

The Authority Of Bank Indonesia In Issuing Legal Products According To The State Auxillary Agencies Theory

Putra Perdana Ahmad Saifulloh¹, Busyra Azheri²

¹Faculty of Law, Andalas University, Indonesia, Email: putrappas@gmail.com

²Faculty of Law, Andalas University, Indonesia

ABSTRACT

As an State Auxillary Agencies. Bank Indonesia is authorized to make it's own legal products that bind the public. Currently the product of he regulation is in a Bank Indonesia Regulation, as a consequence of one of the characteristics of an State Auxillary Agencies namely a self regulatory body. From this study it may be concluded that Bank Indonesia only has the authority to enforce the delegation's regulation. Second, Bank Indonesia, in the hierarchy of regulations, should be in line with Presidential Regulations. Third, the Governor of Bank Indonesia may make State Administrative Decisions in accordance with his authority. Fourth, the stages of formation of Bank Indonesia Regulations in the Bank Indonesia Regulation concerning the establishment of Regulations at Bank Indonesia, include: a.planning; b.arrangement; c.discussion; d.determination; e.promulgation; and f.dissemination. Fifth, the establishment of a Bank Indonesia Regulation in order to prioritize meaningful public participation in the process of its information, especially to involve academics. For this reason, according to the author, academics need to be empowered by Bank Indonesia in the establishment of Bank Indonesia in the Framework of improving the State Auxillary Agencies.

Keywords	Authority; Bank Indonesia; Legal Products; State Auxillary Agencies
Cite This Paper	Saifulloh, P. P., & Azheri, B. (2023). The Authority Of Bank Indonesia In Issuing Legal Products According To The State Auxillary Agencies Theory. Legal Spirit, 7(2).

PRELIMINARY

The classical teaching of constitutional law from Montesquieu separates the three branches of state power into three branches, that is: legislative, executive, and judicial.¹ The concept of the importance of power being separated and divided into various institutions / organs so that there is no tyranny and monopoly of power by one institution / organ only. This situation has also been expressed by Lord Acton in his adage: "Power tends to corrupt, absolute power corrupts absolutely".² However, in the 20th century the state experienced developments so that economic and social life became very complex and the executive body governed most of society's life. This results in the Trias Politica theory being untenable. Along with the complexity of the constitutional problems faced by the state, may new concepts were born in the practice of state administration which have implications for the increasingly varied branches of the structure of state institutions. One of the consequences is that the functions of power which are usually attached to the functions of the executive, legislative and even judicial institutions, have been diverted into separate functions of independent organs. Thus, it is possible for a state organ to have mixed

¹ Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: PT. Gramedia Pustaka Utama, 2012), 155.

² Donny Ardyanto, "Korupsi, Demokrasi Dan Kapitalisme: Sebuah Manifesto Bagi Gerakan Sosial Anti Korupsi," *Jurnal Kriminologi Indoesia* 2, no. 1 (2002): 19.

functions, each of which is independent (independent bodies) or quasi-independent.³

The presence of these institutions has various backgrounds, but in general it is related to the state's desire to modernize and improve towards efficiency and effectiveness of services in order to realize the idea of welfare state. According to Sir Ivor Jennings, there are five reasons that underlie supporting state institutions, that is: 1). The need to provide cultural or personal services supposedly free from the risk of political interference, such as the BBC (British Broadcasting Corporation); 2) The desirability of non-political regulation of markets, such as Milk Marketing Boards; 3) The regulation of independent professions such as medicine and the law; 4) The provisions of technical services, such as the formation of a commission, the Forestry Commission; and 5). The creation of informal judicial machinery for settling disputes.⁴

In terms of functions, state institutions or organs can be divided into two, that is Main State's and state auxiliary Organ.⁵ Main state's organs or also called primary constitutional organs, that is state institutions formed to run one branch of state power (legislative, executive or judicial). Meanwhile, supporting state institutions or state auxiliary organs, are state institutions formed to strengthen the main state institution in exercising their power.⁶

Regarding to the state institutions with the category of supporting institutions, theoretically and practically, according to Milakovich and Gordon, in the dynamics there are two types of supporting state institutions or state commissions, that is ordinary state commissions which are extensions of state organs, and independent state commissions. State commissions are usually part of a government department, cabinet or other executive element. Because it is still part of the executive branch, this institution relies on the political will of the President so that it is not independent. Between supporting state institutions that are categorized as ordinary state commissions and independent state commissions, they have different characteristics.⁷

According to Saskia Lavrijssen, there are several ways in which independent institutions are distinguished from ordinary executive institutions or state commissions, that is: *first*, unlike the heads of executive institutions, officials from independent institutions are appointed by the the President and approved by the parliament; *second*, the term of office of the officers of independent institutions can be longer than four years of the President's term of office, thereby reducing the influence of the President on these institutions; *third*. Members of the independent commission are required by law to be selected with the support of two political parties. Unlike the importance of executive officers, only appoint the majority members of their own party; the remainder must be from other parties or registered independents; and *fourth*, executive bodies tend to be formed around single administrators, independent bodies will be organized like committees of five or seven members. It makes their judgments and decisions the product of collective decision making.⁸

According to Zainal Arifin Mochtar, the independent nature of a state auxiliary organ can be traced from several characteristics and existing patterns. For example, related to the leadership dismissal which can only be done by the causes and procedures regulated in the Law that underlies its formation; collective-collegial character leadership; the number of membership numbers of its leaders; until the problem of the leadership change period is not

³ Jimly Asshiddiqie, *Konstitusi Dan Konstitusionalisme Indonesia* (Jakarta: Mahkamah Konstitusi Republik Indonesia dan Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia, 2004), 156.

⁴ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia* (Jakarta: Konstitusi Press, 2020), 52.

⁵ Jimly Asshiddiqie, *Perkembangan, Dan Konsolidasi Lembaga Negara Pasca Reformasi* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006), 90.

⁶ Achmad Roestandi, *Mahkamah Konstitusi Dalam Tanya Jawab* (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2005), 108.

⁷ Zainal Arifin Mochtar, *Lembaga Negara Independen: Dinamika Perkembangan Dan Urgensi Penataannya Kembali Pasca Amendemen Konstitusi* (Jakarta: Rajawali Pers, 2016), 40.

⁸ Ahmad Basarah, "Kajian Teoritis Terhadap Auxiliary State's Organ Dalam Struktur Ketatanegaraan Indonesia," *Jurnal Masalah-Masalah Hukum* 43, no. 1 (2014): 28.

carried it simultaneously, but rather a gradual pattern.⁹ Based on the characteristics and patterns that Zainal Arifin Mochtar gave, it is sufficient to say that Bank Indonesia (BI) is a state auxiliary organ. This can be seen in Article 23D of the Indonesia 1945 Constitution. The detail reads as “ *The State has one form of central bank consisting of, its position, responsibilities and independence are regulated by law*”. This is in line with the provisions of Article 4 Section (2) of Law Number 3 of 2004 Concerning Bank Indonesia which affirms “ *Bank Indonesia is a state institution that is independent in carrying out its duties and authorities, free from interference from the government and/or other parties. Other matters, except for matters regulated in this Law*”.¹⁰ From this article it can be said that Bank Indonesia is an independent agency

As an independent state institution, Bank Indonesia is authorized to make its own regulations that bind the public. Currently, the product of this regulation is contained in a Bank Indonesia Regulation (Peraturan Bank Indonesia/PBI),¹¹ as a consequence of one of the characteristics of an independent state institution, namely self regulatory body (an institution that has the authority to make regulations related to its business activities).¹² Based on the Constitution and Bank Indonesia Law, it can be said that Bank Indonesia holds very strategic authority regarding monetary matters.¹³ In addition, Bank Indonesia also given the function and authority to foster and supervise banking activities as financial intermediaries.¹⁴ Bank Indonesia is not the realm of the executive, but is grouped as a separate power, namely as *the fourth branch of the government*.¹⁵ According to Crinice Le Roy, there are other powers besides the three state powers (executive, legislative, and judicial), which is called by the term *De Vierde Macht*.¹⁶

Considering that Bank Indonesia has the function “*campur sari (mix)*” of intervening from the classic branches of power of Baron De Montesquieu,¹⁷ then one of Bank Indonesia’s functions is to implement laws. Implementation (*uitvoering*) can mean issuance of stipulations or in the form of other tangible actions or in the form of issuing further regulations. (*gedelegeerde wetgeving*).¹⁸ Therefore interesting to discuss Bank Indonesia’s authority in forming state regulations (*staatsregelings*) for decisions in a broad sense (*besluiten*). Given the importance of discussing the Legislation, according to Jeremy Waldron, it is an effort to increase the dignity of the government, and is related to legal resources.¹⁹ This is a consequence of Indonesia as a country that adheres to the legal tradition of Continental Europe or often referred to as *civil law*.²⁰ The *civil law* tradition is characterized by a written legal system which is the main requirement in the administration of the state.

⁹ Zainal Arifin Mochtar, *Lembaga Negara Independen: Dinamika Perkembangan dan Urgensi Penataannya Kembali Pasca Amandemen Konstitusi*, Op.Cit., 2.

¹⁰ M Jeffri Arlinandes Chandra, “Kewenangan Bank Indonesia Dalam Pengaturan Dan Pengawasan Perbankan Setelah Terbitnya Undang-Undang No 21 Tahun 2011 Tentang Otoritas Jasa Keuangan,” *Jurnal Hukum Sehasen* 1, no. 1 (2015): 28.

¹¹ Lely Savitri Dewi, “Kajian Independensi Bank Indonesia Dalam Kedudukannya Sebagai Bank Sentral Menurut Tinjauan Hukum Berdasarkan UUBI Nomor 3 Tahun 2004 Tentang Bank Indonesia,” *Jurnal Coopetition* IX, no. 1 (2018): 47.

¹² Sulis Diyanto dan Sudiyan, “Optimalisasi Perlindungan Hukum Investor Oleh Lembaga Self Regulatory Organization Pasar Modal Terhadap Dampak Pandemi Coronavirus Disease 2019,” *Jurnal Kajian Hasil Penelitian Hukum* 5, no. 2 (2021):page 87.

¹³ Ari Wirya Dinata, “Bank Sentral Dalam Sistem Ketatanegaraan Indonesia,” *Jurnal UBELAJ* 1, no. 1 (2017): 61.

¹⁴ Maqdir Ismail, *Bank Indonesia Dalam Perdebatan Politik Dan Hukum* (Yogyakarta: Navila Idea, 2005), 13.

¹⁵ Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara Pasca Reformasi*, Op.Cit., 9.

¹⁶ Crinice Le Roy, *Kekuasaan Ke-Empat Pengenalan Ulang, Diterjemahkan Oleh Soehardjo* (Jakarta: Yayasan Dharma Bakti, 1981), 47.

¹⁷ Supriyadi Widodo Eddyono dan Indriaswati Dyah Saptaningrum, “Catatan Umum Atas Keberadaan Komisi Negara Di Indonesia,” *Jurnal Legislasi Indonesia* 4, no. 3 (2007): 125.

¹⁸ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, Op.Cit., 54.

¹⁹ Bayu Dwi Anggono, *Perkembangan Pembentukan Undang-Undang Di Indonesia* (Jakarta: Konstitusi Press, 2014), 13.

²⁰ Jimly Asshiddiqie, *Perihal Undang-Undang* (Jakarta: Rajawali Pers, 2010), v.

Written laws or written statutes are very important, and more service than judge decisions or jurisprudence.²¹

METHOD

For this reason, the author is interested in writing, and researching this paper entitled: "*The Authority Of Bank Indonesia In Issuing Legal Products According To The State Auxillary Agencies Theory*". As for the state regulations (*staatsregelings*) referred to are written regulations published by official agencies, both in terms of institutions and in certain official relations. The regulations in question include the Constitution, Laws, Legislation under the Act, instruction, circulars, announcements, decrees, and others.²²

This research is normative legal research,²³ which uses doctrinal methods in analyzing the principles and norms of legislation relating to: "*The Authority Of Bank Indonesia In Issuing Legal Products According To The State Auxillary Agencies Theory*". There are three approaches used in this research, namely: statutory regulatory approach, and conceptual approach.²⁴

In terms of character, this research is a descriptive study. Descriptive research describes something in a certain time and area. In legal research, this descriptive research is very important for presenting existing legal materials appropriately, where according to these materials legal prescriptions are prepared. While from the point of view of form, this type of research is prescriptive research, research that aims to provide an overview or formulate a problem in accordance with existing circumstances/facts. This prescriptive nature will be used to analyze and test the values contained in the law. Not only limited to the values in the area of positive law alone, but also the values that underlie and encourage the birth of this law. With its descriptive characteristic and prescriptive form, this research can reveal²⁵ The Authority Of Bank Indonesia In Issuing Legal Products According To The State Auxillary Agencies Theory.

RESULTS AND DISCUSSION

Bank Indonesia's Authority In Issuing Legal Products

Article 1 Section (3) of the 1945 Constitution reads: "*The State of Indonesia is a State of Law*".²⁶ The main characteristic of the rule of law concept is the principle of law that must be respected by anyone, including lawmakers who are also bound by it.²⁷ The state as a general power organization is authorized to issue state regulations (*staatsregelings*) or decisions in a broad sense (*besluiten*). State regulations can be divided into three groups, that is *wettelijk regeling* (Statutory regulations), *beleidsregels* (Policy Regulations), and *beschikking* (stipulation). Included in the *wettelijk regeling* (Statutory regulations), such as the Constitution, Laws, Government Regulations in lie of Law (Perpu), Government Regulation (PP), Presidential Regulation (Perpres), Local Government Regulation (Perda), Village Regulation (Perdes), and others. Including *beleidsregels*, such as instruction, circulars, announcements and others. While including *beschikking* (stipulation), such as

²¹ Choky R. Ramadhan, "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum," *Jurnal Mimbar Hukum* 30, no. 2 (2018): 214.

²² M. Solly Lubis, *Landasan Dan Teknik Perundang-Undangan* (Bandung: Alumni, 1977), 14.

²³ Purnima Khanna, "Constitutionalism and Human Rights: A Critical Analysis of the Rights of Transgender People in India," *Jurnal Lentera Hukum* 9, no. 3 (2022): 373.

²⁴ Yati Nurhayati et.al, "Investment in Indonesia After Constitutional Court's Decision in the Review of Job Creation Law," *Jurnal Lentera Hukum* 9, no. 3 (2022): 439-40.

²⁵ Beni Kurnia Illahi dan Haykal, "Prinsip Dan Dinamika Hukum Keuangan Negara Darurat Dalam Penanggulangan Pandemi Covid-19," *Jurnal RechtsVinding* 10, no. 1 (2021): 5.

²⁶ I Ketut Cahyadi Putra, "Relevansi Konsep Negara Hukum Pancasila Dengan Welfare State Dalam Implementasinya Dengan Pelayanan Publik Di Indonesia," *Jurnal Magister Hukum Udayana* 6, no. 1 (2017): 2.

²⁷ Putra Perdana Ahmad Saifulloh, "Peran Perguruan Tinggi Dalam Menumbuhkan Budaya Anti Korupsi Di Indonesia," *Jurnal Hukum & Pembangunan* 47, no. 4 (2017): 461.

decrees and others.²⁸

There are four characteristics of a statutory regulation that is, *first*, in the form of a written decision, so it has a certain form or format. *Second*, it is formed, determined, and issued by authorized officials, both at the central and regional levels based on attribution and delegation. *Third*, it contains the rules of behavior patterns, thus the laws and regulations are regulating, not one-way. *Fourth*, binding in general (because it is addressed to the public), meaning that it is not addressed to a particular person or individual/not individual.²⁹

Delegation/implementing regulations are statutory regulations under the law that were formed as a result of the delegation of authority to form regulation carried out by higher laws and regulations (sourced from the delegation's authority). Autonomous Regulations are statutory regulations under laws that are formed on the basis of granting the authority to form regulations by the Constitution or by law to a state institution or government institution at the central or regional level (sourced from the attribution authority).³⁰

Institutional regulations that fall into the category of statutory regulations because they have a broader general binding power, such as the Bank Indonesia Regulation (PBI). Bank Indonesia is authorized to establish a Bank Indonesia Regulation/PBI based on Article 8 Section (1) and (2) of Law Number 12 of 2011 Concerning the Establishment of Laws,³¹ which authorizes Bank Indonesia to form regulations as long as it is ordered by a higher law or regulation. Formed on the basis of authority. Authority is the power to describe the right to do or not to act from an authorized institution or official that is given based on the legislation.³²

The phrase commands higher laws and regulation or is formed based on tasks. The phrase ordered by higher laws and regulations is the regulation of the delegation originating from the delegation, that is determining the invitation rules from the delegate (delegator), to the delegation (receiving the delegation) on their own responsibility.³³ Meanwhile, phrases that are formed based on authority are autonomous regulations, which originate from attribution authority, namely the creation of new powers by the constitution or laws of a country, which already exist or are newly formed for that purpose.³⁴

Characteristic of delegation rules, are 1).Submission of authority to make laws and regulations; 2).That authority is delegated by the holder of attributive authority; 3).The delegates are responsible for the exercise of these powers; 4).This delegation's authority is temporary, in the sense that this authority still exists. While the characteristics of autonomous regulations are: 1).Creation of new authority to make laws and regulations; 2). The authority is given by the constitution maker or the law maker to an institution; 3). The institution receiving the authority is responsible for the exercise of that authority ; and 4).The establishment authority is inherent and can be exercised on its own initiative at any time required, in accordance with the given limits.³⁵

To form binding laws and regulations, it must first be tracked how the source of Bank

²⁸ I Gde Pantja Astawa dan Suprin Na'a, *Dinamika Hukum Dan Ilmu Perundang-Undangan Di Indonesia* (Bandung: Alumni, 2008).

²⁹ Rosjidi Ranggawidjaja, *Pengantar Ilmu Perundang-Undangan Di Indonesia* (Bandung: Alumni, 1998), 20.

³⁰ Bayu Dwi Anggono, "Tertib Jenis, Hierarki, Dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan Dan Solusinya," *Jurnal Masalah-Masalah Hukum* 47, no. 1 (2018): 7-8.

³¹ Bivitri Susanti, "Menyoal Jenis Dan Hierarki Peraturan Perundang Undangan Di Indonesia," *Jurnal Jentera* 1, no. 2 (2017): 141.

³² Bagir Manan, *Dasar-Dasar Sistem Ketatanegaraan Republik Indonesia Menurut UUD 1945* (Bandung: Universitas Padjadjaran, 2007), 2.

³³ Nur Basuki Winarno, *Penyalahgunaan Wewenang Dan Tindak Pidana Korupsi* (Yogyakarta: Laksbang, 2008), 65.

³⁴ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi Dan Materi Muatan* (Yogyakarta: Kanisius, 2007), 55.

³⁵ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, *Op.Cit.*, 60.

Indonesia's authority in forming laws and regulations, whether sourced from attribution or delegation of authority. By looking at the provisions of the Bank Indonesia Law, Bank Indonesia did establish legislation, but it was limited to delegation regulations. This can be seen in Article 5 of PBI Number. 18/42/PBI/2016 Concerning the Formation of Regulations in Bank Indonesia, which regulates the content of the PBI which contains: a. materials ordered by law to be regulated by PBI; and/or b. materials to carry out Bank Indonesia's functions, duties and authorities.

Based on the Bank Indonesia Law and PBI Number. 18/42/PBI/2016, according to Ari Wuisang, the legal products that can be issued by Bank Indonesia include: 1. Bank Indonesia regulations, which further elaborates the provisions of the laws and regulations that order the establishment of the Bank Indonesia Regulation; 2. Regulation of the Governor of Bank Indonesia, which is a further elaboration of the provisions of the regulation of Bank Indonesia; 3. Decree of the Governor of Bank Indonesia, regulates matters that are internal and one-way in nature, for example concerning the appointment and dismissal of employees (functional or structural), code of Conduct and others.³⁶

The Position of Bank Indonesia Regulations in the Hierarchy of Laws and Regulations

Article 1 section (3) of the 1945 Constitution reads: "*The State of Indonesia is a state of Law*".³⁷ The State is an application, namely a state. The State is an orderly system. Therefore, this State applies the same thing as the law.³⁸ A legal system is a hierarchical system of legal rules, valid legal rules from groups from lower levels depending on or determined by rules belonging to higher groups.³⁹

Some experts put forward the notion of hierarchy. According to Dendy Sugono, hierarchical means a sequence of sequences.⁴⁰ According to Padmo Wahjono, the laws and regulations are arranged in a tiered structure, like a pyramid, which is the pillar of the national legal system.⁴¹ Juridically in the explanation of Article 7 Section (2) of the Law on the Formation of Legislation (P3 Law), it is determined that in this provision what is meant by hierarchy is the hierarchy of every statutory regulations may conflict with higher ones. Thus, the hierarchy is the order or hierarchy of every statutory regulation made based on lower statutory regulations may conflict with higher ones.⁴² Based on Article 7 Section (1) of the Law on the Formation of Legislation, the hierarchy of Legislation in Indonesia is as follows: 1) 1945 Constitution, 2) Decree of the People's Consultative Assembly (TAP MPR), 3). Law/Government Regulation in lieu of Law 4). Government Regulations 5). Presidential Decree, 6). Provincial Regulation, 7).Regency/City Regulations.⁴³

In Article 8 of the Law on the Formation of Legislation regulates various types of regulations which are considered as statutory regulations from various state institutions and authorized officials.⁴⁴ In Article 8 Section (1) of the Law on the Formation of Legislation it is stated: "Types of Legislation other than those referred to in Article 7 Section (1) include regulations set by the MPR, the People's Representative Council (DPR), the Regional Representative Council (DPD), the Supreme Court (MA), the Constitutional Court (MK), the

³⁶ Ari Wuisang, "Kedudukan Bank Sentral Dan Peraturan Bank Indonesia Dalam Ketatanegaraan Indonesia," *Jurnal PALAR (Pakuan Law Review)* 7, no. 1 (2021): 54.

³⁷ Padmo Wahjono, *Indonesia Negara Berdasarkan Atas Hukum* (Jakarta: Ghalia Indah, 1986), 1.

³⁸ Sudargo Gautama, *Pengertian Tentang Negara Hukum* (Bandung: Alumni, 1983), 38.

³⁹ Mukhlis Taib, *Dinamika Perundang-Undangan Di Indonesia* (Bandung: PT. Refika Aditama, 2017), 82.

⁴⁰ Dendy Sugono, *Kamus Bahasa Indonesia* (Jakarta: Pusat Bahasa Departemen Pendidikan Nasional, 2008), 543.

⁴¹ Padmo Wahjono, *Sistem Hukum Nasional Dalam Negara Hukum Pancasila: Pidato Ilmiah Pada Peringatan Dies Natalis Universitas Indonesia Ke-33* (Jakarta: CV.Rajawali, 1992), 2-3.

⁴² Rachmat Trijono, *Dasar-Dasar Ilmu Pengetahuan Perundang-Undangan* (Depok: Papas Sinar Sinanti, 2013), 38.

⁴³ Dian Agung Wicaksono, "Implikasi Re-Eksistensi Tap MPR Dalam Hierarki Peraturan Perundang-Undangan Terhadap Jaminan Atas Kepastian Hukum Yang Adil Di Indonesia," *Jurnal Konstitusi* 10, no. 1 (2013): 158-59.

⁴⁴ Agnes Fitryantica, "Harmonisasi Peraturan Perundang-Undangan Indonesia Melalui Konsep Omnibus Law," *Jurnal Gema Keadilan* 6, no. III (2019): 311.

Supreme Audit Regency (BPK), the Judicial Commission (KY), Bank Indonesia (BI), the Minister, agency, institution or commission of the same level established by law or the Government on the orders of the Act, Provincial People's Representative Council (DPRD), Governor, Regency/City Regional People's Representative Council (DPRD), Regent/Mayor, Village Head or the equivalent." The recognition of the existence of Village regulations and having binding legal force as long as they are ordered by higher regulations or formed based on (formal) authority.⁴⁵

The question that often arises from constitutional law academics is where are the Bank Indonesia Regulations, Agency Regulations, Institutional Regulations, or Commission Regulations stipulated by law or the government on the orders of the law, which Article 8 Section (1) of the Law on the Formation of Legislation is stipulated as a statutory regulation. There is a view that type of statutory regulation such as Bank Indonesia Regulations, Agency Regulations, Institutional Regulations, or Commission Regulations are positioned in parallel with Government Regulation (PP) because they both carry out the Act. However, there is also a view that these regulations actually exist under the law, but cannot be said to be in line with Government Regulations considering Article 5 Section (2) of the 1945 Constitution clearly states that regulations that are directly under the Act are only government regulations established by the government with the President as the head of government.⁴⁶ In practice, several times there have been conflicts between Bank Indonesia Regulations and other statutory regulations. For the example in Government Regulation Number.29 of 1999, regulates by allowing foreign parties to buy a maximum of 99% of shares in local banks, while Bank Indonesia Regulation Number.14/8/PBI/2012 stipulates that foreign parties can buy a maximum of only 40%, which one of the two regulations is higher.⁴⁷

The lack of a clear determination of the position of each type of legislation in the hierarchy of laws and regulations clearly contradicts the theoretical understanding that a legal norm is sourced and based on the above norms, but downwards it becomes the basis and becomes the source for the legal norms below it. So that a legal norm has a relative validity period of a legal norms depends on the legal norms above it. If the legal norms above it are revoked or deleted, then the legal norms below are revoked or deleted as well. For the various problems that exist regarding the hierarchy of statutory regulations, it is necessary to make efforts to put each type of legislation in the hierarchy. The way that can be done is by grouping various types statutory regulations into groups of legal norms. These groups of legal norms almost always exist in the arrangement of the legal norms of each country, although they have different legal norms in each group.⁴⁸

Hans Nawiasky classifies legal norms in a country into four major groups consisting of: Group I: *staatsfundamentálnorm* (fundamental norms of the state); Group II: *staatsgrundgezets* (basic rules/principles of the state); Group III: *formeele gezets* (formal laws); Group IV: *verordning* and *autonome satzung* (implementing rules and autonomous rules). The grouping of legal norms according to Hans Nawiasky above, when applied and translated in the Indonesian context, is found to be classify as follows: *staatsfundamentálnorm* (Pancasila); *staatsgrundgezets* (state ground rules); *formeele gezets* (formal laws); *verordning* and *autonome satzung* (autonomous rules and regulations).⁴⁹

⁴⁵ Kadek Wijayanto et.al, "Kedudukan Peraturan Desa Dalam Sistem Pembentukan Peraturan Perundang Undangan Nasional," *Jurnal Ius Civile* 4, no. 2 (2020):page 206–207.

⁴⁶ Bayu Dwi Anggono, "Tertib Jenis, Hierarki, Dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan Dan Solusinya", *Op.Cit.*, 5.

⁴⁷ Retno Saraswati, "Problematisa Hukum Undang-Undang No.12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Jurnal Yustisia* 2, no. 3 (2013): 101.

⁴⁸ Bayu Dwi Anggono, "Tertib Jenis, Hierarki, Dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan Dan Solusinya", *Op.Cit.*, 6.

⁴⁹ M. Saoki Oktava, "Eksistensi Ketetapan MPR/S Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia," *Jurnal Ius V*, no. 1 (2017): 123.

According to the grouping of legal norms, all types of laws and regulations basically be included in the hierarchy. For this reason, the hierarchy of laws and regulations in Indonesia should consist of: 1). the 1945 Constitution; 2). UU/Perppu; 3). PP; 4). Perpres/Regulation of State Institutions; 6). Provincial Regulations/Regency/City Regional Regulations; 7). Village Regulations or called by other names.

Authority of Bank Indonesia to Make Decisions of the Governor of Bank Indonesia (Beschikking).

The definition of *beschikking* is a written decree issued by a state administrative agency or official (TUN) that contains TUN legal actions, based on applicable laws and regulations, which are concrete, individual and final, and cause legal consequences for a person or entity. civil law. Thus, the elements of determination are: a. written determination; b. issued by a state administrative agency or official; c. contains TUN legal actions based on laws and regulations; d. concrete, individual, and final; e. cause legal consequences for a person or civil legal entity (Article 1 point 9 of Law No. 51 of 2009 concerning the State Administrative Court (UU PTUN)).⁵⁰

The written decree is that the state as a general power could make three kinds of decisions that are legally binding legal subjects with those decisions.⁵¹ The three kinds of decisions referred to are general and abstract decisions that are regulating (*regeling*), individual and concrete decisions that are or contain administrative decisions (*beschikking*).⁵² Or a decision in the form of a judge's verdict which is commonly referred to as a court decision.⁵³ Decree (*beschikking*) is issued by a state administrative agency or official. The definition of state administrative body or official in Article 1 point 8 of the Administrative Court Law is an agency or official who carries out government affairs based on the applicable laws and regulations.⁵⁴

Determination (*beschikking*) contains TUN legal actions based on statutory regulations.⁵⁵ TUN legal action is a legal action of a state administrative body or official, which is based on a TUN legal provision, which can cause legal consequences regarding government affairs against a person or civil legal entity.⁵⁶ Determination (*beschikking*) is concrete, individual, and final. Concrete in nature means that the object decided in the State Administrative Decree is not abstract, but tangible, certain or can be determined. Individual nature means that state administrative decisions are not intended for the general public, but are addressed to certain people, parties, or certain legal subjects including the address and the destination. It is final, meaning that it is definitive and therefore can lead to legal consequences. Cause legal consequences for a person or civil legal entity. The purpose of "causing legal consequences" is to cause legal consequences for TUN, because a written determination issued by a state administrative agency or official that gives rise to legal consequences contains state administrative legal actions. For determination (*beschikking*),

⁵⁰ Muhammad Adiguna Bimasakti, "Pembaruan Undang-Undang Peradilan Tata Usaha Negara Pasca-Reformasi Di Era Peradilan Elektronik," *Jurnal Hukum PERATUN* 3, no. 2 (2020): 118–19.

⁵¹ Gede Marhaendra Wija Atmaja, *Prinsip Dan Teknik Penyusunan Keputusan Administrasi Pemerintahan: Pendekatan Teoritik, Kaidah, Dan Praktik* (Bali: Fakultas Hukum Universitas Udayana Denpasar, 2015), 3.

⁵² Ahmad Gelora Mahardika, "Politik Hukum Hierarki Tap MPR Melalui Amandemen Undang-Undang Dasar 1945," *Jurnal Legislasi Indonesia* 16, no. 3 (2019): 346.

⁵³ Sandro Unas, "Kajian Yuridis Terhadap Bentuk Putusan Hakim Dalam Tindak Pidana Korupsi," *Jurnal Lex Et Societatis* VII, no. 4 (2019): 59.

⁵⁴ Muhammad Amin Putra, "Keputusan Tata Usaha Negara Yang Berpotensi Menimbulkan Akibat Hukum Sebagai Objek Sengketa Di Pengadilan Tata Usaha Negara," *Jurnal Hukum PERATUN* 3, no. 1 (2020): 3.

⁵⁵ Pery Rehendra Sucipta, "Kekuatan Hukum Kebijakan Pemerintah Daerah Dalam Menerbitkan Keputusan (Beschikking) Dihubungkan Dengan Penerapan Asas Praesumptio Iustae Causa," *Jurnal Selat* 2, no. 1 (2014): 203.

⁵⁶ Dola Riza, "Keputusan Tata Usaha Negara Menurut Undang-Undang Peradilan Tata Usaha Negara Dan Undang-Undang Administrasi Pemerintahan," *Jurnal Bina Mulia Hukum* 3, no. 1 (2018): 88.

the Governor of BI must form it according to the provisions Legislation has the authority to make it.⁵⁷

Procedures and Procedures for Establishing Bank Indonesia Regulations

Article 1 point 2 of the P3 Law provides the definition of Legislation, "Legislation is a written regulation that contains legally binding norms in general and is formed or stipulated by state institutions or authorized officials through the procedures set out in the Procedures stipulated in the Regulations. Legislation". "Procedures stipulated in the Legislation" is meant that the Legislative Regulations such as Laws, for example, must be established through formalities or procedures (procedures) as determined/regulated in the Constitution, and the P3 Law.⁵⁸

Article 1 point 1 of the P3 Law states the meaning of the formation of Legislation, namely the making of Legislation which includes the stages of planning, drafting, discussing, ratifying or determining, and enacting.⁵⁹ Although the types of laws and regulations are not limited to the types mentioned in Article 7 paragraph (1) of the P3 Law, unfortunately the P3 Law only regulates the procedures for the formation of laws and regulations contained in Article 7, namely UU/Perppu, PP, Perpres, and bylaws. The procedures for establishing laws and regulations outside of Article 7 paragraph (1), including the laws and regulations in Article 8 paragraph (1) of the P3 Law are not regulated in detail. The P3 Law does not mention how the stages of planning, preparation (harmonization), discussion, and stipulation of the laws and regulations referred to in Article 8 paragraph (1) of the P3 Law are, including the BI regulations in it.⁶⁰

Article 97 of the P3 Law only mentions the preparation techniques and/or forms regulated in the P3 Law, which applies *mutatis mutandis* to the techniques for the preparation and/or form of Presidential Decrees, MPR Leadership Decisions, DPR Leadership Decisions, DPD Leadership Decisions, Supreme Court Decisions, Decisions of the Chief Justice of the Constitutional Court, Decisions of the Head of KY, Decisions of the Head of the BPK, Decrees of the Governor of BI, ministerial decisions, decisions of heads of agencies, decisions of heads of institutions, or decisions of the head of a commission at the same level, decisions of the leadership of the provincial DPRD, governor's decisions, decisions of the leadership of the Regency/Municipal DPRD, decisions the regent/mayor, the decision of the village head or the equivalent.

The void in the regulation regarding the procedure for the formation of laws and regulations as stated in Article 8 paragraph (1) of the P3 Law, is covered by the regulation in Presidential Regulation No. 87 of 2014 concerning Implementing Regulations of the P3 Law. However, Presidential Decree No. 87 of 2014 also does not comprehensively regulate the procedures or stages of the formation of the laws and regulations mentioned in Article 8 paragraph (1) of the P3 Law, and only regulates the planning stages. Article 44 of Presidential Regulation No. 87 of 2014 regulates the planning for the preparation of other laws and regulations, namely: (i) Planning for the preparation of other laws and regulations is an authority and is adjusted to the needs of each institution, commission, or agency; (ii) Planning for the preparation of other laws and regulations as referred to in paragraph (1) is prepared based on orders from higher laws and regulations or based on authority; (iii) Planning for the preparation of other laws and regulations as referred to in paragraph (1) shall be stipulated by a decision of the head of the respective institution, commission, or agency for a period of 1 (one) year. In Article 9 Paragraph (1) Bank Indonesia Regulation

⁵⁷ La Sina, "Kedudukan Keputusan Tata Usaha Negara Dalam Sistem Hukum Indonesia," *Jurnal Hukum Pro Justitia* 28, no. 1 (2010): 68.

⁵⁸ Rio Trifo Inggiz et.al, "Kedudukan Surat Edaran Dikaitkan Dengan Undang-Undang Nomor 15 Tahun 2019 Juncto Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan," *Jurnal Dialektika Hukum* 1, no. 1 (2019): 5-6.

⁵⁹ Daniel Samosir, "Faktor-Faktor Yang Menyebabkan Materi Muatan Undang-Undang Bertentangan Dengan UUD 1945," *Jurnal Konstitusi* 12, no. 4 (2015): 779.

⁶⁰ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, Op.Cit., 70.

No.18/42/PBI/2016, it is regulated regarding the stages of establishing a PBI including: a. planning; b. preparation; c. discussion; d. determination; e. promulgation; and f. dissemination.

Public Participation in Formation of Bank Indonesia Regulations

If we trace the term community participation, we can find it in various terms. Some of them mention community participation in terms of *inspraak* (Dutch) and public participation (English). Community participation is defined as the participation of the community, both individually and in groups, to actively participate in determining public policies or laws and regulations. As a concept that has developed in the modern political system, participation is a space for the community to negotiate in the policy process, especially those that have a direct impact on people's lives.⁶¹

According to Mas Achmad Santosa, participatory public decision-making is beneficial so that the decisions taken truly reflect the needs, interests and desires of the wider community.⁶² Associated with the formation of laws and regulations, in addition to providing space for the community to find out early on the possible implications of the formation of laws and regulations, public participation is needed to ensure that the interests of the community are not ignored in the formation of laws and regulations.⁶³

Samuel P. Huntington and Joan M. Nelson, define community participation as a tool in expressing the values that develop in society to be poured into a regulation. Then it is also explained that:⁶⁴

..., of course the level of accommodation is also based on the needs and interests of the community. This is important because like it or not, like it or not, laws and regulations become an authoritative tool to regulate people's lives. A regulation that has behavioral power will bind the community

From the various views of these experts, community participation in the process of forming laws and regulations is the implementation of the principle of consensus, namely the people's agreement to carry out their obligations and bear the consequences of the relevant laws and regulations..⁶⁵ As stated by A. Hamid S. Attamimi, the formation of laws and regulations must be considered as the first step to achieve the goals that are mutually agreed upon between the government and the people.⁶⁶ In this sense, the said consensus must involve the community in the process of preparing and discussing the draft law to be drafted, so that the desired objectives can be achieved.⁶⁷

Bagir Manan suggested five parameters of community participation in the process of forming laws and regulations, namely: involving a team of experts or working groups; conduct public hearings; conduct valid tests on certain parties to obtain responses; conduct workshops before discussing the legislators; and publish regulations for public opinion.⁶⁸ However, Community Participation as regulated in Article 28 of the PBI does not seem to involve community participation seriously. This can be seen in Article 28 of the PBI, Paragraph (1) In the context of preparing the draft PBI and the draft Regulation of the Members of the Board of Governors (PADG), the Initiating Work Unit invites the relevant agencies, institutions, or other parties to obtain input orally and/or in writing. (2) Requests

⁶¹ Saldi Isra, *Pergeseran Fungsi Legislasi Menguatnya Model Legislasi Parlemen Dalam Sistem Presidensial Indonesia* (Jakarta: PT. Rajagrafindo Persada, 2010), 282.

⁶² Mas Achmad Santosa, *Good Governance Dan Hukum Lingkungan* (Jakarta: ICEL, 2001), 138.

⁶³ Saldi Isra, *Op.Cit.*, 283.

⁶⁴ Yuliandri, *Asas-Asas Pembentukan Perundang-Undangan Yang Baik: Gagasan Pembentukan Undang-Undang Berkelanjutan* (Jakarta: PT Rajagrafindo Persada, 2009), 187.

⁶⁵ *Ibid.*, 197.

⁶⁶ A Hamid S Attamimi, "Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintahan Negara: Suatu Studi Analisa Mengenai Keputusan Presiden Yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I-Pelita IV" (Universitas Indonesia, 1990).

⁶⁷ Yuliandri, *Op.Cit.*, 187.

⁶⁸ Bagir Manan, *Menyongsong Fajar Otonomi Daerah* (Yogyakarta: Pusat Studi Hukum Fakultas Hukum Universitas Islam Indonesia, 2004), 85-86.

for input to relevant agencies, institutions, or other parties as referred to in paragraph (1) shall be made before: a. the PBI draft is requested for approval from the Board of Governors' Meeting (RDG); or b. The PADG draft requires the approval of the members of the Board of Governors in charge of the Initiating Work Unit. (3) The provisions as referred to in paragraph (1) do not apply to the preparation of draft PBI and draft PADG containing Bank Indonesia policies that are confidential and/or which have a negative impact if known to the public before the policy is issued by BI. This violates the principle of public participation in the formation of laws and regulations, unless it is determined by law as a discussion of confidential matters.

For this reason, it is necessary for BI to require the Public Participation of Academics in the Establishment of PBI. This must be done by BI in the context of responding to the constitutional mandate, providing law and justice for the community is a condition sine qua non in the formation of laws and regulations. That is why, laws and regulations must be able to emphasize aspects of real public participation from the community. This aspect of public participation can then be designed through the preparation of academic manuscripts. Through academic texts, the norms to be formed can be scientifically accounted for in public. Because the academic text contains three things, namely:

1. Studies and Arguments that meet academic standards in a systemic, holistic and futuristic way;
2. The reasons behind the birth of normative ideas based on philosophical, juridical and sociological considerations;
3. Inventory and identification of problems that occur in the community which contains the reasons, facts, and background of the problem against a regulation that is really needed by the community.

Of course, to construct the three contents of the PBI academic text, elements or elements are needed that can compose the PBI properly. These elements include academics, experts, practitioners, consultants and representatives of civil society. One of the elements that is often involved in the preparation of the academic manuscript is academics. Academics or often referred to as scientists are free and autonomous human beings. Free to do learning and research by upholding truth and honesty. No exception scientists / academics in the field of law.

With such beliefs, academics are considered as capable and competent in drafting PBI. However, the problem today is the freedom and autonomy of academics, especially legal academics, in recent years being tested with various different ways of thinking in the preparation of academic texts. Of course, different ways of thinking or views are a natural thing in the academic world. However, differences in ways of thinking that have been directed and sided with one interest, are no longer solely for the public interest, this is the end of the root of the problem. This is because, in practice, academic manuscripts are not always objective, in fact many are solely due to projects between the Government and Faculties/Universities (disclaimer: but the author does not turn a blind eye to many good academic text). That is why, the 'academic' level of a PBI must also be tested through participatory discussions with a civil society perspective. Therefore, even though academics have different attitudes about how their knowledge is applied, the differences are quite limited to the realm of assessing and providing views on the process. Meanwhile, to formulate legal politics, there is not enough reason for academics for academics to disagree. However, the preparation of an academic draft of a bill must rely on the principles and principles of the formation of good laws and regulations. Moreover, one of the scientific mandates that must not be released by an academic is that science is for the benefit of the people, not the other way around. That is where the essence of the autonomy and freedom of the academic pulpit must be placed.

That's why, the freedom of academics in the preparation of academic manuscripts is not merely procedural and quasi-procedural through public examinations and the making of objective academic manuscripts, but also places the legal needs and aspirations of the

people on it. Making laws and regulations must be anchored by data, documents, testimonies, experiences (especially victims and vulnerable groups) as well as holistic analysis in order to strengthen the substance of the legislation. Therefore, if you want to amend the P3 Law, you should increase the degree of public participation in the law-making process which is not only in the form of socialization and consultations that are quasi and procedural in nature, but need to involve partnerships with the power of civil society and academia, especially in discussion of legislation with the dimension of 'people's needs', so as not to let legislation (again have occurred) hijacking 'public needs' in order to satisfy the lust of 'oligarchy-predatory needs'.

Whereas formally, Article 18 of the P3 Law has mandated that to determine the process for the birth of a law, it can be sourced from: the order of the Constitution; TAP MPR order; other law orders; national development planning system; long-term development planning system; medium term development planning system; the government's work plan and the DPR's strategic plan; and finally the aspirations and legal needs of the community. Based on the above, in an effort to strengthen the agenda setting in the process of forming laws, it is necessary to be based on strong policy research. And the results of this research then become the academic basis that determines the basis, urgency and relevance of a law. However, it must be realized that no matter how carefully the identification of the problem is carried out and no matter how sharp the formulation of the problem is in the academic text, it will not necessarily lead to change if the public does not perceive it as a serious problem. Awareness and agreement on this problem is what is meant as a stream of problems. When the relevant parties feel that there is a problem and the analysis that moves the current policy succeeds in offering an accurate formulation, then there is only a prospect that the problem will become the public agenda.

Of course to formulate it all, academics are required to be more perfectionist and comprehensive in the stages of preparing the academic manuscript. This is because academic freedom and autonomy are free from practical political influences and are scientific in nature. In this regard, there are several important messages to convey about the importance of the scientific thought of an academic in the preparation of academic texts which are then normalized in a law.

CLOSING

From the discussion above, it can be concluded that, firstly, BI only has the authority to form delegation regulations, meaning that BI's authority to form laws and regulations can only be carried out if there is a delegation of authority to form regulations carried out by higher laws and regulations. Second, Types of Legislation such as Bank Indonesia Regulations, BI Regulations, independent state commission regulations in parallel order with the Presidential Regulation. Third, the Governor of BI can make TUN decisions in accordance with his authority. Fourth, in Article 9 Paragraph (1) of Bank Indonesia Regulation No.18/42/PBI/2016, it is regulated regarding the stages of establishing a PBI including: a. planning; b. preparation; c. discussion; d. determination; e. promulgation; and f. dissemination. Fourth, Article 28 of the PBI prioritizes meaningful public participation in the process of its formation, especially when it involves academics in the formation of the PBI. For this reason, according to the author, academics need to be empowered by Bank Indonesia in the Establishment of Bank Indonesia in the Framework of Improving the Indonesian Legislative System.

BIBLIOGRAPHY

- A Hamid S Attamimi. "Peranan Keputusan Presiden Republik Indonesia Dalam Penyelenggaraan Pemerintahan Negara: Suatu Studi Analisa Mengenai Keputusan Presiden Yang Berfungsi Pengaturan Dalam Kurun Waktu Pelita I-Pelita IV." Universitas Indonesia, 1990.

- Achmad Roestandi. *Mahkamah Konstitsi Dalam Tanya Jawab*. Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2005.
- Agnes Fitryantica. "Harmonisasi Peraturan Perundang-Undangan Indonesia Melalui Konsep Omnibus Law." *Jurnal Gema Keadilan* 6, no. III (2019): 311.
- Ahmad Basarah. "Kajian Teoritis Terhadap Auxiliary State's Organ Dalam Struktur Ketatanegaraan Indonesia." *Jurnal Masalah-Masalah Hukum* 43, no. 1 (2014): 28.
- Ahmad Gelora Mahardika. "Politik Hukum Hierarki Tap MPR Melalui Amandemen Undang-Undang Dasar 1945." *Jurnal Legislasi Indonesia* 16, no. 3 (2019): 346.
- Ari Wirya Dinata. "Bank Sentral Dalam Sistem Ketatanegaraan Indonesia." *Jurnal UBELAJ* 1, no. 1 (2017): 61.
- Ari Wuisang. "Kedudukan Bank Sentral Dan Peraturan Bank Indonesia Dalam Ketatanegaraan Indonesia." *Jurnal PALAR (Pakuan Law Review)* 7, no. 1 (2021): 54.
- Bagir Manan. *Dasar-Dasar Sistem Ketatanegaraan Republik Indonesia Menurut UUD 1945*. Bandung: Universitas Padjadjaran, 2007.
- . *Menyongsong Fajar Otonomi Daerah*. Yogyakarta: Pusat Studi Hukum Fakultas Hukum Universitas Islam Indonesia, 2004.
- Bayu Dwi Anggono. *Perkembangan Pembentukan Undang-Undang Di Indonesia*. Jakarta: Konstitusi Press, 2014.
- . *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*. Jakarta: Konstitusi Press, 2020.
- . "Tertib Jenis, Hierarki, Dan Materi Muatan Peraturan Perundang-Undangan: Permasalahan Dan Solusinya." *Jurnal Masalah-Masalah Hukum* 47, no. 1 (2018): 7–8.
- Bivitri Susanti. "Menyoal Jenis Dan Hierarki Peraturan Perundang Undangan Di Indonesia." *Jurnal Jentera* 1, no. 2 (2017): 141.
- Choky R. Ramadhan. "Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum." *Jurnal Mimbar Hukum* 30, no. 2 (2018): 214.
- Crince Le Roy. *Kekuasaan Ke-Empat Pengenalan Ulang, Diterjemahkan Oleh Soehardjo*. Jakarta: Yayasan Dharma Bakti, 1981.
- Daniel Samosir. "Faktor-Faktor Yang Menyebabkan Materi Muatan Undang-Undang Bertentangan Dengan UUD 1945." *Jurnal Konstitusi* 12, no. 4 (2015): 779.
- Dendy Sugono. *Kamus Bahasa Indonesia*. Jakarta: Pusat Bahasa Departemen Pendidikan Nasional, 2008.
- Dian Agung Wicaksono. "Implikasi Re-Eksistensi Tap MPR Dalam Hierarki Peraturan Perundang-Undangan Terhadap Jaminan Atas Kepastian Hukum Yang Adil Di Indonesia." *Jurnal Konstitusi* 10, no. 1 (2013): 158–59.
- Dola Riza. "Keputusan Tata Usaha Negara Menurut Undang-Undang Peradilan Tata Usaha Negara Dan Undang-Undang Administrasi Pemerintahan." *Jurnal Bina Mulia Hukum* 3, no. 1 (2018): 88.
- Donny Ardyanto. "Korupsi, Demokrasi Dan Kapitalisme: Sebuah Manifesto Bagi Gerakan Sosial Anti Korupsi." *Jurnal Kriminologi Indoesia* 2, no. I (2002): 19.
- Gede Marhaendra Wija Atmaja. *Prinsip Dan Teknik Penyusunan Keputusan Administrasi*

Pemerintahan: Pendekatan Teoritik, Kaidah, Dan Praktik. Bali: Fakultas Hukum Universitas Udayana Denpasar, 2015.

I Gde Pantja Astawa dan Suprin Na'a. *Dinamika Hukum Dan Ilmu Perundang-Undangan Di Indonesia.* Bandung: Alumni, 2008.

I Ketut Cahyadi Putra. "Relevansi Konsep Negara Hukum Pancasila Dengan Welfare State Dalam Implementasinya Dengan Pelayanan Publik Di Indonesia." *Jurnal Magister Hukum Udayana* 6, no. 1 (2017): 2.

Jimly Asshiddiqie. *Konstitusi Dan Konstitusionalisme Indonesia.* Jakarta: Mahkamah Konstitusi Republik Indonesia dan Pusat Studi Hukum Tata Negara Fakultas Hukum Universitas Indonesia, 2004.

———. *Perihal Undang-Undang.* Jakarta: Rajawali Pers, 2010.

———. *Perkembangan, Dan Konsolidasi Lembaga Negara Pasca Reformasi.* Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006.

Kadek Wijayanto et.al. "Kedudukan Peraturan Desa Dalam Sistem Pembentukan Peraturan Perundang Undangan Nasional." *Jurnal Ius Civile* 4, no. 2 (2020): 206–7.

Lely Savitri Dewi. "Kajian Independensi Bank Indonesia Dalam Kedudukannya Sebagai Bank Sentral Menurut Tinjauan Hukum Berdasarkan UUBI Nomor 3 Tahun 2004 Tentang Bank Indonesia." *Jurnal Coopetition* IX, no. 1 (2018): 47.

M. Saoki Oktava. "Eksistensi Ketetapan MPR/S Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia." *Jurnal Ius V*, no. 1 (2017): 123.

M. Solly Lubis. *Landasan Dan Teknik Perundang-Undangan.* Bandung: Alumni, 1977.

M Jeffri Arlinandes Chandra. "Kewenangan Bank Indonesia Dalam Pengaturan Dan Pengawasan Perbankan Setelah Terbitnya Undang-Undang No 21 Tahun 2011 Tentang Otoritas Jasa Keuangan." *Jurnal Hukum Sehasen* 1, no. 1 (2015): 28.

Maqdir Ismail. *Bank Indonesia Dalam Perdebatan Politik Dan Hukum.* Yogyakarta: Navila Idea, 2005.

Maria Farida Indrati. *Ilmu Perundang-Undangan: Jenis, Fungsi Dan Materi Muatan.* Yogyakarta: Kanisius, 2007.

Mas Achmad Santosa. *Good Governance Dan Hukum Lingkungan.* Jakarta: ICEL, 2001.

Miriam Budiardjo. *Dasar-Dasar Ilmu Politik.* Jakarta: PT. Gramedia Pustaka Utama, 2012.

Muhammad Adiguna Bimasakti. "Pembaruan Undang-Undang Peradilan Tata Usaha Negara Pasca-Reformasi Di Era Peradilan Elektronik." *Jurnal Hukum PERATUN* 3, no. 2 (2020): 118–19.

Muhammad Amin Putra. "Keputusan Tata Usaha Negara Yang Berpotensi Menimbulkan Akibat Hukum Sebagai Objek Sengketa Di Pengadilan Tata Usaha Negara." *Jurnal Hukum PERATUN* 3, no. 1 (2020): 3.

Mukhlis Taib. *Dinamika Perundang-Undangan Di Indonesia.* Bandung: PT. Refika Aditama, 2017.

Nur Basuki Winarno. *Penyalahgunaan Wewenang Dan Tindak Pidana Korupsi.* Yogyakarta: Laksbang, 2008.

Padmo Wahjono. *Indonesia Negara Berdasarkan Atas Hukum.* Jakarta: Ghalia Indah, 1986.

———. *Sistem Hukum Nasional Dalam Negara Hukum Pancasila: Pidato Ilmiah Pada*

- Peringatan Dies Natalis Universitas Indonesia Ke-33*. Jakarta: CV.Rajawali, 1992.
- Pery Rehendra Sucipta. "Kekuatan Hukum Kebijakan Pemerintah Daerah Dalam Menerbitkan Keputusan (Beschikking) Dihubungkan Dengan Penerapan Asas Praesumptio Iustae Causa." *Jurnal Selat* 2, no. 1 (2014): 203.
- Putra Perdana Ahmad Saifulloh. "Peran Perguruan Tinggi Dalam Menumbuhkan Budaya Anti Korupsi Di Indonesia." *Jurnal Hukum & Pembangunan* 47, no. 4 (2017): 461.
- Rachmat Trijono. *Dasar-Dasar Ilmu Pengetahuan Perundang-Undangan*. Depok: Papas Sinar Sinanti, 2013.
- Retno Saraswati. "Problematisasi Hukum Undang-Undang No.12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan." *Jurnal Yustisia* 2, no. 3 (2013): 101.
- Rio Trifo Inggiz et.al. "Kedudukan Surat Edaran Dikaitkan Dengan Undang-Undang Nomor 15 Tahun 2019 Juncto Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan." *Jurnal Dialektika Hukum* 1, no. 1 (2019): 5-6.
- Rosjidi Ranggawidjaja. *Pengantar Ilmu Perundang-Undangan Di Indonesia*. Bandung: Alumni, 1998.
- Saldi Isra. *Pergeseran Fungsi Legislasi Menguatnya Model Legislasi Parlementer Dalam Sistem Presidensial Indonesia*. Jakarta: PT. Rajagrafindo Persada, 2010.
- Sandro Unas. "Kajian Yuridis Terhadap Bentuk Putusan Hakim Dalam Tindak Pidana Korupsi." *Jurnal Lex Et Societatis* VII, no. 4 (2019): 59.
- Sina, La. "Kedudukan Keputusan Tata Usaha Negara Dalam Sistem Hukum Indonesia." *Jurnal Hukum Pro Justitia* 28, no. 1 (2010): 68.
- Sudargo Gautama. *Pengertian Tentang Negara Hukum*. Bandung: Alumni, 1983.
- Sulis Diyanto dan Sudiyana. "Optimalisasi Perlindungan Hukum Investor Oleh Lembaga Self Regulatory Organization Pasar Modal Terhadap Dampak Pandemi Coronavirus Disease 2019." *Jurnal Kajian Hasil Penelitian Hukum* 5, no. 2 (2021): 87.
- Supriyadi Widodo Eddyono dan Indriaswati Dyah Saptaningrum. "Catatan Umum Atas Keberadaan Komisi Negara Di Indonesia." *Jurnal Legislasi Indonesia* 4, no. 3 (2007): 125.
- Yuliandri. *Asas-Asas Pembentukan Perundang-Undangan Yang Baik: Gagasan Pembentukan Undang-Undang Berkelanjutan*. Jakarta: PT Rajagrafindo Persada, 2009.
- Zainal Arifin Mochtar. *Lembaga Negara Independen: Dinamika Perkembangan Dan Urgensi Penataannya Kembali Pasca Amandemen Konstitusi*. Jakarta: Rajawali Pers, 2016.

