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REVITALIZING POST-MINING LAND: THE ROLE OF THE LAND BANK IN PROMOTING SOCIAL JUSTICE AND ENVIRONMENTAL SUSTAINABILITY

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Abstract

This research examines the role of the Land Bank in Indonesia's legal policy, focusing on state rights and the pursuit of social justice. According to Article 33 of the 1945 Constitution, the state holds the authority to control land and natural resources, ensuring their use for public welfare. The Land Bank is a key institution in managing land, particularly post-mining areas, to address the environmental damage and ensure equitable benefits for local communities. However, in practice, the implementation of the Land Bank has faced several obstacles, including insufficient socialization, weak state control over land, and land disputes stemming from an underdeveloped land registration system. Using an empirical juridical method, this study analyzes secondary data from legal texts, doctrines, and previous research, while primary data is gathered through interviews with stakeholders from PT Timah Tbk, the Ministry of Agrarian Affairs, and the Environmental Agency of East Belitung. The findings highlight the need for legal harmonization between key laws, such as the Basic Agrarian Law, the Mineral and Coal Law, and the Environmental Law, to create a clear framework for the Land Bank's operation. The research proposes a comprehensive Land Bank model that integrates a strong institutional structure, skilled human resources, and effective administrative systems. Additionally, it stresses the importance of incorporating environmental sustainability and social justice principles in the management of post-mining land to promote the welfare of affected communities and prevent land speculation.

Keywords: Legal Policy; State Authority; Land Bank; Social Justice; Environmental Sustainability.

A. Introduction

Legal policy is a set of principles and policies established by the government as guidelines for the formulation and implementation of laws (Wicaksono et al., 2024). According to Teuku Mohammad Radhie (1973), legal policy reflects the communication of the state's objectives regarding legislation by its authority and legal dynamics. Satjipto Rahardjo (2009) views it as a decision-making process aimed at achieving social transformation through law, including in determining objectives, approaches, and strategies for legal change (MD, 2020). Legal policy also considers values and strategic factors in the formulation, implementation, and enforcement of law (Bimanntara, 2025).

Land plays a strategic role in supporting national development and improving the welfare of the people. The values of Pancasila and the 1945 Constitution emphasize the importance of social justice and the prosperity of the people as the goals of the state (Pramudhawardhani et al., 2024). This is reflected in Article 33 of the 1945 Constitution, which states that natural resources, including land, are controlled by the state and utilized to the fullest extent for the prosperity of the

people through the principles of economic democracy, efficiency with justice, sustainability, and environmental awareness.

The fundamental principle of agrarian law asserts that the state has the authority to regulate land to manage the relationship between the state and the people, not as an owner, as outlined in Law No. 5 of 1960 on the Basic Agrarian Law (UUPA) and based on the principle of *domain verklaring* from colonial law (Baetal et al., 2021). The state holds authority over the distribution and utilization of land, water, and airspace. Article 33, paragraph (3) of the 1945 Constitution emphasizes that the management of natural resources is carried out by the state for the prosperity of the people. In this context, the people are the rightful owners of natural resources, while the state functions solely as a manager for the public interest (Sutedi, 2012).

Government Regulation No. 25 of 2021 regulates the Energy and Mineral Resources (ESDM) sector, which is a strategic sector for Indonesia's economy and development. However, the mining sector also poses problems, particularly regarding the management of former mining sites, which can have negative impacts on human life and the environment if not managed properly (Febriananingsih, 2019). Furthermore, Article 99 of Law No. 4 of 2009 on Mineral and Coal Mining (Minerba Law) outlines the obligations of mining companies. Holders of Mining Business Permits (IUP) or Special Mining Business Permits (IUPK) are required to prepare and submit reclamation and/or post-mining plans. Reclamation and post-mining activities must be carried out by the designated party responsible for the management of post-mining land use. During mining operations, IUP or IUPK holders must maintain a balance between the area of land to be opened and the land already reclaimed, as well as manage abandoned mine pits in accordance with the maximum limits set by applicable laws and regulations. Furthermore, they are obligated to transfer land that has undergone reclamation and/or post-mining activities to the rightful parties through the Minister, in compliance with the relevant laws and regulations.

Reducing the impact of climate change, enhancing disaster resilience, and promoting environmental sustainability are national priorities in the RPJMN that can be achieved through environmental improvement, including the management of mining areas encompassing minerals, coal, and rare earth elements on land and at sea as part of the national spatial planning framework, which must be managed in an integrated manner while considering aspects of development, defense, and national resilience; The exploitation of these natural resources, which are the wealth of the state, is carried out on various types of land such as state land, forest areas, private land, or customary land, each of which requires special treatment (Pattynama, 2025). The state has the authority to designate and manage reserve areas and other areas based on development priorities (Sugoto et al., 2024). In the context of the Minerba Law, the Mining Legal Area covers the entire land, sea, and subsoil of Indonesia, including the seabed and continental shelf, where Mining Areas are designated as potential areas that transcend administrative boundaries and become part of the national spatial planning system (Widyaningrum & Hamidi, 2024).

As of September 2022, the Directorate General of Mineral and Coal, Ministry of Energy and Mineral Resources (ESDM), recorded a total of 4,127 mining permits under its management. This total includes 3,937 Mining Business Permits (IUP), 8 Special Mining Business Permits (IUPK) for the continuation of contract/agreement operations, 31 Work Contracts (KK), 60 Coal Mining Business Agreements (PKP2B), 10 Mining Permits for Rock (SIPB), and 81 Community Mining Permits (IPR).

The environment is a unified space that encompasses both physical and biological elements, including humans and their behavior, which interact to determine the well-being of all living creatures (Wongkar et al., 2025). In the Bangka Belitung Islands Province, the largest tin-producing region in Indonesia, environmental damage resulting from mining activities has become a serious and pressing issue. These activities have led to various negative impacts, including air and water pollution, deforestation, and the degradation of local ecosystems. Mining, particularly for tin, has drastically altered the landscape, contributing to ecological damage that threatens the

balance of the region's environment. According to data from 2014, compiled by the Regional Environmental Agency, the environmental damage inventory reveals a concerning state of land conditions in the region. The data shows that 44% of the land is moderately critical, 39% is potentially critical, 9% is classified as critical, and 7% is severely critical. Alarmingly, only 1.5% of the land remains in a state that can be considered not critical. These figures underscore the extensive and widespread environmental damage that mining activities have inflicted on the province, posing a serious threat to biodiversity, local communities, and the long-term sustainability of the region. This situation calls for urgent measures to address the environmental degradation and implement effective rehabilitation strategies to restore the ecosystem to a healthier state (Utomo, 2021).

The establishment of a land bank is one of the strategic solutions in managing former mining land and restoring the environmental impacts of mining activities, by facilitating the reuse of abandoned land for productive activities such as agribusiness, conservation, or recreational zones involving mining companies, the government, and local communities to achieve sustainable land use with positive environmental and social impacts; This aligns with Article 33 of the 1945 Constitution, which emphasizes welfare based on principles of justice and sustainability, where the Land Bank, as a government agency, plays a crucial role in ensuring land availability for development, public interest, and agrarian reform, while preventing land price speculation (Putrazta et al., 2025).

The main issue in Government Regulation No. 64 of 2021 lies in land management under Article 11, which prioritizes development without considering pollution prevention instruments and environmental risk analysis as stipulated in Article 14(i) and (k) of Law No. 32 of 2009, resulting in the Land Bank focusing solely on the development of infrastructure such as industrial and tourism zones without considering environmental aspects comprehensively; disharmony is also evident in Article 7 of Government Regulation No. 64 of 2021 regarding the acquisition of land from the Land Bank's assets, which contradicts Article 13(2) of the Environmental Law, compounded by unclear procedures for the rehabilitation of abandoned land in practice. A similar conflict occurred in Tanjung Labu Village, Lepar Pongok District, when CV SR Bintang, a partner of PT. Timah began mining without socialization and the knowledge of the local government, triggering rejection from the local community, who are mostly farmers and fishermen, and causing social tension due to the community's lack of involvement in decision-making; yet, former mining land, as a non-renewable resource, needs to be fully rehabilitated to minimize environmental damage.

Iwan Permadi (2021) argues that a judicial review of Articles 6(a) and 7 of Government Regulation No. 64 of 2021 on the Land Bank Agency should be filed with the Supreme Court to prevent agrarian inequality. According to him, this judicial review is necessary to correct potential policies that do not support social justice in land management, which has long been a source of inequality in society. In this context, existing regulations must truly consider the interests of the broader public, rather than a select few with political or economic power. Permadi emphasizes the importance of oversight of these policies to ensure they do not create inequality in land ownership and utilization, which ultimately harms indigenous communities and small-scale farmers.

In addition, Pravidjayanto et al. (2023) propose that the Land Bank collaborate with government agencies, village cooperatives, and communities to address aspirations related to targeted infrastructure development. This collaboration is seen as essential to ensure that Land Bank policies can meet the basic needs of society, such as access to land for agriculture, housing, and local economic development. By adopting this collaborative approach, it is hoped that the role of the Land Bank will not only be limited to land management but also include the development of areas based on local wisdom and community empowerment. This partnership will also accelerate the fair distribution and utilization of land, especially for marginalized communities. It is crucial that this cooperation leads to a more inclusive approach to land management and

infrastructure development, ensuring that those who have historically been left out can benefit from these initiatives.

However, while the Land Bank regulations are considered adequate, Nia Kurniati & Milda Milda (2024) emphasize that their implementation requires strict supervision and evaluation. Without clear oversight mechanisms, achieving transparency and accountability in the management of the Land Bank would be difficult. Kurniati & Milda argue that regular evaluations will ensure that the policy aligns with the principles enshrined in the 1960 Basic Agrarian Law (UUPA), which prioritizes the protection of community land rights. Additionally, oversight is crucial to prevent the abuse of power by parties seeking to monopolize or profit personally from the Land Bank policies. Therefore, transparent and accountable evaluation and monitoring are key to ensuring that this policy truly benefits society as a whole.

Based on the above explanation, the author concludes the research questions in this study as follows: How can the state's legal policy on land rights over former mining sites be implemented in a manner that is both socially just and environmentally sustainable? Why is the principle of state land rights important in the management of former mining sites to ensure social justice and environmental sustainability? And, how can a Land Bank policy model that is socially just and environmentally sustainable be developed?

B. Method

The research method employed in this study is empirical juridical research, which begins with the examination of secondary data, followed by the collection of primary data from the field (Muhammad, 2004). This approach views law as a norm or das sollen, focusing on the analysis of applicable legal provisions and statutory regulations. The research is descriptive-analytical in nature, aiming to provide an accurate representation of individuals, conditions, phenomena, or specific groups, as well as to determine the frequency of certain phenomena within society (Soekanto, 1989). A descriptive-analytical approach involves presenting detailed descriptions based on data systematically collected (Marzuki, 2017).

Primary data for this study were obtained directly from key informants, including Sigit Prabowo, Head of PT Timah Tbk Unit in Belitung Regency; Sofyan Djalil, Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) from 2016 to 2022; and Novis Ezuar, Head of the Environmental Agency of East Belitung Regency. These informants were selected based on their roles and expertise in land management and environmental issues, which are central to the research topic.

Secondary data were gathered through library research and documentation. This process aimed to collect legal theories, doctrines, legal principles, conceptual frameworks, and previous studies relevant to the research subject. The secondary data included statutory regulations, literature, and other scholarly works that provided a theoretical foundation for analyzing the primary data. By combining both primary and secondary data, this study seeks to provide a comprehensive understanding of the research questions and offer practical insights into the implementation of legal policies concerning land rights.

C. Results and Discussion

1. Land Law Policy in Indonesia: Ensuring Social Justice, Sustainable Development, and Agrarian Reform

Land law policy plays a very important role in realizing social justice and sustainable development in the Indonesian legal system (Sulistio, 2020). In this case, regulations on land rights must be able to ensure equitable access to and utilization of natural resources, while supporting environmental sustainability (Maulana & Hutagalung, 2025). This is closely related to the

principle of social justice, where all segments of society, especially the less fortunate, can obtain equal rights to land without neglecting environmental sustainability (Pamungkas et al., 2025).

Land law policy is a government policy in the field of land that is aimed at the allocation and use of land by rulers or landowners, the allocation of land use to ensure legal protection and improve welfare, and encourage economic activity through the enactment of land laws and their implementing regulations (Hajati et al., 2020; Laturette et al., 2021).

Before Indonesia's independence, land policy began with the establishment of the Dutch East India Company (VOC) in 1602, which was granted rights by the Dutch government to control and regulate land in the territories under its control. In 1870, the Dutch colonial government passed the *Agrarische Wet* (Agrarian Law), which introduced regulations on cadastral matters through *Ordonansi Staatblad 1823 Number 164* (Djalins, 2012). This regulation was then handed over to the *Kadasteral Dient* institution for implementation. The law applied to the islands of Java and Madura and was based on the *Domein Verklaring* principle, which had significant implications for land rights, particularly for the indigenous population. According to this principle, land whose ownership could not be proven by the indigenous people would be deemed the property of the state (Fahmi et al., 2024).

The *Domein Verklaring* provided the legal basis for the government, acting as the representative of the state, to transfer land rights to other parties through a Western-style system of granting land rights, such as *opstal* and *erfpacht* rights (Neilson, 2020). This system served as both a means of land control and a way to establish proof of land ownership under colonial law (Arba, 2015). For the indigenous people, this legal framework placed them in a disadvantaged position, as almost all of the land they held lacked formal proof of ownership. Under the *Domein Verklaring*, any land without clear documentation of ownership legally became state property, leaving the indigenous population effectively as tenants or cultivators, with no rights over the land they worked. Consequently, they were required to pay taxes on the land but had no claim to ownership, further deepening their vulnerability and dependency on colonial authorities (Muchsin & Koeswahyono, 2007).

This legal framework not only stripped the indigenous population of their land rights but also created an ongoing legacy of agrarian inequality. The Dutch system of land regulation laid the foundation for a system that, for centuries, would place the state and colonial elites in control of land, leaving local communities without the legal recognition or security needed to claim and protect their land (Mahfud et al., 2024). This system would have long-lasting effects on land ownership patterns in Indonesia, with vast implications for land rights and agrarian policy in the post-independence era.

Land policies in Indonesia have evolved significantly from the colonial era to the Reform era, with each period reflecting different political and economic priorities. During the Dutch East Indies era, land policies were primarily designed to serve the interests of entrepreneurs, particularly through the *Agrarische Wet* (Agrarian Law) and Raffles' *domain theory*. These policies were focused on the extraction of resources and land control, benefiting colonial powers and their economic goals. The *domain theory*, which declared land without proof of ownership by indigenous people as state property, severely undermined the land rights of local populations.

Under Japanese occupation, the colonial land regulations were largely maintained with only minor modifications, continuing to favor the interests of the occupying power. After Indonesia gained independence, the country began efforts to reverse the colonial legacy by nationalizing foreign-owned land and preparing for the unification of agrarian law. The establishment of the Agrarian Committee and the Ministry of Agrarian Affairs marked the beginning of this process, which culminated in the drafting of the UUPA Bill in 1958. This law introduced an agrarian reform program aimed at redistributing land to small farmers and correcting historical inequities in land ownership.

During the New Order era, the focus shifted toward supporting national development and investment, particularly in the industrial and agricultural sectors. Land policies were designed to facilitate economic growth, with the establishment of the National Land Agency (BPN) in 1988 to address increasingly complex land issues. The BPN played a crucial role in land administration, but the policies of the New Order era were often criticized for favoring large-scale development projects and corporate interests over the welfare of local communities and small farmers.

With the advent of the Reform era, MPR Decree No. IX/MPR/2001 became the cornerstone for land law reform, emphasizing social justice and agrarian reform in line with Article 33 of the 1945 Constitution. The goal was to promote equitable land distribution and ensure that land policies served the public interest. However, the implementation of these reforms has been far from optimal. There have been significant inconsistencies between the regulatory objectives outlined in the law and the actual implementation on the ground. Key challenges include unclear objectives, a lack of clarity regarding the subjects of reform, and weak institutional frameworks that have hindered the effectiveness of agrarian reform initiatives. These issues have prevented the realization of the envisioned social justice and sustainable development goals that were central to the land reform agenda.

Land law policy in Indonesia seeks to regulate the allocation and use of land, ensuring both public and governmental interests are balanced to provide legal protection and promote equitable welfare. This policy is carried out through the enactment of land laws and their associated regulations, which are grounded in the principles of indigenous Indonesian land law. These principles emphasize the importance of striking a balance between collective and individual interests, reflecting the broader social and cultural values of the nation (Hajati et al., 2020). As such, land law policy aligns with the core values of Pancasila, Indonesia's foundational philosophy, which emphasizes harmony between society and individuals. The objective is to foster cooperation and unity, avoiding conflicts that might arise from competing interests, and ensuring that both individual rights and collective welfare are upheld (Lumbanraja, 2023).

Agrarian law policy represents the state's authority to regulate the use, allocation, and management of land and other natural resources, as outlined in agrarian law (Ameeralia & Rizkianti, 2025). Agrarian matters primarily concern agricultural and plantation land, which are crucial for the survival and prosperity of the nation's people (Limbong, 2012). According to Boedi Harsono (2002), land is not only a vital resource but also the primary source of life for the nation, and its regulation must be firmly grounded in legal certainty. This legal framework ensures the protection of citizens, particularly farmers, and supports the sustainable development of the country.

The state's responsibility to manage land for the benefit of its people is clearly outlined in Article 33, paragraph 3 of the 1945 Constitution. This provision mandates that natural resources, including land, must be utilized to promote the prosperity of the people, reinforcing the concept that land management is a public trust rather than a private commodity. By granting the state the authority to control land, the Constitution positions the state as the primary steward of this vital resource. In this context, land is viewed as a shared asset that must be managed in a way that benefits all members of society, ensuring fairness and equity in its distribution and use.

This policy framework is specifically designed to prevent the concentration of land ownership in the hands of a few, while also safeguarding the rights of communities, particularly those whose livelihoods depend on agricultural land. By prioritizing legal certainty in land rights, agrarian law seeks to protect smallholder farmers and ensure that land remains accessible and productive for future generations. Additionally, this policy aligns with the broader goal of promoting sustainable development by encouraging responsible land use and preventing the degradation of natural resources.

The state's role in land management also extends to environmental stewardship, with agrarian law serving as a key instrument to balance economic development with the preservation of natural

ecosystems. By regulating land use and ensuring that land is utilized sustainably, the state plays a critical role in mitigating environmental damage and supporting the long-term health of both the land and the people who rely on it. Effective land management thus contributes not only to economic growth but also to environmental sustainability, creating a harmonious relationship between land use and conservation efforts.

Agrarian reform (land reform) in Indonesia has comprehensive objectives that address socio-economic, socio-political, and psychological aspects (Monsaputra, 2025). From a socio-economic perspective, agrarian reform aims to improve the socio-economic conditions of the people by strengthening land ownership rights and giving social functions to those rights. This reform also seeks to enhance national production, particularly in the agricultural sector, to increase the income and standard of living of the people. In the socio-political realm, the goal is to dismantle the landlord system, abolish large-scale land ownership, and fairly distribute land among small farmers, improving income distribution and raising their standard of living. From a psychological perspective, agrarian reform aims to boost the morale of tenant farmers by providing them with clear land ownership rights, thus improving the working relationship between landowners and tenants.

Ultimately, agrarian reform is not just about land redistribution but about fostering social justice, empowering local communities, and creating a fairer and more equitable society. By ensuring that land is owned and managed in a way that benefits the broader population, the policy supports the well-being of individuals and communities, while also advancing the nation's economic and environmental goals.

2. The State's Role in Land and Natural Resource Management: Balancing Economic Development and Environmental Sustainability in Indonesia

The state has the power to protect and defend the interests of the people, but this power is limited by law, as stipulated in the constitution (Allan, 2013; Brennan, 1977; Gardner, 2003). Ivo D. Duchacek (1988) states that the limitation of power is the core of constitutional law (Asshiddiqie, 2007). In Indonesia, state power is regulated in the 1945 Constitution, which stipulates that the right to own natural resources derives from the power of the people, known as the Rights of the Nation (Brainard, 2011; Hamzah, 2016; Kadir & Murray, 2019). The state's right of control includes the authority to regulate, manage, and maintain the utilization of all natural resource potential within its territory as part of a legal community institution (Saleng, 2004).

The government must manage natural resources, but if it cannot do so itself, Article 10 paragraph (1) of Law No. 11 of 1967 allows for the transfer of management to another party appointed by the Minister as a contractor. The Minister, acting as the recipient of the mandate from the people, has the authority to appoint contractors and set guidelines and conditions in the work agreement. The contract must follow these guidelines and conditions, which are part of the regulatory authority based on the state's right of control (Hayati, 2019). Article 33 (3) of the 1945 Constitution states that the earth, water, and natural resources are controlled by the state for the prosperity of the people, where such natural resources, including minerals, are controlled by the state, not the government or local governments. This means that the right of control over minerals lies with the state, while the right of ownership over minerals belongs to all Indonesian people (Hayati, 2011).

The State's right of control is a fundamental principle that governs the management of land for public welfare and is grounded in the Constitution. It aims to regulate and organize land usage, allocation, supply, and maintenance in a way that serves the common good. This right enables the state to establish property rights over land and regulate the legal relationships between various entities and land, as emphasized by Simarmata (2021). Land is not just a physical space, but a crucial resource that underpins the lives of current and future generations, making its management critical for both societal and individual needs (Adam, 2023; Buscardo et al., 2021; Lourenço et al.,

2020; Young, 2000). Given its importance, land must be managed properly and responsibly to ensure that it meets the needs of both individuals and the broader society (Beatley, 1994; Blaikie & Brookfield, 2015; Robinson, 2024).

The legal framework surrounding land management in Indonesia is enshrined in the UUPA. While the law does not explicitly mention management rights, the state's right of control provides a legal basis for land management. This control allows the state to manage land in the public interest, ensuring that land use aligns with national objectives such as equity, sustainability, and social justice. The state's authority over land use includes the ability to grant specific rights to entities that can best serve these goals. These rights are not to be granted freely or indiscriminately but are subject to the conditions that they serve public interest (Herdiansyah, 2020). Therefore, the state has the power to allocate land use to designated legal entities, ensuring that land resources are utilized in a manner that benefits society as a whole.

Importantly, the granting of management rights is carefully regulated through special laws and regulations that define who is eligible to manage land and the specific conditions under which land can be used. These regulations are designed to prevent the misuse of land, ensuring that its use aligns with the principles of social justice and public welfare. Legal entities that are granted management rights are expected to use land responsibly, fostering sustainable practices that benefit both the environment and the economy. For example, land designated for agricultural or industrial use must adhere to environmental protection standards and contribute to national economic development without compromising future generations' ability to access these resources.

The state's role in controlling land is not just about direct ownership or regulation but about ensuring that land serves the public interest in a way that is equitable and sustainable. It is a mechanism that balances the needs of the present with the protection of future generations, ensuring that land remains a valuable resource for all. Therefore, the management rights granted by the state play a vital role in shaping land policies that contribute to social stability and the long-term sustainability of the nation. Through careful regulation, the state can guide land use in a direction that meets the needs of all citizens while preserving the integrity of natural resources for future generations.

To realize the principles outlined in Article 33, paragraph 4 of the 1945 Constitution, which emphasizes economic democracy, sustainability, and togetherness, it is essential that management rights in sectors like mining take environmental considerations into account. While mining plays a critical role in contributing to Indonesia's national economy, it carries significant risks of environmental degradation if not managed properly and in accordance with regulations. The importance of these regulations becomes particularly evident in the cases of companies such as PT. Himco Coal and PT. Panca Prima Mining in Kutai Kartanegara, which violated environmental rules, resulting in severe consequences. The violations led to extensive environmental damage, and tragically, a fatal accident that claimed the lives of 14 individuals. As a consequence, the Governor of East Kalimantan had to temporarily suspend the operations of these companies, underlining the critical role of strict enforcement in preventing further harm.

These incidents highlight the need for strong regulatory mechanisms to ensure that mining activities do not jeopardize the environment or the safety of local communities. When mining companies fail to comply with environmental regulations, the repercussions can be devastating, not only for the ecosystems they affect but also for the people who depend on those environments for their livelihoods. The suspension of operations, while necessary, also reflects the broader issue of balancing economic development with environmental preservation and public safety.

On the other hand, PT Timah's efforts to rehabilitate former mining land in East Belitung have encountered their own set of challenges. Despite the company's commitment to restoring the affected areas, the rehabilitation process has faced significant obstacles. One of the major hurdles is the lengthy recovery process, which requires considerable time and resources to reverse the environmental damage caused by mining activities. Additionally, PT Timah has struggled with a

lack of support from various stakeholders, including local communities, government agencies, and other relevant parties. The local Head of the Environment Agency pointed out that suboptimal coordination among these stakeholders has hindered the efficiency and effectiveness of the rehabilitation efforts.

This situation underscores the need for more effective coordination and collaboration between the mining companies, local governments, and the broader community. Ensuring that all parties are aligned in their goals and responsibilities is crucial to the success of post-mining rehabilitation projects. Additionally, there must be a concerted effort to streamline processes and overcome administrative and logistical barriers that can delay recovery efforts. Only through comprehensive planning, adequate resources, and robust support from all involved parties can mining companies fulfill their environmental responsibilities and contribute to sustainable land management practices.

In an insightful interview with Mr. Sigit Prabowo, the Head of PT Timah Tbk in Belitung Regency, the post-mining rehabilitation efforts of the company were discussed in depth. Mr. Prabowo explained that the rehabilitation process involves several key steps, such as the closure of mine pits, reforestation, and the restoration of ecosystem functions. He emphasized the company's active role in planting vegetation and improving soil quality in former mining areas to support the growth of plants. PT Timah Tbk's involvement extends to reclaiming both marine and terrestrial mining sites, reflecting the company's comprehensive approach to managing its environmental footprint.

This reclamation effort aligns closely with the company's operational domain, which encompasses both marine and terrestrial habitats. PT Timah Tbk's commitment to post-mining rehabilitation is essential not only for restoring the affected areas but also for minimizing the long-term environmental impact of tin mining activities. Through various techniques and projects, the company seeks to restore ecological balance, ensuring that the land and marine areas previously affected by mining can once again support healthy ecosystems.

However, Mr. Prabowo also acknowledged the numerous challenges faced during the implementation of these projects. One significant issue is the flooding in several areas, a direct result of the numerous abandoned mining pits left after extraction activities. These pits often fill with water, creating hazardous conditions in the surrounding areas. Moreover, local communities are unable to access the reclaimed areas, which has led to the unfortunate situation where these communities do not benefit from the rehabilitation efforts. This not only affects the socio-economic welfare of the local population but also underscores the broader challenges faced in balancing industrial activities with community development and environmental sustainability.

Mr. Prabowo pointed out that these challenges highlight critical issues in the mining industry, particularly the failure to adhere to proper mining practices and the lack of coordination with local governments. Without effective collaboration between the mining company and local authorities, as well as the implementation of comprehensive post-mining management practices, the full potential of reclamation projects cannot be realized. The flooding, along with the limited access for local communities, exemplifies the gaps in the regulatory and operational frameworks that govern mining activities in the region.

In light of these challenges, it is clear that further efforts are needed to enhance coordination between the mining industry and local governments, as well as to develop more effective strategies for post-mining land management. The reclamation process, though beneficial, requires continuous improvement and adaptation to local conditions to truly restore balance and benefit both the environment and the communities that depend on these resources (Inggala, 2021).

The governor's firm stance on mining activities and their environmental impacts is grounded in the legal framework established by Indonesian law. Specifically, Law No. 23 of 2014 on Regional Government, Article 14(1), outlines the division of government responsibilities between the central and local governments. This law plays a crucial role in ensuring that local governments

are empowered to regulate and oversee mining activities within their jurisdictions. Additionally, Law No. 4 of 2009, Article 151(1), strengthens this governance by granting the Minister and Governor the authority to impose administrative sanctions on holders of Mining Business Permits (IUP) who violate environmental regulations. This legal provision underscores the importance of adhering to environmental management and monitoring requirements, which include reclamation and post-mining activities.

These regulations place the responsibility on IUP and IUPK holders to ensure that mining activities are carried out in an environmentally responsible manner, with proper monitoring and reclamation efforts after mining operations cease. The law clearly mandates that these activities do not cause environmental degradation, contributing instead to the restoration of affected ecosystems. The role of the government, particularly in granting permits and enforcing regulations, is therefore critical in safeguarding the environment. By implementing strict policies and sanctions, the government ensures that mining operations comply with these legal obligations and are held accountable for their environmental impacts.

This regulatory framework aligns with the broader objectives of the Indonesian Constitution, particularly Article 33, paragraph 4, which emphasizes the importance of managing natural resources for the welfare of the people and the sustainability of the nation. This provision calls for a fair, sustainable, and environmentally conscious economy that supports both economic growth and environmental preservation. The governor's firm stance, therefore, not only ensures compliance with these laws but also contributes to the creation of a more sustainable future, where mining activities are aligned with the principles of social justice, environmental protection, and sustainable development.

In this context, the government's responsibility extends beyond issuing permits; it involves a comprehensive approach to environmental oversight, including effective monitoring of reclamation and post-mining activities. This is essential in achieving the balance between economic development through mining and the preservation of Indonesia's rich natural resources for future generations. The ultimate goal is to create an economy that is not only prosperous but also responsible and resilient to the challenges of climate change.

3. Land Bank Policy in Indonesia: Addressing Land Management Challenges and Integrating Environmental Sustainability for Social Justice

Pancasila, as the foundation of the state, is the source of all legal sources that guide and govern all legislation, and together with the Preamble to the 1945 Constitution, it functions as the staatsfundamentalnorms or fundamental principles of the state that cannot be changed unless they affect the identity of Indonesia in 1945 (Setiyono & Natalis, 2023). Both of which contain philosophical, moral, and ethical values as the basis of political law, including in placing religion in a respectful and proportional manner (Hidayat, 2017). In formulating the administration of a legal state based on Pancasila, it is important to understand the objectives of the state as stated in the fourth paragraph of the Preamble to the 1945 Constitution, namely to protect the entire nation, promote welfare, educate the people, and play a role in world peace; all of which are obligations of the state that must be carried out based on Pancasila. To achieve these objectives, every policy, including in the development of the national legal system, must be based on the four principles of Pancasila law, namely maintaining national integration, realizing people's sovereignty and the rule of law, achieving welfare and social justice, and creating tolerance in religious life (Hidayat, 2017). State policies, especially in the form of regulations, must be in line with the state's objectives and balance the roles of the state, society, and economic actors through harmonious laws that are fair and beneficial to all elements of the nation. One example is policy in the mining sector, which is often in the spotlight due to its impact on the environment and ecosystem.

According to the Minerba Law, mining activities encompass all stages from research to post-mining, including exploration, extraction, processing, transportation, sales, and management of

minerals or coal. These activities are regulated through Mining Business Licenses (IUP) and Mining Business Permit Areas (WIUP), which are issued by technical agencies in accordance with Law No. 32 of 2009. In the context of regional autonomy, the authority to issue IUPs is delegated based on the scope of the area: the Regent/Mayor for areas within a regency/city, the Governor for areas spanning multiple regencies/cities within a province, and the Minister for areas that cross provincial borders, with recommendations from the relevant regional authorities. Tin mining activities in Indonesia have been ongoing for more than two centuries, with large reserves spread across an area of more than 800 kilometers, known as the Indonesian Tin Belt. This belt is part of the Southeast Asia Tin Belt, which extends approximately 3,000 kilometers from mainland Asia to Thailand, the Malay Peninsula, and Indonesia (Sutedi, 2012).

Indonesia's tin reserves are spread across several islands, such as Bangka, Belitung, Singkep, and parts of Kalimantan, with Bangka Island being the largest producer since colonial times. However, poor management has led to embezzlement and smuggling of around 40% of national production, resulting in significant revenue loss for the state. The Indonesian Attorney General's Office uncovered corruption in the tin trade involving PT Timah Tbk, resulting in state losses of Rp 271 trillion between 2015 and 2022, including ecological losses, environmental economic losses, and restoration costs. This reflects the dominance of oligarchs over natural resources and exacerbates inequality, environmental damage, and disaster risks.

Tin mining in Bangka Belitung has caused long-term ecological damage, including the creation of abandoned mine pits, loss of biodiversity, and depletion of vegetation. The costs of restoration far exceed the profits from production. Mining activities, particularly those using unconventional methods, have harmed nearly every aspect of both terrestrial and marine ecosystems, even encroaching upon conservation forests. Practices such as deforestation, burning, and land clearing for tin extraction disrupt vital ecosystem functions, including the hydrological cycle, food chains, and pollution control. As a result, these activities threaten the natural balance and transform forests into degraded areas.

Research conducted in South Kalimantan on former coal mining sites showed changes in the physical and chemical properties of the soil depending on the duration of abandonment (Said & Yudo, 2021). The damage to the forest ecosystem caused by mining activities has led to an imbalance in the natural system. Therefore, decisive actions are needed from the government to address the various environmental issues occurring on former mining sites, while ensuring the principles of social justice and environmental sustainability are upheld (Zulkifli, 2014).

One solution that the government can take in handling post-mining land is through a management policy based on the Land Bank concept. This institution is a legal entity under the auspices of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), as regulated in Government Regulation Number 64 of 2021. The provisions regarding the establishment and implementation of the Land Bank's functions are further detailed in Presidential Regulation No. 113 of 2021 and have legal legitimacy under Law No. 11 of 2020 on Job Creation (Rohain & Jamilah, 2023). In this context, the Preamble of the 1945 Constitution serves as a fundamental foundation because it embodies the spirit of struggle, moral values, and the direction of national legal ideals that form the basis for state policies, including the establishment of the Land Bank institution. Pancasila, as the foundation of the state, which is also contained in the Preamble to the 1945 Constitution, provides a strong philosophical foundation for the existence of the Land Bank, especially in realizing land management that upholds the principles of social justice, environmental sustainability, and the common good.

The Land Bank Agency serves as a strategic instrument in land acquisition reform in Indonesia, particularly in addressing issues of land scarcity, transparency, and land data management. The effectiveness of this institution is supported by the need for human resources who are experts in land acquisition, agrarian law, and project and data management. Its legal basis is stipulated in Law No. 11 of 2020 on Job Creation, which reinforces the state authority over the

utilization and management of land, as also emphasized in Article 1 of the Basic Agrarian Law (UUPA) that the earth, water, airspace, and natural resources are the property of the Indonesian people and have an eternal relationship with the people (Azharniyah & Suhaimi, 2022). Technical provisions regarding the Land Bank are regulated in Articles 125–135 of the Job Creation Law and further clarified in Government Regulation No. 64 of 2021, which defines it as a legal entity established by the central government with special authority to manage land nationally.

The objectives of the Job Creation Law Chapter on Land and Government Regulation No. 64 of 2021 on the Land Bank Agency should reflect the values of Pancasila, particularly the first principle, Belief in One God, which emphasizes human responsibility in maintaining ecological harmony and managing natural resources as a mandate from God. This principle is reflected in the mandate of the Land Bank Agency to ensure the availability of land to support social justice, economic equality, and the implementation of agrarian reform. This perspective was further confirmed in the author's interview with Sofyan Djalil, who served as the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency from 2016 to 2022. According to Mr. Djalil, "the purpose of the land bank is a form of Agrarian Reform, though many view it as the state reclaiming control. The ultimate goal of agrarian reform is to reorganize agrarian affairs for the benefit of the many, meaning reform involves distributing land that has been neglected and is ineffective. With a land bank, land will be given to those who are entitled to it and those who need it."

Land with management rights status grants the holder the authority to plan the allocation, use, and utilization of the land in accordance with spatial planning, as well as to utilize it directly or through cooperation with third parties. This includes setting tariffs, receiving income, compensation, and/or annual fees. In line with this, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (BPN) for the 2016–2022 period emphasized in an interview with the author that, "the function of management rights is solely regulatory to ensure certainty and order. Land bank management rights can be directly granted a 90-year HGB to provide certainty. When a 90-year HGB is granted, the land bank has the right to promise an HGB with an extension in advance, thereby providing greater certainty."

Land Management Rights (HPL) provide legal certainty and promote a conducive investment climate as mandated by the Job Creation Law. In this regard, the Land Bank Agency is authorized to develop a master plan for land utilization, facilitate permits, and manage the procurement and distribution of land. The Ministry of ATR/BPN acts as the regulator, while the Land Bank performs the functions of managing and safeguarding state land assets. The stages involved include acquisition, verification of land status, maturation through infrastructure development, and distribution based on spatial planning and economic value, to support agrarian reform, economic equality, and public and social interests.

Table 1.
Mechanism of Land Bank Activities

Land Provision	Land Maturation	Land Distribution
1. Land Acquisition	1. Road construction	1. Land Area of Land Bank Object
2. Revocation of Land Rights	2. Construction of electricity and telephone networks	2. Available Land to be Distributed (General or Special)
3. Sale and Purchase Mechanism	3. Provision of clean water and sanitation	3. Distribution Method
4. Exchange - Utilization of Abandoned Land	4. Development of access to basic services, education, health, and housing	4. Licensing Administration: Tax Costs, Licensing, Other Overhead Costs
5. Land Administration: Licensing Fees, Taxes, Other Overhead Costs	5. Land administration: licensing fees, taxes, other overhead costs	

Source: Author's Analysis Results

Land management practices by the Land Bank have not integrated environmental aspects as stipulated in Article 11 of Government Regulation No. 64 of 2021 and Article 14 of Law No. 32 of 2009 on Environmental Protection and Management. Management stages such as development, maintenance, and control of land should consider environmental risk analysis and sustainable development principles. However, the Land Bank's focus remains predominantly on providing infrastructure for industrial zones, tourism, and special economic zones, without addressing the restoration of former mining sites, which is crucial for environmental sustainability and soil productivity before redistribution.

The concept of the environment, when linked to the theory of sustainable development, is based on the awareness and political will of society to improve the environment and to pass on to future generations the natural resources that can be processed sustainably in the long-term development process. Emil Salim (1988) argues that the concept of sustainable development means that every development initiative must consider environmental aspects. Development is a long-term process aimed at improving the well-being of society from one generation to the next, over an unlimited period of time (Bonnedahl et al., 2022; Mensah, 2019).

Based on Law No. 32 of 2009 concerning Environmental Protection and Management, sustainable development is a conscious and planned effort that integrates environmental, social, and economic aspects into development strategies to ensure the integrity of the environment as well as the safety, capability, welfare, and quality of life of present and future generations. Furthermore, based on Article 11 of Government Regulation No. 64 of 2021, the stages of land management include: planning, acquisition, procurement, development, utilization, distribution, maintenance, control, as well as monitoring and evaluation (Mijiarto et al., 2023).

When compared to practices in other countries, the approach to land management by institutions such as land banks tends to be more progressive in integrating environmental aspects. For example, in the Netherlands, land management is carried out through land banks that not only aim to provide land for housing and economic development but also prioritize ecological protection. The Dutch government requires every land development project to include a strict environmental impact assessment (EIA) before approval. Additionally, the restoration of critical land and the enhancement of local ecosystem functions are part of the long-term regional development strategy.

Meanwhile, in the United States, the concept of land banking is implemented by institutions such as Land Bank Authorities, which have primarily developed in states like Michigan, Ohio, and New York. Although the initial purpose was to address abandoned properties following the economic crisis, in practice, many land banks in the US have begun to apply principles of smart growth and sustainable development. Some land banks even allocate land for conservation, urban farming, and green open spaces as part of area revitalization. This demonstrates that land management is not solely focused on economic value but also considers social and ecological impacts simultaneously.

In the Philippines, through agrarian policies and the establishment of the Land Bank of the Philippines (LBP), the Philippine government carries out land management functions for agrarian redistribution and rural economic development. However, what is interesting is that the Philippines also requires projects funded or facilitated by the LBP to comply with the Environmental Compliance Certificate (ECC) as proof that the project has passed an environmental impact analysis (EIA according to the Philippines). This serves as evidence that environmental aspects are a mandatory instrument in the implementation of land policies.

This comparison underscores that state land management cannot be separated from the principles of social justice and environmental sustainability. Therefore, the practice of the Land Bank in Indonesia, which does not yet require environmental testing mechanisms, including in the development of industrial zones, special economic zones, or the allocation of former mining land,

is inconsistent with Article 11 of Government Regulation No. 64 of 2021 and Article 14 of Law No. 32 of 2009, and does not yet reflect the full application of sustainable development theory.

The lack of productivity in the implementation of the Land Bank in Indonesia can be attributed to several factors, including the limited availability of competent human resources, an unclear budgeting system—particularly in relation to compensation assessment, insufficient facilities and infrastructure to reach remote areas, suboptimal utilization of land data, insufficient coordination among officials, and low public enthusiasm. Addressing these issues requires improvements in human resource training, the establishment of a transparent budgeting system, infrastructure enhancement, optimization of land data usage, stronger inter-agency coordination, and more effective public outreach to increase community understanding of and trust in the functions of the Land Bank.

Authority is a legal power granted by law to perform tasks and produce legal consequences (Indroharto, 1994). Under Article 23 of Government Regulation No. 64 of 2021, the Land Bank is authorized to develop master plans, facilitate business licensing, carry out land acquisition, and set service tariffs. This authority also includes providing incentives in the field of land affairs and spatial planning, such as exemptions from land and building tax (PBB) and the acquisition duty of right on land and buildings (BPHTB), provided these are not for profit. Given the high potential for natural resource conflicts in Indonesia, the regulation of land ownership and distribution is crucial to prevent inequality and disputes. From Jeremy Bentham's (2012) utilitarian perspective, the law must serve the greater good. Therefore, the Land Bank must carry out its responsibilities effectively by implementing standard operating procedures (SOPs) in accordance with Ministerial Regulation of the State Apparatus Empowerment and Bureaucratic Reform No. 35 of 2012, to support orderly public administration and improve the quality of public services.

The author proposes an environmental management approach based on the four POAC indicators: Planning, to design integrated environmental management; Organizing, to ensure effective and efficient implementation with a clear division of responsibilities; Actuating, to optimize the use of natural resources and strengthen stakeholder roles in conservation; and controlling, to set standards, evaluate performance, and take corrective action. In this context, the Land Bank is tasked with planning short- to long-term activities, acquiring and procuring land for public purposes, and managing and distributing it. The Land Bank is also authorized to prepare master plans, assist with business licensing, regulate land acquisition, and set service tariffs. As a land keeper and land manager, the Land Bank carries out its role under the authority granted by the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) in accordance with the Job Creation Law.

D. Conclusion

The legal framework governing the state's right to control ex-mining land is firmly established in several key regulations, including Article 33 of the 1945 Constitution, Law No. 5 of 1960 concerning Basic Agrarian Principles, and Law No. 3 of 2020 on Mineral and Coal Mining. These regulations underline the importance of the state's authority over land, including those areas previously used for mining, as part of a broader effort to manage natural resources sustainably while ensuring social justice. The state's right to control over ex-mining land is seen as a mechanism to address the challenges posed by land degradation, particularly in former mining areas, and to promote the equitable distribution of resources. In this context, the role of agrarian reform becomes crucial, as it seeks to improve the welfare of local communities and create opportunities for those who have been marginalized by historical land practices. This reform process focuses on redistributing land that has been neglected, underutilized, or mismanaged, particularly land affected by mining operations, to ensure that it benefits the wider public.

However, the management of ex-mining land cannot ignore environmental considerations. Mining activities, especially in the case of large-scale operations, often leave significant

environmental damage, including deforestation, soil erosion, and contamination of water resources. Therefore, any effort to manage ex-mining land must incorporate environmental rehabilitation strategies, such as reforestation, soil restoration, and the recovery of biodiversity. Restoring ecosystems in former mining areas is essential to maintaining the balance between human activities and the environment, ensuring that land can be used sustainably in the future. This approach also aligns with the broader goals of sustainable development, which call for a balance between economic growth, environmental protection, and social equity.

To effectively implement land management policies, including those related to the Land Bank, it is essential to follow a structured approach. The principles of POAC—Planning, Organizing, Actuating, and Controlling—serve as a framework to guide the process. Planning involves careful preparation and assessment of available resources, as well as the formulation of strategies to achieve the desired outcomes. Organizing refers to the establishment of systems and structures to carry out these plans effectively, ensuring that all parties involved are aligned and equipped to contribute. Actuating involves putting the plans into action, which may include the mobilization of resources, the execution of projects, and the ongoing management of the land. Finally, controlling entails monitoring progress, evaluating results, and making adjustments as needed to ensure that the objectives of the Land Bank policy are met.

Despite the theoretical framework for success, several challenges have hindered the effective implementation of the Land Bank in Indonesia. One of the main obstacles is the insufficient coordination among various governmental agencies, which can lead to overlaps in jurisdiction, delays in decision-making, and inefficiencies in land management. The institutional structure for managing the Land Bank, as outlined in Presidential Regulation No. 113 of 2021 and Government Regulation No. 64 of 2021, seeks to address these issues by providing a more coordinated approach to land management. These regulations emphasize the need for a comprehensive approach to land use, one that takes into account both environmental sustainability and the social needs of the communities involved.

Despite these efforts, there is still a need for regulatory amendments to clarify the functions and authority of the Land Bank, particularly in relation to its overlap with the National Land Agency (BPN). The existing regulations do not always provide clear guidelines for the division of responsibilities between these institutions, leading to confusion and inefficiency. Strengthening the legal framework to resolve these issues and streamline the implementation process would be crucial in ensuring the success of the Land Bank initiative. Furthermore, addressing public enthusiasm and participation in the process is critical, as a lack of community engagement and awareness can undermine the long-term sustainability of land management efforts. Educating the public about the importance of the Land Bank, its role in agrarian reform, and its potential benefits for local communities would help build trust and encourage greater participation in the program, ultimately contributing to the success of land management and sustainable development goals.

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