There are many regulations produced by government agencies discussing land and its use, such as the UUPA, the Job Creation Law which was later written by the Job Creation Law, Government Regulation Number 18 of 2021, Government Regulation Number 20 of 2021, Government Regulation Number 64 of 2021, including regulations issued by the Ministry of ATR/BPN which is tasked with land and spatial planning, namely the Regulation of the Minister of ATR/BPN Number 20 of 2021, as well as other regulations.

The Indonesian people have the right to be able to enjoy the land and those on it, as well as water, space, and natural resources. It is stated in article 2 paragraph 1 of the UUPA that

"That the earth, water, and space, including natural resources at the highest level, are controlled by the state as the organization of the power of all the people."<sup>64</sup>

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<sup>63</sup> Maulana Rafi Danendra and Dian Aries Mujiburohman, "The Establishment of Land Banks: Planning Land Availability for Accelerated Development in Indonesia," *Widya Bhumi* 2, no. 1 (March 30, 2022): 3, <https://doi.org/10.31292/wb.v2i1.18>.

<sup>64</sup> "Law Number 5 of 1960," n.d., 3.

The important thing referred to in the state being the highest level in mastery is that the state can give authority to regulate and organize the use and maintenance, as well as management rights to regulate legal relations between the community and the earth, water, and space, as well as related legal acts. Based on this article, the right to the earth's surface was born, namely the land surface can be owned as a right to land by other people or by legal entities. Therefore, it can be concluded that the use of land surface by the state is intended for the Indonesian people in the form of various land rights that can arise, such as business use rights, building use rights, use rights, and other rights. A person who already has a legal relationship with a land, he is obliged to manage it in accordance with the purpose of his ownership, and not to abandon the land object. As stated in PP 18 Article 22 paragraph (2) of 2021, the legal basis for the status of land has been explained, namely: "After the period of grant, extension, and renewal as referred to in paragraph (1) ends, the land of the right to use business will return to Land Directly Controlled by the State or Land of Management Rights". Therefore, it is very clear that after the term of the Right to Use the Business expires, it will no longer belong to the company or PT concerned. Quoting a journal written by Zihansyah Mutiara Halimatusakdiah Rambe and Musleh Herry, if the land is not renewed, then legally the land has the status of owned land or returned to the State.<sup>65</sup> If this happens, then the Land

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<sup>65</sup> Zihansyah Mutiara Halimatusakdiah Rambe and Musleh Herry, "Disputes over Land Ownership of Former Business Use Rights from the Perspective of Adz-dzariah (Study of the Supreme Court Decision Number: 3350 K/Pdt/2020)," n.d., 6.

Office as the representative of the government can take back the land and remove the rights attached to the previous person.

Based on article 16 of the UUPA, it is stated that those included in land rights are:

- a. Proprietary
- b. Business Rights
- c. Building rights
- d. Right of Use
- e. Leasehold Rights
- f. Land clearing rights
- g. Forest product collection rights<sup>66</sup>

Furthermore, regulations related to land rights are contained in Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration. The Regulation also explains that the state has management rights sourced from state land or customary land. Management Rights are the right to control from a state whose authority to implement part of it is delegated to the holder of management rights. According to Mr. Inyo C. Hetarie as the deputy head of the land acquisition division of the land bank agency, the meaning of this state management right is that the state has the authority to manage land which can then be handed over to other government agencies for the equitable distribution of public and economic facilities, or used in other forms for the benefit of the community.

*"So, the meaning of this management right or HPL is, the right to control from the state is given to the right holder, so he manages the land."*<sup>67</sup>

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<sup>66</sup> "Law Number 5 of 1960"

<sup>67</sup> Inyo C. Hetarie, n.d., interview, (Sidoarjo, February 18, 2025) n.d.

Land that is referred to as state land is land that has been established by law or government determination, reclaimed land, land derived from the release/assignment of rights, abandoned land, land rights that have expired and have not been extended and/or renewed, land rights whose term has expired and cannot be extended due to central government policies, and land that has originally been state land. If seen above, what is included in being state land is more or less land that is the target of the assets of the land bank body. Seen in article 7 related to the acquisition of land by the land bank agency, there is also abandoned land, reclaimed land, and land used for rights. So, indirectly, what is an asset of the land bank body is the state land itself, or land whose ownership is not extended by the owner or also called ex-right land.

The state mandates this land management right to central government agencies, local governments, SOEs/BUMDs, Land Bank Agencies, and legal entities that are subject to the central government. The strong reason why management rights are given to the relevant agencies above is to make the best use of state land for the public interest, as well as for spatial planning and regional facilities, as well as to collect land so that it can be used if needed at any time. Countries that feel that the current national development is a bit difficult to get land, so with the state agencies can collaborate to realize it. <sup>68</sup>However, it needs to be underlined, state land that

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<sup>68</sup> Danendra and Mujiburohman, "The Establishment of the Land Bank," 3.



will then be handed over to government agencies must still go through the relevant Land Office to be registered.

In addition to management rights, in agrarian law it is also known as business use rights and building use rights. A simple definition related to the right to use business is the right owned by citizens or legal entities to do a business on the ground level. While the right to use a building is the right owned by a citizen or legal entity to build and build a building on the surface of the land for personal or public interest, it depends on the owner's purpose when registering the land.

The right to use the business and the right to use the building, which are called HGU and HGB, respectively, are rights for a limited time, where if within the specified time they are not used properly, and when the period is almost expired but not extended, then the land can be included in the indication of abandoned land.

The existence of a period of ownership of HGU and HGB aims to ensure that the earth's surface, namely land, can always be productive land and can be useful for everyone. However, in addition to using this method, the government also uses the absentee land procedure to carry out land equity. In the journal by Musleh Herry and Nur Jannani, it is stated that, Absentee land is the ownership of agricultural land outside the owner's domicile sub-district. Absentee land ownership is included in the ranks of land ownership

beyond the limit.<sup>69</sup> In addition to securing land so that it is always productive, regulations related to absentee land are also carried out so as not to harm the public interest. If in a densely populated area there is absentee land, then the ownership makes the loss of the opportunity to own own land for the community.

HGU ownership is 35 years apart which can be extended for 25 years and extended again for a maximum of 35 years. Meanwhile, the HGU is 30 years away, extended by 20 years, and renewed for a maximum period of 30 years.<sup>70</sup> However, if before reaching the expiration of the ownership of the right, the owner abandons his land or commits misappropriation of the proposed permit, then the HGU and HGB of the owner can be deleted. With the abolition of the rights that were originally owned, the land object again became state land with an abandoned status and turned into management rights and was in the phase of transition of ownership and administrative order in the Land Office. Land that is declared as abandoned land by the local Land Office results in the termination of the legal relationship between the previous owner and the object, both his rights and obligations and other authorities, such as the payment of taxes on the land.

The return of land objects to abandoned land must be collected so that they can be used for the equitable distribution of public facilities. The task

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<sup>69</sup> Musleh Harry and Nur Jannani, "The Problems of Controlling Agricultural Soil Conversion to Achieve Sustainable Food Land Justice in Malang City," *De Jure: Journal of Law and Sharia* 12, no. 2 (December 31, 2020): 5, <https://doi.org/10.18860/j-fsh.v12i2.10497>.

<sup>70</sup> "Government Regulation Number 18 of 2021," n.d.

of collecting and inventorying abandoned land is one of the backgrounds for the formation of the land bank body. Before heading to the background of the establishment of the land bank body, the process of controlling abandoned land was first carried out by the Land Office. Land that is the object of abandoned land control based on the Regulation of the Minister of ATR/BPN number 20 of 2021 which is also in line with Government Regulation Number 20 of 2021,

"Land that is the object of control is proprietary land, HGU land, HGB land, use right land, land with management rights other than those belonging to the Land Bank Agency, and land obtained based on DPAT.<sup>71</sup>"

The land record is included in the indication of abandoned land if it is deliberately not cultivated, not used, not utilized, or abandoned for 2 years since the right was issued. So, if in an area there is land that is not maintained and makes the land a non-productive land for 2 years from the issuance of the right, the Land Office can indicate that the land is abandoned land.

There are many procedures that must be passed before the land becomes abandoned, starting with an inventory of the Land Office with the synchronization of the data of the right holder's report. The right holder attaches a report related to the development of the land he owns to the local

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<sup>71</sup> "Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021."

Land office, and then the results of the inventory of the report are administered in an indication of abandoned land.

The process after conducting an inventory of abandoned soil indications is divided into 3 stages:

a. Abandoned Land Evaluation

In this stage, the working group (POKJA) in charge of making a written notification to the rights owner which is sent to the address of the rights owner. The working group (POKJA) then conducts supervision related to the long-term plan in the utilization of these rights, also including monitoring related to the current land status and land area.<sup>72</sup> This is intended to be able to make updates related to the widening or narrowing of land and land productivity whether it is felt to be in accordance with the initial permit or not. After conducting supervision, the working group (POKJA) held a meeting to determine whether the land in question was deliberately not used or not.

b. Abandoned Areas Warning

A warning can be made if the notification during the evaluation process is not heeded until the evaluation process ends, then the first written warning is issued containing the permit holder to embarrass the improvement of his land for 180 days from the receipt of the first

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<sup>72</sup> "Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021."

warning letter.<sup>73</sup> If the holder of the fixed right does not heed the first warning letter that is launched, a written warning letter can be sent with the fixed purpose that the land can be useful in accordance with the permission of the right holder. However, if there is no significant change for 90 days, then the third written warning letter will be the last resort before finally the land is out of control. Tyercal from 45 days after the letter is received, if there is no utilization in the land, then the rights holder can be given a sanction for what is done.

c. Determination of Abandoned Areas

After the issuance of a written warning letter 3 times which is not heeded by the right holder, the land is determined to be abandoned land through a decree issued by the local Land Office. Based on the decree that has been issued, based on article 64 states that the abandoned land can be designated as bank assets and/or Reserve Land for the State (TCUN).

With the designation of abandoned land, all legal relations between the right holder and the land are severed, and the right to the land is abolished.

<sup>74</sup>The land office also announced a series of agendas by withdrawing the certificate of the land right as well as broadcasting it in the newspaper so

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<sup>73</sup> "Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency (BPN) Number 20 of 2021."

<sup>74</sup> Poppy Hairunnisa, Agus Sekarmadji, "LEGALITY OF LAND PURCHASE WITH OTHER PARTIES AS A MEANS OF LAND ACQUISITION BY THE LAND BANK AGENCY," *Lex Sharia Pacta Sunt Servanda: Journal of Islamic Law and Policy* 1 (n.d.): 4.

that the general public would know if the land object had turned into abandoned land.

Based on an interview conducted with Mr. Inyo C. Hetarie as the deputy chairman of the land acquisition division of the Land Bank Agency, it was stated that the procedure mentioned above had given birth to a new stipulation related to abandoned land. Until then, with this provision, the Land Office conducts administration and a written report to the Minister of ATR/BPN regarding the abandoned land, then waits for a joint decision regarding whether the land is owned by the land bank agency or becomes an inventory of parties other than the land bank agency given a mandate by the Minister of ATR/BPN.

*"After the land object is declared as abandoned land, the land does not immediately become an asset of the land bank, mbak. It must still go through the transfer process first from the Minister of ATR, if it is given to the land bank, then the application for management rights to Kantah will be taken care of."*<sup>75</sup>

This is considered less effective, because the procedure that must be taken is too long, while the abandoned land cannot be used by the community directly because it is still waiting for a decree and management certificate. This creates a void in terms of utilization and has the potential to arise new problems related to the abandoned land.

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<sup>75</sup> Inyo C. Hetarie, interview, interview, (Sidoarjo, February 18, 2025).

Inventory of abandoned land that has been decided by the Land Office as well as former land rights and former reclaimed land is one of the tasks of the land bank body. The first land bank was triggered through the Job Creation Law which in 2020 was suddenly passed and then immediately revoked in the same year. In Law Number 11 of 2020 concerning Job Creation, it is mentioned for the first time that the land bank body is in article 125. The turmoil in Indonesia at that time which was still unstable resulted in the cancellation of the Law, the land bank became lost its basic foothold and legal force,<sup>76</sup> but at that time, the land bank body continued to carry out its duties which some people considered unconstitutional. The government created Government Regulation Number 64 of 2021 concerning the Land Bank Agency and also Presidential Regulation Number 113 of 2021 concerning the Structure of the Land Bank Agency. Both rely on the first Law of the Land Bank that was canceled. Until then in 2023, Law Number 6 of 2023 concerning Job Creation was also passed. According to Mr. Inyo C. Hetarie as the deputy chairman of the land acquisition division of the land bank agency, Law Number 11 of 2021 and Law Number 6 of 2023 can be equated, related to land bank bodies. There is no change in both, only the return of the passage of the Job Creation Law has a big impact on the land bank body and is no longer considered unconstitutional.

*"One of the bases for the establishment of a land bank, the government at that time was still using Law 11 of 2020*

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<sup>76</sup> Anwar and Shafira, "Anomaly of Presidential Regulation Number 113 of 2021 concerning the Structure and Implementation of Land Banks Reviewed from the Decision of the Constitutional Court Number 91/PUU-XVIII/2020 concerning the Formal Testing of the Job Creation Law," 7.

*concerning omnibus law, with several laws and regulations, one of which is articles 125-135 regarding the need to establish a land bank. Then the law was repealed by the Constitutional Court, then passed again with Law Number 6 of 2023, the article turned out to be still the same, articles 125-135."*<sup>77</sup>

The land bank agency in the Job Creation Law in article 126 is tasked with ensuring the availability of land in the context of public interests, social interests, national development interests, economic equity, land consolidation, and agrarian reform. The land bank agency gets authority in the form of management rights obtained based on state land in the form of abandoned land and others. With these management rights, the land bank can utilize the country's land to be adjusted to the needs of the surrounding community.

The land bank body according to article 1 of Government Regulation Number 64 of 2021 is a special body (*sui generis*) which is an Indonesian legal entity formed by the central government which is given special authority to manage land.<sup>78</sup> Based on an interview with Mr. Inyo C. Hetarie, stated that the urgency of establishing a land bank is to reserve land, protect the stability of land prices from the land mafia, and for economic progress.

*"This land bank, formed by the state in the context of how the land bank, until now the land reserve in the context of development requires a very extraordinary effort. The government, for example, needs land, but the land is not liberated, the price is not chaotic, with this condition for a long time."*<sup>79</sup>

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<sup>77</sup> Inyo C. Hetarie, interview, interview, (Sidoarjo, February 18, 2025).

<sup>78</sup> "Government Regulation Number 64 of 2021" n.d., 3.

<sup>79</sup> Inyo C. Hetarie, interview, interview, (Sidoarjo, February 18, 2025).



To achieve these goals, the functions and duties of the land bank agency in Government Regulation Number 64 of 2021 article 3 are, functioning for planning, land management, land acquisition, land utilization and land distribution.<sup>80</sup> Currently, especially in Mojokerto Regency, the implementation of the function of the Land Bank Agency is still in planning only, because there are difficulties in acquiring the land, namely until now it is still waiting for the policy of the Minister of ATR/BPN to give the authority to manage the land to the land bank body. While the functions are:

- a. Planning long-term, medium-term, and annual activities
- b. Acquire land that can be sourced from the determination of the government and other parties
- c. Acquire land for development in the public interest or directly assess land
- d. carry out land management from land development, maintenance and security activities, and land control
- e. Utilizing T.Anah through Utilization Cooperation with Other Parties
- f. distributing land by carrying out land provision and distribution activities.<sup>81</sup>

Land bank bodies get a source of wealth from land determined by the government as well as from other parties. Included in the land determined by the government are:

- a. Former Land Rights
- b. Abandoned Areas and Lands
- c. Forest Land Clearance
- d. embossed soil
- e. reclaimed land
- f. Land of Former Mines

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<sup>80</sup> "Government Regulation Number 64 of 2021."

<sup>81</sup> "Government Regulation Number 64 of 2021"

- g. Land of Small Islands
- h. land affected by spatial change policies
- i. land on which there is no control.<sup>82</sup>

The source of land that is currently the focus is abandoned land. Land can be abandoned after he gets a valid decree issued by the local Land Office. The use of abandoned land can be carried out by land bank bodies or other parties authorized by the Minister of ATR/BPN. So, the land bank body can only carry out its duties after it gets the right from the Minister of ATR/BPN. This is a serious problem, because if the land bank agency does not get the land, then the purpose of the land bank to ensure the availability of land for development purposes cannot be realized. In addition, the land bank agency was also established under the pretext of realizing agrarian reform. Also in the function of the land bank body, one of them is land distribution. One of the objectives of land redistribution in the land bank according to the journal written by Musleh Herry, is intended to provide the widest opportunity to the poor who do not have the opportunity to own land due to the increasing price of land in Indonesia.<sup>83</sup> In article 22 of PP 64 of 2021, it is stated in paragraph 2 that the availability of land for agrarian reform is at least 30% of the state land allocated by the land bank agency.<sup>84</sup> If state land in the form of abandoned land does not fall directly into the inventory of the land bank body, then not only the ideals of economic equity and development are

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<sup>82</sup> "Government Regulation Number 64 of 2021."

<sup>83</sup> Musleh Harry, Ahmad Wahidi, and . Musataklima, "Land Bank and Food Sovereignty in Indonesia:," in *Proceedings of the 1st International Conference on Recent Innovations* (International Conference Recent Innovation, Jakarta, Indonesia: SCITEPRESS - Science and Technology Publications, 2018), 4, <https://doi.org/10.5220/0009924811961203>.

<sup>84</sup> "Government Regulation Number 64 of 2021"

neglected, but also the ideals of agrarian reform cannot be implemented. At this time, the efforts made by the land bank agency to obtain land as an inventory can be considered quite good, because the land bank agency always collaborates with the Land Office to supervise abandoned land while waiting for the decision of the Minister of ATR/BPN to provide authority. After an analysis of the articles related to the duties and functions of the land bank body, then it will be explained regarding the implementation of the article in the next subchapter.

The spread of abandoned land can occur in big cities and in rural villages. Based on an interview that has been conducted with Mr. Zandy Nugraha Nursaputra, Land Planner for Disputes, Conflicts, and Cases of the Mojokerto Regency Land Office, stated that there are approximately 41 abandoned land owned by one PT, namely PT. Mojokerto Industrial Park (PT. MIP).

*"If in the working area of BPN Mojokerto Regency, maybe the former PT. MIP is mbak, which is next to the bypass. For an area of approximately 40 lands. It's just like that's in Mojokerto Regency."*<sup>85</sup>

The land owned by PT. This MIP in the HGB permit given in 1996 is intended for factories which in fact, until now, based on the statement of the Head of Kepuhanyar Village, Mr. Ir. Slamet Hidayat, there has never been any sign of development on the land.

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<sup>85</sup> Nursaputra, interview, interview, (Mojokerto, November 04, 2024).

*"If it's development, there has never been a mbak, it's just land like that, it's been abandoned for a long time."<sup>86</sup>*

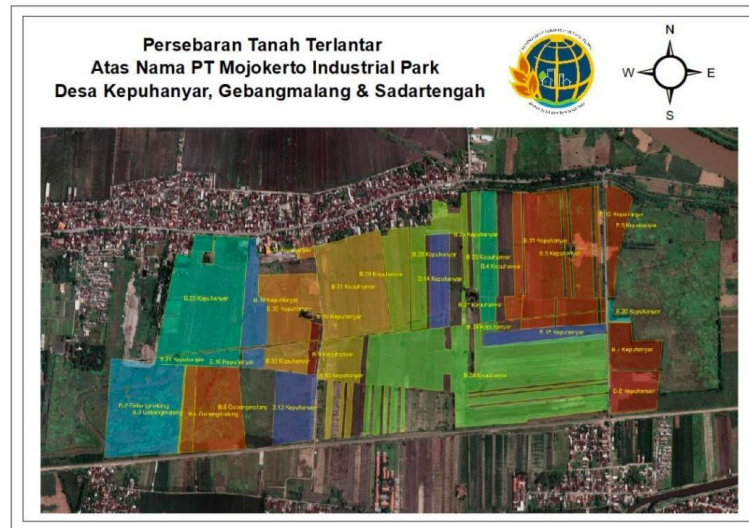
Until 2013 the Mojokerto Regency Land Office issued a warning letter 1 followed by a warning letter 2. After the 2nd warning letter was issued, there was still no good faith carried out by PT. MIP, until the peak of the Land Office issued a warning letter 3 containing instructions for PT. MIP to make good use of the land owned in accordance with its permits. There was no positive response given by PT. MIP after receiving the 3rd Anniversary Letter, in the end the Mojokerto Regency Land Office reported this to the Minister of ATR/BPN in accordance with the procedures stated in Ministerial Regulation Number 20 of 2021 related to the procedures for controlling abandoned land, namely issuing the Decree of the Head of BPN RI Number 15 to No. 58/PTT-HGB/BPN RI/2013 containing 44 certificates owned by PT. MIP.

44 certificates owned by PT. MIP is spread across 3 villages, namely Gebangmalang Village, Kepulanyar Village, and Sadartengah Village. Among the 3 villages, Kepuhanyar village is the largest village owned by PT. MIP. The location of HGB in Kepuhanayar village is behind the Office of the Head of Kepuhanyar Village. There are 30 HGBs with HGB numbers 4-33 and number 37. The total area of the 30 HGBs is 1,040,670 m<sup>2</sup>. The following is a map of the distribution of abandoned land of former PT. MIP :

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<sup>86</sup> Ir. Slamet Hidayat, February 17, 2025, interview, (Mojokerto, February 17, 2025).

**Figure 1.1**  
**HGB Distribution Map of PT. MIP**



Source : Archive of the Land Office of Mojokerto Regency<sup>87</sup>

On its journey, it was not easy for PT. MIP accepted the decision that the land was declared abandoned. Many times PT. MIP is trying to reclaim its land, both through the Mojokerto District Court, the Surabaya District Court, and running on the green table of the State Administrative High Court (PT. TUN) Surabaya. The following is the journey of PT. MIP seeks to regain lost rights:

- a) PTUN Surabaya with decision number 62/G/TUN/2013/PTUN.  
SBY

The first step taken by PT. MIP is quite correct because it filed a lawsuit in the right place, namely the PTUN to sue the decision produced by state officials, namely the decree from the

<sup>87</sup> Nursaputra, interview, interview, November 04, 2024.

Minister of ATR/BPN. The result obtained from this procedure is that the Decree related to the determination of abandoned land issued by the Mojokerto Regency Land Office is revoked and declared PT. MIP is authorized over the land.<sup>88</sup> The judge gave the decision based on 2 main things, namely the absence of evidence to carry out an inventory of abandoned land indications, which should be the first step that must be taken by the Land Office. The issuance of Warning Letters 1 and 2 is not in accordance with the Regulation of the Minister of ATR/BPN. The issuance of Warning Letters 1 and 2 is not up to 30 calendar days, while according to applicable regulations, the issuance of Determination Letter 2 is given after there is no response from the right holder for 30 days. In addition, PT. MIP stated that after receiving warning letter 1, PT. MIP built roads and also offices for administration. Meanwhile, based on an interview conducted with Mr. Ir. Slamet Hidayat as the Head of Kepuhanayar Village, he found the opposite fact, namely that there has never been any development carried out in the disputed land area.

Based on the findings mentioned above, the Judge stated that the Decree related to the abandoned land was juridically flawed, because it was not in accordance with the flow that had been

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<sup>88</sup> See in Verdict

determined in the regulation of the Minister of ATR/BPN.<sup>89</sup> As a result, the ownership of the 44 lands returned to the ownership of PT. MIP.

The Land Office and the Head of BPN, who were dissatisfied with the results of the first-level decision, filed an appeal to return the land to abandoned land, but what happened was that the Bandimng decision strengthened the first decision, which means that the land remains the ownership of PT. MIP.

Not stopping there, the Head of BPN and the Head of the Mojokerto Regency Land Office filed an appeal against PT. TUN Surabaya. The result of the cassation application, stated that PT. MIP only uses 1,000 hectares of the total land owned, which strengthens the assumption that PT. MIP abandoned other land and as a result, the land did not become productive land for the community.<sup>90</sup> With this cassation decision, it cancels the appeal decision and the first one issued by the Surabaya State Administrative Court.

The last trial process that can be taken, namely the review, resulted in a decision that the land that houses the object of the dispute remains abandoned land. With legal considerations, the object of dispute is a decree issued by the Land Office, not a Deed of Sale and Purchase submitted as evidence by PT. MIP. In addition,

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<sup>89</sup> See in Verdict

<sup>90</sup> See in Verdict

the Land Office has issued warning letters 3 times as a form of notification and warning not to abandon the land.

After the Long process that was passed by PT. MIP on its former land, 44 HGB owned by PT. MIP was declared null and void and became abandoned land.

- b) Surabaya District Court with decision number 369/PDT. G/2017/PN. SBY

PT. MIP is not satisfied with the final verdict issued. In the end, PT. MIP tried again by using the Surabaya District Court route. In the process taken this time, the steps taken by PT. MIP can be said to be inappropriate, because the District Court does not have the authority to decide cases related to disputes over the decree of government agencies. However, the results obtained from this first-instance trial, PT. MIP was declared victorious and the disputed land returned to his property. Likewise with the level of appeal submitted by BPN and the Land Office, the results of this appeal session corroborate the first decision won by PT. MIP.

In contrast to the first-instance judgment and the appellate level, the cassation level submitted by the BPN and the Land Office results in a decision that favors the BPN and automatically annuls the appellate and first-instance level decisions.

- c) Mojokerto District Court with decision number 54/PDT. G.2017/PN. SBY



The issuance of the cassation decision issued by PT Surabaya again resulted in the dissatisfaction of PT. MIP. Not stopping trying, PT. MIP again submitted an application to the Mojokerto District Court. As repeated at the time of application at the Surabaya District Court, the first decision and appeal decision resulted in a landslide victory for PT. MIP. BPN is again filing an appeal, but unlike before, PT. MIP won again at the time of this cassation. However, BPN filed a Review of the cassation decision, finally BPN was declared victorious in this case, and canceled the Supreme Court's decision Number 780K/PDT/2021<sup>91</sup>, as well as stating that as the author had mentioned earlier, namely the District Court is not authorized to adjudicate this case.

After a Review was carried out in 2022, and relaas on February 1, 2023, the land in dispute was subject to no further action, either from the BPN or the Land Office. This even makes a new problem, namely the land is currently being used by local residents, by paying rent to PT. MIP. This is an illegal act that should not be done by PT. MIP.

The problem faced by the land bank agency after escorting and following the land *checking procedure* with an indication of abandoned land until it is decided to become abandoned land is that the land bank agency cannot necessarily own the land as its asset, because it has to wait for a decision from the Minister of ATR/BPN.

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<sup>91</sup> See in Verdict

*"The problem we are facing now, we have not been able to implement the duties and functions of this land bank, ma'am. Yes, because the land is still under the Ministry. If the land has been given to the land bank, then we (the land bank) can be on duty."*<sup>92</sup>

Meanwhile, the Land Office, which is the BPN office at the City/Regency level, cannot carry out further guarding and inventory, this is based on an interview that has been conducted with Mr. Zandy Nugraha Nursaputro, Representative of the Mojokerto Regency Land Office. He also added that the Land Office can only conduct an inventory until the determination of the land becomes abandoned land, even to carry out guarding and inventory cannot be done.

*"There is no further collaboration related to the use of abandoned land, because BPN can only be authorized to inventory into abandoned land. After it was decided to be abandoned land, BPN didn't do anything anymore. It can't gather us either."*<sup>93</sup>

This causes many conflicts that can occur in the middle of the day. Conflicts that can occur are conflicts with residents who make the land a source of livelihood. If this happens, then explicitly the ideals of the land bank body are not realized, namely the ideal to ensure the availability of land for the benefit of the community and development. Based on this, it is necessary for the land bank body to follow in the footsteps of BPN which has a Land Office in each Regency/City that is tasked with carrying out massive escort and guarding.

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<sup>92</sup> Inyo C. Hetarie, interview, interview, (Sidoarjo, February 18, 2024).

<sup>93</sup> Nursaputra, interview, interview, (Mojokerto, November 04, 2024).

Indonesia is no stranger to using the principle of decentralization and the principle of decentralization. These two principles are very strongly related to the division of power between the central and regional governments. Likewise with BPN agencies. In carrying out its tugas, BPN is assisted by the Land Office in each city/district to be able to serve the community more closely and efficiently. According to Rosidin in a book titled asass of local government administration,

The concept of Deconcentration is the delegation of authority from the government or from a higher level of government apparatus to another apartment at a lower level of government.<sup>94</sup>

It can be said that the principle of deconcentration is a principle that is used as a basis for granting authority to the government or agencies in the regions, to follow up on the authority of the central government or from a central agency with a higher position. In the principle of deconcentration, the authority remains with the government/apparatus which is higher, while the local government/apparatus which is inferior becomes the executor of the authority.

Based on article 2 paragraphs 5 and 6 of Government Regulation Number 64 of 2021 concerning Land Bank Agencies, it is stated that,

*"5) Land Bank is domiciled in the Capital City of the Unitary State of the Republic of Indonesia.*

*(6) Land Bank may have representative offices throughout the territory of the Unitary State of the Republic of Indonesia."*<sup>95</sup>

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<sup>94</sup> Rauf, M.Si, *Principles of Local Government Administration*, 68.

<sup>95</sup> "Government Regulation Number 64 of 2021"

The Land Bank Agency should be able to have a representative office in each Regency/City to support and oversee every progress and use of abandoned land. In addition, using the principle of deconcentration in the implementation of land bank agencies can make communication between land bank agencies and regional agencies that need abandoned land for economic equity and development can run more easily. There is also article 8 paragraph 1 of Government Regulation Number 64 of 2021 concerning Land Bank Agencies explaining that land bank bodies can obtain land from other parties, one of which is regionally-owned enterprises. Not only that, in article 15 paragraph 2 of Government Regulation Number 64 of 2021 concerning Land Bank Bodies, assets owned by land bank bodies can be distributed, one of which is to local governments. With the existence of a representative office of the land bank body in each city/regency in Indonesia, it can reduce the "land" that will become the asset of the land bank body. In addition, by using the principle of deconcentration, the distribution of land assets of the land bank agency can be easier and on target, because the representative office in the district/city can directly review the use of the land.

Based on the juridical analysis carried out on regulations related to the land bank and abandoned land bodies, as well as based on the implementation of the duties and functions of the land bank agency in Mojokerto Regency, especially in Kepunyar Village, it can be concluded that the land bank body has not been able to carry out its duties and

functions, because since 2022 until now the abandoned land is still in the grip of the Minister of ATR/BPN and has become illegal productive land used by the surrounding community. To overcome this, what can be done is to escort and supervise abandoned land in Kepuhanyar Village, which can be facilitated by the existence of a representative office in Mojokerto Regency, which can always supervise and it is easier to distribute land to the local government. In addition, there needs to be a period of time that must be obeyed by the Minister of ATR/BPN regarding the granting of management rights from abandoned land.

#### **B. Challenges and Implications Faced by the Land Bank Agency in Collecting Abandoned Land in Kepuhanyar Village: Maqashid Sharia Perspective**

In implementing its duties, there are challenges faced by land bank bodies. These challenges can arise from all sides, both from the community and from other agencies that intersect with the land bank body. The challenges faced by the land bank agency have impacted several new phenomena. The new phenomenon that occurred has a great impact on the pattern of the community in responding to land use and understanding related to abandoned land. The following are the implications in the form of impacts on the abandoned land collection procedure in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency and the new paradigm regulation that can be used as a reference for related parties.

Based on the Regulation of the Minister of ATR/BPN Number 20 of 2021 which has been analyzed in the subchapter above, it is explained in article 67 paragraph 1 that the utilization of abandoned land can be transferred to other parties or to the land bank body. Meanwhile, in reality, the land bank has not been able to utilize 44 former HGB land from PT. MIP. According to Mr. Inyo C. Hetarie, since the last ruling had the force of law in 2022, the 44 lands can be said to have been abandoned while waiting for a decree from the Minister of ATR/BPN.

*"After the decision in TUN came out, and the one who won the BPN, the land is still in the process of waiting for the administrative decision of the Minister of ATR, to which party do you want to be given the right to manage it."*<sup>96</sup>

This has an impact on the legality of land use, because based on the statement of the Head of Kepuhanyar Village, Mr. Ir. Slamet Hidayat, the residents always pay rent contributions to PT. MIP, with a lease agreement to plant rice by the surrounding community.

*"The land has long been used by the community, planted with rice, helping the economy of the residents. But the grower still pays rent to PT. MIP, all of us just know that the land has become state-owned."*<sup>97</sup>

Responding to the illegal phenomenon that occurred, the Head of Kepuhanyar Village, Mr. Ir. Slamet Hidayat, said that the village government felt confused to respond to this phenomenon. The village government does not have the authority to terminate the lease process. In addition, tax bills

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<sup>96</sup> Inyo C. Hetarie, interview, interview, (Sidoarjo, February 18, 2025).

<sup>97</sup> Ir. Slamet Hidayat, interview, interview, (Mojokerto, 17 February 2025).

that are still routinely obtained on the land are ambiguous to be implemented.

*"I as the Head of Village and the village government also can't do anything, because we don't have the authority to take over, right. The community can have a positive effect, yes we can't limit"*<sup>98</sup>

The village government has tried to report and try to stop the tax bill, but it can't, under the pretext that it is not the authority of the village government. While the tax burden is still ongoing, the village government also allows residents to plant and carry out rental activities with PT. MIP, because the residents feel that with the tax bill, the land is still owned by PT. MIP, even though in reality, the land has become abandoned land.

Regulations related to the payment of land and building tax (PBB) can be seen in Law Number 1 of 2022 concerning Financial Relations between the Central Government and Regional Governments. In the law, it is explained in article 4 paragraph 2, one of the taxes that can be collected by the district/city government is the Land and Building Tax. There is a tax-free land or earth and building exemption, contained in article 38 of Law Number 1 of 2022, namely:

- a. Land and/or Government office buildings, Regional Government offices, and other state administration offices that are recorded as state property or regional property

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<sup>98</sup> Ir. Slamet Hidayat, interview, (Mojokerto, 17 February 2025).

- b. The earth and/or buildings are used solely to serve the public interest in the fields of religion, social institutions, public health, education, and national culture, which are not intended to gain profits
- c. Earth and/or Buildings that are solely used for graveyards, ancient relics, or the like
- d. The earth that contains protected forests, nature reserve forests, tourist forests, national parks, grazing land controlled by villages, and state land that has not been encumbered with a right
- e. Earth and/or Buildings used by diplomatic missions and consulates on the basis of reciprocal treatment
- f. Earth and/or Buildings used by bodies or representatives of international institutions stipulated by Ministerial Regulation
- g. Land and/or Buildings for railway lines, integrated highway modes (Mass Rapid Transit), integrated highways (Light Rail Transit), or the like)
- h. Earth and/or other residential buildings based on certain NJOP determined by the Regional Head
- i. Land and/or Buildings that are subject to land and building taxes by the Government.<sup>99</sup>

44 Land in Kepuhanyar Village is not included in the earth and/or buildings that are excluded as PBB-P2 objects. So, the payment of PBB tax should indeed be mandatory to pay the PBB. However, when the land has become state land as abandoned land, the land should have been included in the earth and/or the land that does not pay PBB P-2. The problem faced is, when the Head of Kepuhanyar Village, Ir. Slamet Hidayat stated that it was difficult to stop the tax bill on the land.

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<sup>99</sup> "Law Number 1 of 2022.Pdf," n.d.



*"We (the village government) have also decided on tax bills, right, it is said that it has become state land, it is also taken care of, said by the tax officer, the village government is not authorized. So yes, the public considers it, if the taxpayer is still PT. MIP, meaning that it still belongs to PT. MIP."*<sup>100</sup>

The implication of this tax problem is that the village government and the community think that the land is still under the auspices of PT. MIP, then the rental activities that occur between the community and PT. MIP is considered not to be contrary to regulations. Meanwhile, in reality, the land has now become state-owned since the 2022 Review decision. The use of the land into a rice field area is a good step, but if the community is required to pay rent to the right party who no longer even has authority over the land, it is an uncommendable activity.

The use of abandoned land by the people of Kepuhanyar Village is actually an act that provides benefits for the benefit of the community. However, the problem is the withdrawal of rental fees by PT. MIP which seems to still have authority. If analyzed using the theory of utility, it is inversely proportional. In the theory of utility, a regulation can be said to be successful if the level of happiness of the community is more than the disadvantages obtained. According to Jeremy Bentham's *Legal Utilitarianism* quoted from Endang Pratiwi's work, there are 7 elements of benchmark assessment, namely: Intensity of Happiness, Duration of Happiness Given, How certain the fulfillment of pleasure is influenced by the law, accuracy of fulfilling happiness, consistency of happiness in producing other

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<sup>100</sup> Ir. Slamet Hidayat, interview, interview, (Mojokerto, 17 February 2025).

happiness, possibility of the emergence of bad sensations, the number of people who get happiness.<sup>101</sup> By using these 7 elements, it is possible to analyze the implementation of the duties and functions of the land bank agency in collecting abandoned land, the following table below to make it easier to analyze:

**Table 3.1**

**Implementation of Utility Theory**

<b>It</b>	<b>Indication</b>	<b>Information</b>
1.	Intensity of Happiness	PT. MIP who gets happiness in the form of profits from illegal leasing to the people of Kepuhanyar, but there are also camps that get bad, namely BPN and Land Offices that cannot get benefits from abandoned land.
2.	Duration of happiness given	PT. MIP : 29 Years BPN and Land Office: 5 Years
3.	Enjoyment is influenced by the law (based on Government Regulation Number 64 of 2021)	The people of Kepuhanyar Village: get pleasure by being able to use the land to grow rice.  PT. MIP: getting pleasure as well as disadvantages in the form of rental profits and HGB loss losses.

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<sup>101</sup> Pratiwi, Negoro, and Haykal, "Jeremy Bentham's Theory of Utilitarianism," 12.

		<p>BPN and Land Office: benefits of obtaining abandoned land assets</p> <p>Land bank body: get abandoned land assets</p>
4.	Precision meets happiness	<p>The people of Kepuhanyar Village: get happiness from improper land use, because it is not in accordance with applicable regulations.</p> <p>PT. MIP: <b>not right</b> in getting happiness, because it is not in accordance with laws and regulations.</p> <p>BPN and Land Office: do not get happiness.</p> <p>Land Bank Agency: <b>not accurate</b> in happiness, because it still has not obtained land assets.</p>
5.	Consistency of happiness also brings happiness	<p>The people of Kepuhanyar Village: by using abandoned land to grow rice, it is certain to get other happiness.</p> <p>PT. MIP: has no potential, with it taking advantage illegally, it brings more harm.</p> <p>BPN and Land Office: bring other happiness, because they successfully carry out their duties.</p>

		Badan Bank Tanah : brings other happiness, because it can implement the task of collecting and distributing.
6.	the possibility of the appearance of disadvantages	<p>Kepuhanyar Village Community: the possibility of conflict between the government and the community.</p> <p>PT. MIP: After taking the path of trial to PK, the emergence of ugliness is not new.</p> <p>BPN and Land Office: there is a possibility of bad things, because there is a possibility of conflict.</p> <p>Land Bank Agency: likely to face conflicts with the community in asset management.</p>
7.	the number of people who get happiness.	PT. MIP who gets happiness.

Based on the analysis carried out above, between the reality that occurs with the procedure for collecting abandoned land based on Government Regulation Number 64 of 2021 and the Minister of ATR/BPN Number 20 of 2021 using Jeremy Bentham's theory of utility, it can be concluded that those who get happiness tend to be PT. MIP and a handful of people in Kepuhanyar Village, while the bad tends to be obtained by the BPN, the Land Office, and the Land Bank Agency.

In Islam, every rule explained in the Qur'an, either implicitly or explicitly, is stated in the Qur'an, there is a reason or *asbabun nuzul* to regulate it. *Asbabun nuzul* for each verse cannot be obtained by just reading the Quran, but also must learn about the Qur'an more deeply. When the Prophet Muhammad died, the path to explanation of the postulates of the Qur'an was also cut off. During the period of *Khulafaur Rashidin* until the time of *tabiin* and *tabiit*, the companions used the method of approaching the events that were happening with what had been established during the time of the Prophet Muhammad. The method is *Maqashid Sharia*.

*Maqashid Sharia* is a number of *amaliyyah* laws brought by Islam, both related to the conception of *aqidah* and its legal legislation.<sup>102</sup> Al-Tahir or often called Imam Ibn Assyria does not define the meaning of *maqashid Sharia* directly, but according to Imam Shatibi, Allah sends down his *sharia* to bring *mashlahat* and avoid harm. In other words, *maqashid Syariah* is one of the ways to decide a case in order to bring benefits and keep away harm.

Imam Syatibi uses 3 methods to know and determine the goals of *Sharia*, namely: goals that are sourced from texts, goals based on values, and goals based on inductiveness. The results obtained were in the form of general *mashlahah* distribution. *Maslahah* is generally divided into 3 parts, namely *dhoruriyat*, *hajiyyat*, and *tahsiniyyat*. In the *dhoruriyat*

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<sup>102</sup> Fauzan, "The Thought of *Maqashid Syariah* Al-Tahir Ibn Assyria," 3.

section, it is further divided into 2, namely *mashlahah dhoruriyah 'ainiyah*, and collective *maslahah*. In *maslahah dhoruriyah 'ainiyah* consists of maintaining religion, guarding the soul, maintaining intellect, protecting descendants, and safeguarding property. Meanwhile, according to Imam Ibn Assyria, in deriving a sharia, Allah is in accordance with human nature. It can be seen that the value of human relationships can be very well established if they adhere to Islamic law.<sup>103</sup>

The Indonesian government can emulate the points of basic human nature in drafting a law, so that it can remain in line with Islam, as well as achieve the prosperity of the people. The basic nature of human beings is as follows:

1. Fitrah

The supreme basis of sharia is human nature, namely intellect.

As a human being, we should use our intellect to always think well and positively for the well-being of many people.

2. Al-Samahah

In Indonesian, it can be called tolerance. The meaning of this tolerance is to respect all differences and not to be racist towards ethnicity, skin color, or other differences.

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<sup>103</sup> Maharani, "Ibn Assyria's Thoughts on Maqashid Sharia in Contemporary Economics," 4–6.

### 3. Blessings

The purpose of maqashid Sharia is to achieve the fame of the ummah. With the nature of human reason, he can see and identify a fame. The more ummah who get fame, the closer to achieving the goal.

### 4. Al-Musawah

It can also be called equality of rights in every human being. In the narration of Imam Ibn Asyur, al-musawah is very important to be applied. After applying al-samahah, al-musawah is a follow-up to the tolerance carried out. Likewise, in drafting a regulation, all human beings must be equated as equal parties before the law.

### 5. Al-Hurriyah<sup>104</sup>

After equalizing the rights and respecting the differences of each person, the next position that is no less important is to free people to make their choices, without any intervention. If a person is treated equally in law with all deeds, then this is the true definition of al-hurriyah.

Regarding the implementation of the duties and functions of the land bank body if reviewed through the perspective of Maqashid Sharia, it can be seen in the following table:

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<sup>104</sup> Maharani, 6.

**Table 4.2**

**Implementation of Maqashid Sharia**

<b>It</b>	<b>Elements According to Imam Ibn Assyria</b>	<b>Implementation</b>
1.	Fitrah	In line with human nature, using reason to think and create a fame.
2.	Al-Samahah	There are no racist elements caused or consequences that can arise from the implementation of the duties and functions of the land bank body.
3.	Blessings	The achievement of fame, but not the fame of the entire ummah, because based on its implementation, there are ummah who get the blessing.
4.	Al-Musawah	In the article of duties and functions, the value of al-musawah is reflected, but in its implementation there is a distinction in rights between the ummah.



5.	Al-Hurriyah	In the article on the duties and functions of the land bank body, there is no intervention that results in cornering several parties, but if the implementation of the al-musawah point is not carried out, then the al-hurriyah point or freedom cannot be fully implemented.
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The reform that can be carried out by the government based on the Maqashid Syariah of Imam Ibn Assyria is the protection of abandoned land so that every human being gets the same rights in the eyes of the law. At the same time, spreading happiness more than harm, in line with Jeremy Bentham's theory of utility.

## **CHAPTER V**

### **CLOSING**

#### **A. Conclusion**

Based on the results of the research that has been carried out by the author which has been described related to the Implementation of the Duties and Functions of the Land Bank Agency in Collecting Abandoned Land Based on Government Regulation Number 64 of 2021 concerning the Land Bank Agency Perspektif Maqashid Syariah (Study in Kepuhanyar Village, Mojoanyar District, Mojokerto Regency), it can be concluded that:

1. The implementation of the Duties and Functions of the Land Bank Agency has not been able to run perfectly, because in its implementation, the functions of the land bank agency in the form of land acquisition and land acquisition are not running in Mojokerto Regency. The function of the land bank body in the form of land acquisition sourced from government determination, this has also not been carried out until now.
2. The challenges faced by the land bank body have legal implications for the illegal use of land objects by the community. The community pays rent on land that has actually become state land as abandoned land. The obstacle faced in collecting abandoned land in Mojokerto Regency is the administrative technique that is too complicated in distributing state land. The connectivity between the land bank and BPN is not running

perfectly, which results in the slow distribution of abandoned land in Mojokerto Regency.

## **B. Suggestion**

1. It is better for the Land Bank Agency to add a regional office of the land bank agency in each district/city so that it can protect abandoned land.
2. The relevant government improves the procedure for granting abandoned land management rights to the Land Bank Agency, and gives a period of time to the Minister of ATR/BPN so as not to further delay the time of abandoned land under the auspices of the Minister of ATR/BPN, because the longer the land is in the Minister of ATR/BPN, the more unproductive the land becomes and the activities carried out on it become illegal.
3. Abandoned land should be repaired, either by fencing or adding identity signs as state land. In order to educate the community at the same time, that the land has undergone a change in ownership and management.

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Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law (Perppu) Number 2 of 2022 concerning job creation

Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats, and Land Registration

Government Regulation Number 64 of 2021 concerning Land Banks

Presidential Regulation Number 66 of 2022 concerning the Spatial Plan of the National Strategic Area for the Urban Areas of Gresik, Bangkalan, Mojokerto, Surabaya, Sidoarjo, and Lamongan (Gerbangkertosusila)

Attachment

**Appendix 1. Research Permit of Mojokerto Regency Land Office**



KEMENTERIAN AGAMA REPUBLIK INDONESIA  
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG  
**FAKULTAS SYARIAH**  
Jl. Gajayana 50 Malang 65144 Telepon (0341) 559399 Faksimile (0341) 559399  
Website: <http://syariah.uin-malang.ac.id> E-mail: [syariah@uin-malang.ac.id](mailto:syariah@uin-malang.ac.id)

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Nomor : B- 3174 /F.Sy.1/TL.01/10/2024  
Hal : Permohonan Izin Penelitian

Malang, 15 Oktober 2024

Kepada Yth.  
Kepala Badan Pertanahan Nasional Kabupaten Mojokerto  
Jl. Pahlawan No.45, Gatul, Banjaragung, Kec. Puri, Kabupaten Mojokerto, Jawa Timur  
61322

*Assalamualaikum wa Rahmatullah wa Barakatuh*

Dalam rangka menyelesaikan tugas akhir/skripsi mahasiswa kami:

Nama : Rizki Amalia Rahmadani  
NIM : 210203110066  
Program Studi : Hukum Tata Negara

mohon diperkenankan untuk mengadakan penelitian dengan judul :  
**Implementasi Tugas dan Wewenang Bank Tanah pada Peraturan Pemerintah Nomor 64 Tahun 2021 dalam Menghimpun Tanah Terlantar Perspektif Maqashid Syariah (Studi di Kabupaten Mojokerto)**, pada instansi yang Bapak/Ibu Pimpin.

Demikian, atas perhatian dan perkenan Bapak/Ibu disampaikan terima kasih.

*Wassalamualaikum wa Rahmatullah wa Barakatuh*

Scan Untuk Verifikasi





An. Dekan  
Kantor Dekan Bidang Akademik,  
Rizki Amalia Rahmadani

Tembusan :

1. Dekan
2. Ketua Prodi Hukum Tata Negara
3. Kabug. Tata Usaha

## Appendix II. Land Bank Agency Research License



KEMENTERIAN AGAMA REPUBLIK INDONESIA  
UNIVERSITAS ISLAM NEGERI MAULANA MALIK IBRAHIM MALANG  
**FAKULTAS SYARIAH**  
Jl. Gajayana 50 Malang 65144 Telepon (0341) 559399 Faksimile (0341) 559399  
Website: <http://syariah.uin-malang.ac.id> E-mail: [syariah@uin-malang.ac.id](mailto:syariah@uin-malang.ac.id)

Nomor : B 1631 /F.Sy.1/TL.01/01/2025  
Hal : Permohonan Izin Penelitian

Malang, 08 Januari 2025

Kepada Yth.  
Kepala Badan Bank Tanah  
Jl. H. Agus Salim No.58, RT.8/RW.4, Gondangdia, Kec. Menteng, Kota Jakarta Pusat,  
Daerah Khusus Ibukota Jakarta

*Assalamualaikum wa Rahmatullah wa Barakatuh*

Dalam rangka menyelesaikan tugas akhir/skripsi mahasiswa kami:

Nama : Rizki Amalia Rahmadani  
NIM : 210203110066  
Program Studi : Hukum Tata Negara

mohon diperkenankan untuk mengadakan penelitian dengan judul :  
**Implementasi Tugas dan Wewenang Badan Bank Tanah  
Dalam Menghimpun Tanah Terlantar Berdasarkan  
Peraturan Pemerintah Nomor 64 Tahun 2021  
Perspektif Maqashid Syariah**  
(Studi di Desa Kepuhanyar Kecamatan Puri Kabupaten Mojokerto), pada instansi  
yang Bapak/Ibu Pimpin.

Demikian, atas perhatian dan perkenan Bapak/Ibu disampaikan terima kasih.

*Wassalamualaikum wa Rahmatullah wa Barakatuh*

Scan Untuk Verifikasi



  
n. Dekan  
Akad. Dekan Bidang Akademik,  
Rizki Amalia Rahmadani

Tembusan :

1. Dekan
2. Ketua Prodi Hukum Tata Negara
3. Kabag. Tata Usaha





### Appendix III. Research Permit Letter from the Head of Kepuhanyar Village



Kepada Yth.  
Kepala Desa Kepuhanyar  
Jl. Raya No.144, Domarsi, Kepuhanyar, Kec. Mojoanyar, Kabupaten Mojokerto, Jawa Timur 61364

*Assalamualaikum wa Rahmatullah wa Barakatuh*

Dalam rangka menyelesaikan tugas akhir/skripsi mahasiswa kami:

Nama : Rizki Amalia Rahmadani  
NIM : 210203110066  
Program Studi : Hukum Tata Negara

mohon diperkenankan untuk mengadakan penelitian dengan judul :  
**Implementasi Tugas dan Wewenang Badan Bank Tanah Dalam Menghimpun Tanah Terlantar Berdasarkan Peraturan Pemerintah Nomor 64 Tahun 2021 Perspektif Maqashid Syariah (Studi di Desa Kepuhanyar Kecamatan Mojoanyar Kabupaten Mojokerto)**, pada instansi yang Bapak/Ibu Pimpin.

Demikian, atas perhatian dan perkenan Bapak/Ibu disampaikan terima kasih.

*Wassalamualaikum wa Rahmatullah wa Barakatuh*

Scan Untuk Verifikasi



Tembusan :

1. Dekan
2. Ketua Prodi Hukum Tata Negara
3. Kabag. Tata Usaha



#### **Appendix IV. Mojokerto Regency Land Officer Interview Questions**

1. In the work area of BPN Mojoketo City, is there anything included in the area or abandoned land, former land rights, reclaimed land, and land that has no control over it?
2. What is the role of BPN in overcoming the land?
3. In the last 5 years, has there been an increase in the amount of land mentioned above?
4. Is there any special coordination between BPN and the Mojoketo City Government?
5. What is the form of coordination carried out? Does it have a positive impact or vice versa?
6. (if not in collaboration with the Mojoketo City Government) how to follow up on the land that is the result of reclamation by et al, is it left alone or is there cooperation with the private sector?
7. Does BPN collaborate with the Land Bank Agency, in collecting abandoned land in Mojoketo City?
8. Can the Cooperation with the Land Bank Agency be said to be successful in collecting and distributing public facilities?
9. (if not collaborating with the Land Bank) why not cooperate with the Land Bank Agency?
10. In addition to collaborating with the City Government and the Land Bank Agency, does BPN attract other agencies to follow up on the land?
11. In the course of the cooperation with the Land Bank Agency, are there any problems faced?
12. Has there ever been a case where land ownership owned by a citizen is then transferred to the ownership of a land bank which then raises an ownership dispute?
13. Is there a special business (special treatment) carried out by BPN Mojoketo City to overcome abandoned land?

## **Appendix V. Interview Questions for the Land Bank Agency**

### **I. Frequently Asked Questions Related to Land Bank**

1. What is the legal basis for the establishment of a Land Bank in Indonesia, and how is its implementation in Mojokerto Regency?
2. How does the Land Bank Agency in Mojokerto Regency play a role in managing and collecting abandoned land?
3. Is the village government involved in the implementation of the Land Bank program in Kepuhanayar Village?
4. Is there a specific policy implemented to identify and collect abandoned land in this village?
5. What is the procedure carried out by the Land Bank Agency in collecting data on abandoned land?
6. How involved is the community in the process of collecting abandoned land? What is their form of participation?

### **II. Questions about the Implementation of Duties and Authorities**

1. How does the Land Bank coordinate with other institutions (such as BPN or Regional Government) in the process of collecting abandoned land?
2. What are the steps taken by the Land Bank to ensure that the abandoned land can be managed properly after being collected?

### **III. Questions about Related Regulations and Policies**

How are regulations on abandoned land implemented in Kepuhanayar Village? Are there any difficulties in implementing these regulations?

### **IV. Questions about Obstacles and Challenges**

1. What are the obstacles faced by the Land Bank Agency in the process of collecting abandoned land in Kepuhanayar Village?
2. Are there any challenges related to social and cultural aspects that affect the collection of abandoned land in the community?
3. Are there any legal issues or disputes related to land that make it difficult for the Land Bank to collect abandoned land?

### **V. Questions about Ahead**

1. What is the long-term plan of the Land Bank in managing the abandoned land that has been collected?
2. Are there any plans to expand the abandoned land collection program to other villages in Mojokerto Regency?
3. What are your hopes related to the management of abandoned land in the future, especially in Mojokerto Regency?

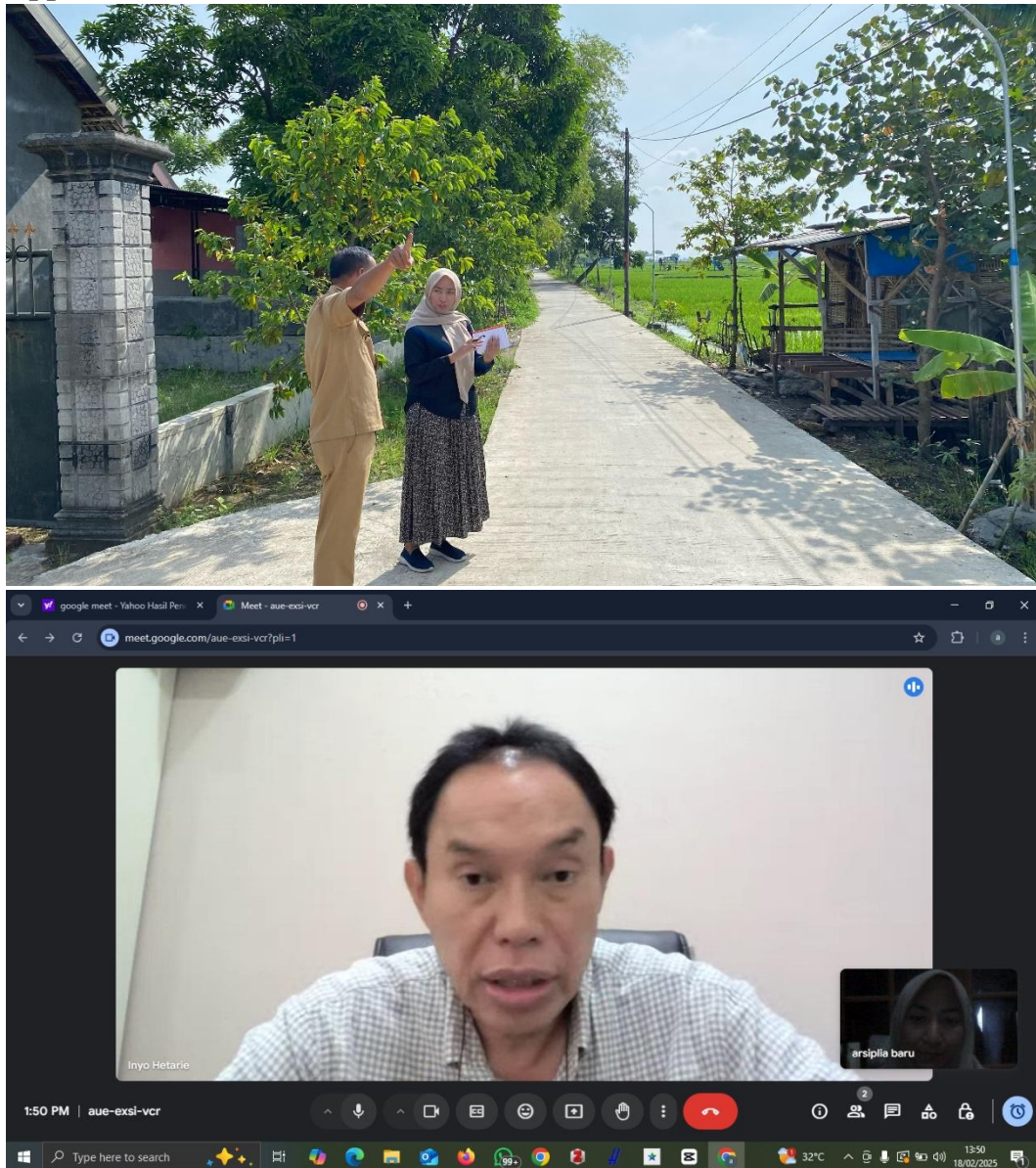
4. What are the strategies implemented to increase public awareness and participation in the abandoned land collection program?

## **Appendix VI. Interview Questions for the Head of Kepuhanyar Village**

- 1.** What is the situation of abandoned land in Kepuhanyar Village in the last 5 years? Is there an increase or decrease in the amount of abandoned land?
- 2.** Has the Land Bank Agency collected data or intervened related to abandoned land in Kepuhanyar Village in accordance with Government Regulation Number 64 of 2021?
- 3.** In your opinion, what are the factors that cause the land in Kepuhanyar Village to become abandoned? Are there any predominant social, economic, or administrative factors?
- 4.** How do you see the implementation of the duties and authorities of the Land Bank Agency in managing abandoned land in this village? Is it effective?
- 5.** So far, are there any obstacles or challenges in the implementation of the abandoned land collection program in this village? If so, what are the obstacles?
- 6.** How is community involvement in the process of collecting abandoned land? Are there any socialization or education programs related to this?
- 7.** Is there a collaborative effort between the village and the Land Bank Agency or other agencies to solve the problem of abandoned land in Kepuhanyar Village?
- 8.** In your view, how has the policy development related to abandoned land at the village level in the last 5 years? Are there any policy changes that have a positive impact on the village community?
- 9.** To what extent is the abandoned land in Kepuhanyar Village affected by the ownership status? Do many abandoned lands have dispute status or are not managed due to administrative problems?
- 10.** In the context of Government Regulation Number 64 of 2021, what are the roles played by the village government in supporting the management of abandoned land? Is there coordination between the village government and the Land Bank Agency?
- 11.** What is the role of the National Land Agency (BPN) in supporting the collection of abandoned land in Kepuhanyar Village? Is there any synergy between BPN and the village government in this regard?
- 12.** Are there certain policies or programs that have been implemented by the village government to prevent abandoned land in the future?
- 13.** In recent years, have there been any communities or parties that have succeeded in utilizing abandoned land for economic or social benefits? If so, what is the form of utilization?
- 14.** Are there any negative impacts felt by the community due to the existence of abandoned land in Kepuhanyar Village, such as land abuse or environmental problems?
- 15.** Do you see the potential for the use of abandoned land for more inclusive and sustainable village development programs

- 16.** Is there any potential for collaboration with the private sector or other institutions to manage abandoned land in Kepuhanyar Village so that it can be utilized to the maximum?
- 17.** Is it possible that the management of abandoned land can be used to meet the needs of infrastructure development that better supports economic sustainability in the village?

## Appendix VII. Documentation



## CURRICULUM VITAE



Name : Rizki Amalia Rahmadani  
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Address : Bareng Krajan, RT.02 RW.01, Krian  
Sidoarjo  
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### EDUCATION

2009-2015: MI Al-Ahmad, Mojosantren, Krian, Sidoarjo

2015-2018: Junior High School Darul Ulum 1 Unggulan, Jombang

2018-2021: MAN 2 Jombang

2021-2025: S1 Constitutional Law, Faculty of Sharia UIN Maulana Malik Ibrahim Malang

### ORGANIZATIONAL EXPERIENCE

1. Member of the Law Debate Community (LADEC) debate division, 2022;
2. Deputy Secretary of HMPS Constitutional Law (2022)
3. Secretary of HMPS Constitutional Law (2023)
4. Chairman of Commission C of SEMA-Faculty of Sharia (2024)

### ACHIEVEMENT

3rd place in the *Legal Opinion competition* of FKPH Universitas Brawijaya (2024)