

The Legal Position of the Land Bank and the Application of Government Assets in Terms of the Politics of Land Law in Force in Indonesia

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Abstract

The Land Bank is an Indonesian legal entity (Sui Generis) established by the central government and given special authority to manage land. Land Banks are basically the same character as Conventional Banks. In Conventional Banks, this institution has an intermediation function as taking and distributing funds from the public. Meanwhile, in the Land Bank, the Central Government and local governments collect land for long-term, medium-term, and annual planning purposes. The problem in this research is how is the position of the Land Bank as the Holder of Land Management Rights in terms of the Politics of Land Law in force in Indonesia and what are the prospects for the utilization of Government assets against the Land Bank as stated in Government Regulation Number 64 of 2021 concerning the Land Bank Agency. This research uses normative juridical research methods through document studies to obtain secondary data. The results of this research explained that the position of the Land Bank in the management of state land assets in the future must be in line with the land politics contained in the constitution and Basic Agrarian Law which aims to realize social justice for all Indonesians. Utilization of Land Bank assets includes land utilization for operational purposes, capital development, and land utilization for distribution purposes, because in principle the land bank prioritizes the principle of non-profit in the development of prospects for the activities of the land bank so that it does not mean that it does not carry out profitable activities but that there is a certain portion for the development of the Land Bank organization.

1. Introduction

The Land Bank exists as a state institution incorporated to manage the acquisition and distribution of land to avoid economic reforms due to the continuously increasing land prices due to the speculator game. The hope is that the Government can properly manage the availability of land in the context of development by acquiring land through the Land Bank. The author gives the definition of a Land Bank based on the opinion of experts. Van Dijk said "The Land Bank is a mechanism for systematic land acquisition activities with a large size and will be used as an implementation of land policy in the future."¹ In addition, Maria Sumardjono's response, "the definition of Land Bank as every activity of the Government in the context of providing land to be allocated for its use in the future."²

Limbong said that the Land Bank is important because it is one of the resource management in increasing the productivity of land use, namely with power in market control and stability in the national market.³ The Land Bank provides guarantees such as: the availability of land in the future for development purposes, the efficiency of the APBD / APBN, reducing disputes during the land acquisition process and minimizing the adverse effects of land reform (land liberalization). Last Jack Damen were mentioned, "*land bank is the structural acquisition and temporary management of land in rural areas by an impartial state agency, with the purpose to redistribute and/or lease out this land with a view to improve the agricultural structure and/or to re-locate the land for purposes with a general public interest.*"⁴

Looking at the historical side, land acquisition practices have existed since Indonesia became independent, while from the juridical side of land acquisition regulations after the UUPA was born. Article 6 of the UUPA confirms that: all land rights have a social function. Based on the description above, it is explained that the rule is a sign that every land rights holder is obliged to relinquish his land rights if the public interest wants it because all land rights have a social function.⁵ Land law in Indonesia stipulates the right to control the state and the right to own it individually. Article 28 H Paragraph (4) of the 1945 Constitution regulates this provision, which states that, "Everyone has the right to have private property rights and such property rights must not be arbitrarily taken over by anyone."⁶

¹ Hari Candra dan Afriva Khaidir, 'Peluang Dan Tantangan Bank Tanah Menuju Pemukiman Berwawasan Lingkungan Di Indonesia', *Jurnal Ekonomi Dan Bisnis Islam*, 2.5 (2020), 5.

² Era Alfansyuri; dkk, 'Analisa Ketersediaan Tanah (Bank Tanah) Untuk Perumahan Dan Pemukiman Dengan Sistem Informasi Geografis Di Kabupaten Tanah Datar', *Jurnal Rekayasa Sipil*, 17.1 (2020), 1.

³ Benhard Limbong, *Bank Tanah* (Jakarta: Margaretha Pustaka, 2013).

⁴ Jack Damen, 'Bank Tanah in The Netherlands in the Context of Land Consolidation', *International Workshop: Bank Tanah/Land Funds as an Instrument for Improved Land Management for CEEC and CIS* (Denmark), p. 1.

⁵ Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria.

⁶ Undang-Undang Dasar 1945.

However, another provision in Article 33 Paragraph (3) of the 1945 Constitution states that, the Earth and water and the natural wealth contained therein are controlled by the state and used for the prosperity of the people. Based on these two provisions, there are deviations regarding when land rights can be owned privately (individuals) and when land is controlled by the state for the purpose of people's welfare with the revocation of land rights for the public interest.⁷ The regulation of the Land Bank is juridically regulated in the Job Creation Law, while there are Land Bank problems in 10 articles including:

- a. Article 125, contains an explanation and also the functions to be carried out by the Land Bank;
- b. Article 126, describes the nature of the Land Bank in ensuring the availability of land to the community;
- c. Article 127, relating to the implementation of the duties of the Land Bank which is transparent, accountable and *non-profit-oriented*;
- d. Articles 128-129, provisions on the wealth of the Land Bank, management of land rights and the organization of the Land Bank; and
- e. Articles 130-135, relating to the explanation of each organization in the Land Bank.

In the Job Creation Law, it is clearly stated that the new legal rules that have emerged in the authority of land management rights are carried out by the State. The Management Rights contained in the new legal norms emphasize that the presence of the State is not only in the right to control the state over land, but also about land management rights in Indonesia.⁸ The form of Land Bank wealth owned by a legal entity is separate from state assets (Article 2 Paragraph (1) PP Number 64 of 2021).⁹ Based on these regulations, the Land Bank's operational space becomes flexible and accountable. The special authority of the Land Bank agency is to ensure the availability of land to meet the equitable economy in the form of:

- a. Public Interest;
- b. Social Interests;
- c. National Development Interests;
- d. Economic Equality;
- e. Land Consolidation and/or Agrarian Reform;
- f. Planning;
- g. Land acquisition;

⁷ Dixon Sanjaya dan Benny Djaja, 'Pengaturan Bank Tanah Dalam Undang – Undang Cipta Kerja Dan Implikasi Keberadaan Bank Tanah Terhadap Hukum Pertanahan Di Indonesia', *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni*, 2.9 (2021), 464.

⁸ Heri Herdiansyah, 'Paradoks Hak Menguasai Negara Dalam Hak Pengelolaan Atas Tana Berdasarkan Putusan Peninjauan Kembali Mahkamah Agung Republik Indonesia Nomor 171 PK/TUN2016' (Universitas Indonesia, 2020).

⁹ Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Bank Tanah.

- h. Land Acquisition;
- i. Land Utilization; and
- j. Land Distribution.¹⁰

The enactment of articles regarding the Land Bank, it is hoped that land regulation in Indonesia will be effective, while from the institutional side, the Government is implementing land acquisition, namely through land banks. It is required to be able to maintain a balance against the need for land that is known to be increasing with land resources being fixed.¹¹ There are institutions other than the Land Bank that take care of land issues, namely: the National Land Agency or BPN for short. The existence of 2 land institutions in Indonesia is feared to overlap authorities, especially related to land acquisition. In Article 3 letter e of Presidential Regulation Number 20 of 2015 concerning the Function of Formulation and Implementation of Policies in the Field of Land Acquisition, it regulates from the BPN side. "There are two points of view of the Job Creation Law, first, in terms of Article 125 Paragraph (4) with the existence of a Land Bank, it has the function of carrying out planning, acquisition, procurement, management, utilization and distribution of land. Second, in terms of Article 129 Paragraph (1) with the existence of a Land Bank, it opens up new authorities, such as management rights by the State."

Basically, UUPA does not recognize the existence of management rights by the State. Management rights are a form of deviation from the Right to Control the State or HMN for short. This gives rise to the principle of *verklaring domain* which has been repealed by the UUPA, this principle has existed since the Dutch colonial era, the application of this principle if a person / anyone who cannot prove his ownership will become the property of the State. It is feared that land owned by indigenous peoples will become the object of control of the Land Bank, because until now there are still many indigenous peoples' lands that do not have land papers. "On the basis of the Right to Control the State, the Government can exercise physical control as a legal entity, as well as individuals and civil legal entities that can become holders of land rights, for example in the context of acquiring land for the public interest."¹²

The concept of Land Bank has been applied in other countries, especially Europe, such as the Netherlands and France. Review of practices in land provision in the Netherlands and France using land consolidation practices and *land readjustment*. There are several criticisms related to the Land Bank policy which is worried that there is an increase in the right to control the state over land to a new right, namely management rights. According to the Secretary

¹⁰ Hadi Arnowo, 'Pengelolaan Aset Bank Tanah Untuk Mewujudkan Ekonomi Berkeadilan', *Jurnal Pertahanan*, 11.1 (2021), 89-102.

¹¹ Wahyu Benny Mukti Setiawan dan Nabila Chyntia Dahani, 'Model Bank Tanah Pertanian Untuk Mewujudkan Indonesia Berdaulat Pangan', *Qistie: Jurnal Ilmu Hukum*, 1.13 (2020), 82.

¹² Farah Devi, 'Konsep Bank Tanah Sebagai Solusi Mengatasi Masalah Pengadaan Tanah Untuk Kepentingan Umum Ditinjau Dari Konsep Hukum Pertanahan Di Indonesia' (Universitas Indonesia, 2014).

General of the Consortium for Agrarian Renewal (KPA), Dewi Kartika mentioned that "The Land Bank threatens the occurrence and systematicization of the legalization of land grabs."¹³ The Land Bank has the potential to support community land evictions, exacerbating structural poverty in urban and rural areas. In addition, the Land Bank orients land as a commodity that can be bought and monopolized by a few people.¹⁴

Based on the background above, there are two formulations of legal problems, namely: How is the Position of the Land Bank and its Application as a Land Management Rights Holder in terms of the Politics of Land Law in force in Indonesia? and What are the Prospects of utilizing Government assets to Land Banks as stated in Government Regulation Number 64 of 2021 concerning Land Bank Agencies?

2. Research Method

This research uses normative legal methods, normative legal methods are to study problems / issues so that later they produce solutions that are adjusted to existing legal regulations. Normative legal research is a step so that later it can find the rule of law, legal principles and also legal doctrines that are used to answer the legal issues faced. Sonata said normative legal research is prescriptive which is to look at the law from the point of view of norms only. The research typology used is explanatory. The point is that this research is based on a theory or concept that aims to provide solutions or solutions and suggestions to overcome problems. The purpose of this study is to provide an in-depth overview of the concept of Land Bank and its application in Indonesia based on Government Regulation Number 64 of 2021 concerning Land Bank Agencies in terms of the politics of land law in force in Indonesia.

3. Results and Discussion

3.1 The Position of Land Bank as a Land Management Rights Holder in terms of the Politics of Land Law in Force in Indonesia

Human land and legitimate common property occupied by community members are not part of the regularity of individual ownership relationships. The disenfranchisement of individuals by the state under the law is a strong recognition of individual rights within the state. In land ownership, a state cannot own land in the sense of owning (owning). This means absolute power over land, but the state can manage land (without owning it) in the public interest.¹⁵

¹³ Ade Thea DA, 'KPA: Bank Tanah Berpotensi Legalkan Perampasan Tanah', *Hukum Online*, p. 2022 <www.hukumonline.com>.

¹⁴ Ade Thea DA.

¹⁵ Ramli Zein, 'Hak Pengelolaan Dalam Sistem UUPA', in *Cetakan I* (Jakarta: Rineka Cipta, 1995), p. 44.

Constitutionally, the concept of the right to control the state (HMN) in article 33 Paragraph (3) of the 1945 Constitution which reads:

“Bumi, air, dan kekayaan alam yang terkandung di dalamnya dikuasai oleh negara dan dipergunakan untuk sebesar-besarnya kemakmuran rakyat.”

The concept of state control (HMN) makes land one of the objects of ownership both by individuals and communities. Therefore, the state is not the (private) owner of the land, since the landowner is a natural person. State control, the so-called right of state control, represents the relationship between the state as a subject and, in this case, the natural resources of the lands of interest, while at the same time the "obligation" of the state in its utilization and utilization represents the greatest prosperity of the people. Therefore, the right to control the nation is a means and its use for the benefit of the people ends.¹⁶ Control is the control of the state, and its enforcement rights are partially devolved to the owner of the right.

A just, prosperous and prosperous society is based on Pancasila and the 1945 Constitution, which regulates when the state requires land development for the public interest and in Law Number 2 of 2012 concerning Land Acquisition. The national strategic project was last amended by Presidential Regulation Number 56 of 2018 and Law Number 20 of 2011 concerning Housing for Public Interest Development. However, if the country needs a large area of land, this provision is considered not optimal. This is also the reason why the Government has set the Land Bank of Taiwan as one of the targets of agricultural reform.¹⁷

Regarding the type, there are several types of Land Banks, namely:

- (1) Public Land Bank: Conducted by a single Government agency.
- (2) Public-Public Land Bank: Conducted by several Government agencies.
- (3) Public-Private Land Bank: Conducted by Government agencies and private institutions.
- (4) Private Land Bank: Conducted entirely by private institutions.

The Land Bank has permission to conduct Transactions and pricing with third parties, and receipt of annual income/compensation and/or mandatory payments from third parties as agreed. Article 40 of Government Regulation Number 64 of 2021 concerning the Land Bank Agency states that the Land Bank has privileges in relation to the authority of HPL holders. Thus, the concept of applying the Land Bank in its implementation is carried out based on Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia and the UUPA. Article 1 Paragraph (3) of Government Regulation Number 64 of 2021

¹⁶ Julius Sembiring, 'Hak Menguasai Negara Atas Sumber Daya Agraria', *Jurnal Bhumi*, 2.2 (2016), 121.

¹⁷ Dalam Penjelasan Pasal 2 Ayat (2) huruf f Peraturan Pemerintah Nomor 64 Tahun 2021 tentang Badan Bank Tanah, “reforma agraria adalah penataan kembali struktur penguasaan, pemilikan, penggunaan, dan pemanfaatan tanah yang lebih berkeadilan melalui penataan aset dan disertai dengan penataan akses untuk kemakmuran rakyat Indonesia.”

concerning the Land Bank Agency states that Management Rights are transfers of the implementation of the right to control the state.

Article 2 Paragraph (2) letter a-e, Government Regulation on Land Bank Bodies explains that Land Banks have privileged rights and powers to ensure the availability of land within a fair economic framework for the public interest, social interests, national development interests, economic justice, land readjustment and agricultural reforms.¹⁸ The establishment of the Land Bank was made with the principle of an equitable economy for the community. The economy of justice is interpreted that the Land Bank must be present to side with the people in accordance with the principle of our country, namely Pancasila. In Article 2 Paragraph (2) there is no clear formulation of what is meant by public interest, social interest, national development interest, economic justice, and land readjustment.

These interests are not explained in their meaning and meaning because in the Government Regulation on Land Bank Bodies it is only written "quite clearly". There needs to be a clear definition and scope so that these interests do not injure the Right to Control the State and the Rights of the Indonesian Nation. The land that exists within the territory of the Republic of Indonesia is the common land of the Indonesian people, who are united as an Indonesian nation. In Article 3 Paragraph (2) it is stated that in Paragraph (1) the Land Bank carries out its duties:

- a. "carrying out long-term, medium-term and annual activity planning;
- b. acquire land that can be sourced from the determination of the Government and other parties;
- c. procuring land for development in the public interest or direct sprinkling of land;
- d. carrying out land management of development, maintenance and security, and land control activities;
- e. carrying out land utilization through utilization cooperation with other parties; and
- f. distributing land by carrying out land provision and division activities."¹⁹

This article regulates civil relations where the Land Bank has the authority to regulate and manage common property for the greatest prosperity of the people. Furthermore, Article 6-9 of Government Regulation Number 64 of 2021 concerning the Land Bank Agency regulates the acquisition of land obtained by the Land Bank. It is important to ensure that the purchase of property is controversial and worsens the situation in society. This article should apply the principles of state domination and not appear to support the monopoly practice of land and land states. Article 6 states that the acquisition of land comes from land due to Government regulations and/or land from other parties, while article 7 states that the land is a former state of rights, territories and wastelands,

¹⁸ Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Bank Tanah.

¹⁹ Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Bank Tanah.

open forest areas, new land, landfills, exploited mines, small islands and policy change spaces. Explains that it comes from the affected soil. no control abroad.

The acquisition of land to the Land Bank in the implementation must not harm the people and is based on the public interest. In addition, it triggers the reanimation of the principle of *domein verklaring* which has been repealed by the UUPA, as stated in Article 7 letter (i) that the Land Bank can acquire land for which there is no land tenure on it. This provision triggers losses for the community considering that there are more unregistered and certified lands in Indonesia. Article 9 of Government Regulation Number 64 of 2021 concerning the Land Bank Agency also explains the land acquisition carried out by the Land Bank. It is stated in the article that land acquisition must go through the mechanism of stages of land acquisition for development in the public interest or direct land acquisition. This is back again as explained earlier, that land acquisition must also pay attention to the principle of The Right to Control the State and the Rights of the Indonesian Nation. The acquisition of this land must put the public interest first and the greatest prosperity of the people.

Article 14 of the Government Regulation of the Land Bank Agency states that land use occurs through cooperation or use of other parties. However it is not explicitly stated that the use of the property is indicated to be in the interests of a particular party. Article 14 Paragraph (3) stipulates that land use banks must pay attention to the principles and priorities of land use. In this case, the description in Article 14 Paragraph (3) states that this "benefit principle" is the result of the administration of a state government that controls thoroughly the interests of the community, the people, and the state. Meanwhile, what is meant by the "principle of priority" is the use of land in the implementation of the Land Bank by prioritizing the interests of the community, state, and state. Close monitoring of these usage attributes is necessary to ensure that they are actually performed in accordance with the principle.

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In addition, Article 27 of the Government Regulation on the Land Bank Agency states that the source of wealth of the Land Bank can be in the form of the State Budget, own income, and state participation. And/or other sources of law as stipulated in the Law. In this article, letter d as for the wealth of the Land Bank can also be obtained from other parties. Thus, although the Land Bank is *non-profit*, the implementation of this Land Bank can be feared to be only business-oriented where if the source of the wealth is obtained from the private sector, the land management function can be aimed only at capital owners in order to acquire land which has the potential to violate the principles of State Control Rights and Indonesian National Rights.

3.2 Prospects of Utilization of Government Assets against Land Banks Listed in Government Regulation Number 64 of 2021 concerning Land Bank Agencies

Land Acquisition activities in Indonesia carried out through the Land Bank by the Government to achieve the welfare of the Indonesian people require support for the availability of land/ land. Looking at the mandate of Article 33 yat (3) of the 1945 Constitution and Article 2 of the UUPA which states that the State has a vital position in the implementation of the Land Bank. Therefore, by observing the experience of France and the Netherlands applying the concept of land banking, the Land Bank in Indonesia has the potential to be applied. Given that the institutional, business and regulatory frameworks of land banking/Land Bank in the Netherlands, and France vary widely, it is necessary to conduct a more in-depth study of alternative *land banking/Land Bank* schemes that are very suitable for the needs and national legal system.

The implementation of the Land Bank is aimed at regulating the construction of community housing which is regulated in Article 11 of the Government Regulation on the Land Bank Agency which states that there is a guarantee of land availability whose implementation is based on the public interest. The prospect regarding the Land Bank for agriculture actually already exists in Article 11 Paragraph (2) of Government Regulation Number 64 of 2021 concerning the Land Bank Agency regarding land development and Article 41 of Government Regulation Number 64 of 2021 concerning the Land Bank Agency regarding the release of Management Rights into property rights to the community.

Government Regulation on Land Bank Agency has a vision in improving the agrarian sector which has the main objectives related to land management for the development of public interests, social interests, national development

interests, economic equality, land consolidation, and agrarian reform. The problem that arises is that agricultural land is not included in one of the public interests as contained in Article 10 of Law Number 2 of 2012 concerning Procurement of Land Banks for Development for Public Interests and Article 17 of Government Regulation Number 64 of 2021 concerning Land Bank Agencies. In this regard, the Government felt it necessary to make changes containing agricultural land as a form of public interest.

In this case, to carry out control of agricultural land the Land Bank can carry out control in the form of a review of the direct place to see that the land is properly used for the subject to which it is entitled and not controlled by large farmers and the land is in accordance with its function as agricultural land. The Land Bank can also contribute to determining the price of agricultural land so that the agricultural land is not controlled by speculators.

Contributions from the acquisition of a Land Bank do not escape According to Article 1 of the Government Regulation on Land Bank Bodies will establish a Land Bank with a function as a special body or *sui generis*. The goal is to manage lands in Indonesia. Full management of land assets that have been controlled is aimed at realizing an equitable economy. Government asset land is land controlled by Government agencies, both central and local governments..

"Government asset land is included in the land rights group is a state asset where physical control is acquired by the relevant agency, and its a juridical control is the authority of the Minister of Finance of the Republic of Indonesia."²⁰ The management of the Financial System of the Land Bank is separate from the system of state financial management, The assets of the Land Bank are fully managed obtained from a separate financial system of state finances. The financial reporting system is mandatory in conditions that must be completed first. The source of Government assets must go through several related stages.

The source of Government assets must go through several stages related to the delivery of assets and the write-off of assets in accordance with the current laws and regulations. The State Budget or APBN, self-acceptance and/or other income that has been regulated in the laws and regulations are sources of assets owned by the Land Bank.

When providing the authorized capital for the Land Bank comes from the Government, for the operation of the head office which is in the form of land and buildings. The Land Bank has regional offices and the source of income from such offices is derived from its own income or other income. The existence of land acquisition as a form of solution to obtain / obtain land. There are several purposes of land assets managed by the Land Bank, such as generating income in the form of:

- a. asset utilization results;
- b. proceeds of rent, lease and other services;

²⁰ Al Zahra, Melacak Landasan Hukum Pengelolaan Aset Tanah Negara Melalui Konsep Bank Tanah, Jurnal Al-ihkam, Vol. 12 No. 2 hlm. 405-428.

- c. proceeds from the sale of assets;
- d. the results of business development cooperation with other parties;
- e. proceeds from the acquisition of grants and exchanges;
- f. results of management;
- g. proceeds of asset disposal.

In managing its assets, the Land Bank divides into two, namely: fixed assets and non-fixed assets which are the source of wealth of the land bank itself. Non-fixed Land Bank assets are a form of wealth in the form of financial instruments, including stocks, cash, deposits, and much more. "Land Bank assets which are fixed assets include land and buildings that require attention because they are physically larger."²¹

Land Bank activities in utilizing land assets of the Land Bank with operational objectives are activities that are able to generate income quickly (*immediate cash*) and can be used in the short term for organizational operations. In these operational activities, it can be planned in the medium and long term every year. Land Bank land utilization itself uses a system of self-management mechanisms for land assets / cooperation with other parties. Utilizing the land itself, the Land Bank Management Rights will be given on it, namely the right to new land in the form of HGU, HGB and Right of Use on behalf of the Land bank.

4. Conclusion

The position of the Land Bank in the management of state land assets in the future must be in line with the land politics contained in the constitution and UUPA which aims to realize social justice for all Indonesians. The legal basis for the application of the Land Bank concept is regulated in Article 33 Paragraph (3) of the Constitution and Articles 1 and 2 of the UUPA. Based on this principle, the Government can carry out Land Bank activities through the Land Bank public institution. The operation of the Land Bank must be carried out independently, while still referring to the positive law and land policy of Indonesia. The benefit of the Land Bank must meet the needs of the people to overcome the crunch in land problems faced by Indonesia.

The utilization of Land Bank assets in land utilization aims at operations, capital development and land utilization with the aim of disciplinary. Government Regulation on Land Bank has stated that Land Bank has a non-profit principle in the implementation of its activities Land Bank does not mean, does not carry out activities to benefit / only as a reservoir of land assets. Furthermore, it is distributed according to a certain portion. The Land Bank also requires income for the development of the organization The land bank.

²¹ Hadi Anowo, *Pengelolaan Aset Bank Tanah untuk Mewujudkan Ekonomi Berkeadilan*, Jurnal Pertanahan Vol. 11, No. 1 hlm. 1-19.

References

- Ade Thea DA, 'KPA: Bank Tanah Berpotensi Legalkan Perampasan Tanah', *Hukum Online*, p. 2022 <www.hukumonline.com>
- Damen, Jack, 'Bank Tanah in The Netherlands in the Context of Land Consolidation', *International Workshop: Bank Tanah/Land Funds as an Instrument for Improved Land Management for CEEC and CIS* (Denmark), p. 1
- Devi, Farah, 'Konsep Bank Tanah Sebagai Solusi Mengatasi Masalah Pengadaan Tanah Untuk Kepentingan Umum Ditinjau Dari Konsep Hukum Pertanahan Di Indonesia' (Universitas Indonesia, 2014)
- Dixon Sanjaya dan Benny Djaja, 'Pengaturan Bank Tanah Dalam Undang - Undang Cipta Kerja Dan Implikasi Keberadaan Bank Tanah Terhadap Hukum Pertanahan Di Indonesia', *Jurnal Muara Ilmu Sosial, Humaniora, Dan Seni*, 2.9 (2021), 464
- Era Alfansyuri; dkk, 'Analisa Ketersediaan Tanah (Bank Tanah) Untuk Perumahan Dan Pemukiman Dengan Sistem Informasi Geografis Di Kabupaten Tanah Datar', *Jurnal Rekayasa Sipil*, 17.1 (2020), 1
- Hadi Arnowo, 'Pengelolaan Aset Bank Tanah Untuk Mewujudkan Ekonomi Berkeadilan', *Jurnal Pertahanan*, 11.1 (2021), 89-102
- Hari Candra dan Afriva Khaidir, 'Peluang Dan Tantangan Bank Tanah Menuju Pemukiman Berwawasan Lingkungan Di Indonesia', *Jurnal Ekonomi Dan Bisnis Islam*, 2.5 (2020), 5
- Herdiansyah, Heri, 'Paradoks Hak Menguasai Negara Dalam Hak Pengelolaan Atas Tana Berdasarkan Putusan Peninjauan Kembali Mahkamah Agung Republik Indonesia Nomor 171 PK/TUN2016' (Universitas Indonesia, 2020)
- Julius Sembiring, 'Hak Menguasai Negara Atas Sumber Daya Agraria', *Jurnal Bhumi*, 2.2 (2016), 121
- Limbong, Benhard, *Bank Tanah* (Jakarta: Margaretha Pustaka, 2013)
- Peraturan Pemerintah Nomor 64 Tahun 2021 Tentang Bank Tanah*
- Undang-Undang Dasar 1945*
- Undang-Undang Nomor 5 Tahun 1960 Tentang Peraturan Dasar Pokok-Pokok Agraria*
- Wahyu Benny Mukti Setiyawan dan Nabila Chyntia Dahani, 'Model Bank Tanah Pertanian Untuk Mewujudkan Indonesia Berdaulat Pangan', *Qistie: Jurnal Ilmu Hukum*, 1.13 (2020), 82
- Zein, Ramli, 'Hak Pengelolaan Dalam Sistem UUPA', in *Cetakan I* (Jakarta: Rineka Cipta, 1995), p. 44