



Strengthening the Managerial Roles of Bank Indonesia as a Lender of Last Resort in Facing National Economic Uncertainty

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Article History	Abstract
Received: 06 June 2023 Revised: 05 Sept 2023 Accepted: 28 Oct 2023	<p><i>Indonesia is currently in uncertainty regarding national economic development. The government has taken various preparatory steps to prevent negative impacts on the national economy. However, these efforts still need to be supported by law to provide certainty for policymakers in carrying out their duties and authorities, including Bank Indonesia (BI) as Lender of Last Resort (LoLR). This research explores, discovers, and analyzes legal issues related to BI's role as LoLR in overcoming the economic crisis. Methodologically, this analysis uses normative legal research methods with a conceptual approach and a statutory approach in building its arguments. The findings show the need to strengthen legal certainty regarding BI's authority as LoLR. This includes a Government Regulation instead of Law followed up by issuing a Joint Decree between the Minister of Finance, BI, and Law Enforcement Institutions.</i></p> <p>Keywords: Bank Indonesia, Lender of Last Resort, Economic Development, National Economy</p>
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1. Introduction

As an institution that links between the government and the banking system, one of the roles [1] of the central bank is as a lender of last resort (LoLR) to maintain the integrity of the financial system based on the precautionary principle [2]. Indonesia's central bank is Bank Indonesia, whose regulations are based on various statutory regulations. Among them; 1) Article 23D of the 1945 Constitution of the Republic of Indonesia (1945 Constitution);[3] 2) Law Number 23 of 1999 concerning Bank Indonesia[4] as amended several times[5], most recently with Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector[6] (Bank Indonesia Law); And 3) Law Number 9 of 2016 concerning the Prevention and Handling of Financial System Crisis[7] as amended by Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (UU PPKSK).

The various statutory regulations above underline the existence, function, and authority of Bank Indonesia as the central bank. However, in regards to its role as LoLR, it should be noted that current national laws still need to provide a clear understanding of LoLR from a juridical perspective [8]. Its existence is not only a logical consequence of Bank Indonesia's objectives [9] but also its duties [10] and authority [11].

The absence of such understanding means that the current laws limit Bank Indonesia's LoLR role in providing funds to banks. This can be seen from the provisions of Article 35 B of the Bank Indonesia Law and its explanation. Bank Indonesia's role as LoLR can be implemented through one of its main tasks and still abiding to the functions of the central bank as a banker to government [12]. One of them can be seen from the policy of providing loans through the purchase of Government Securities (SBN) in the primary market to mitigate the financial crisis in mitigating the impact of the coronavirus disease 2019 (COVID-19) [13].

The limited laws and regulations in Indonesia regarding the role of the central bank as LoLR indicate that the implementation of this policy creates an opportunity for policy criminalization. In the context of purchasing SBN to overcome the impact of COVID-19, the potential for such criminalization can be seen from the existence of various problems. This is because the average maturity period for SBN issued

by the government is 12 years, however, Law Number 2 of 2020 concerning Government Regulations in Lieu of Law (Perppu) Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the Coronavirus Disease Pandemic (COVID-19) and/or in the context of facing threats that endanger the National Economy and/or Financial System Stability [14] (Law No. 2 of 2020) which is the legal basis for the policy, is only valid through until the end of 2022. This situation shows that the current Indonesian legal system does not guarantee legal certainty regarding implementation of LoLR by Bank Indonesia. Without legal certainty, Bank Indonesia's role as the central bank in maintaining financial system stability will always overshadow the threat of policy criminalization. This condition underlies the conduct of this research, in which this research aims to support the role of Bank Indonesia as LoLR through legal certainty, to realize the state's goals as stated in the Fourth Paragraph of the Preamble to the 1945 Constitution [15]. This research uses postulates by Gustav Radbruch's theory on the fundamental value of law [16] and Walter Bagehot's views on LoLR [17].

2. Materials And Methods

This legal research was prepared using normative juridical methods [18] and supported by economic analysis. This study aims to analyze the quality of legal norms through the perspective of normative reality and concrete events [19] in obtaining the truth [20]. This research aims to answer problems related to legal certainty regarding Bank Indonesia's role as LoLR in implementing the burden-sharing policy, especially in overcoming the economic crisis that occurred during the pandemic. This research uses a statutory approach [21] and a conceptual approach [22] in its discussion.

3. Results and Discussion

Pandemic and its Challenges for the National Economy

An economic crisis is when the market economy collapses, affecting other societal sectors. A crisis can occur in the short term, medium term, or long term based on developments in the situation and conditions before or during the crisis. Economic crises generally occur due to financial problems experienced by a country. [23] However, this does not mean that other aspects, such as politics, security, and health, cannot be the cause of the crisis. An example of this would be COVID-19 pandemic that not only occurred in Indonesia, but also worldwide.

The COVID-19 pandemic has forced the Government to implement Large-Scale Social Restrictions (PSBB), which include health charts as an essential indicator that must be considered alongside the economy and defense. The situation at the time required the handling of COVID-19 to be carried out in an extraordinary manner and at the expense of the national economy. Restrictions on community activities during the pandemic have disrupted the supply chain, not only in regards to demand and supply, but also a decline in people's income, demand for consumption, business bankruptcy, as well as an increase in unemployment, thus creating an economic crisis.

The economic crisis resulting from the COVID-19 pandemic is far more complex than the crises in 1997-1998 and 2008-2009. The complexity of the situation at the time cannot be separated from the fact that the spread of COVID-19 could not yet be controlled [24]. This uncertainty forced the Ministry of Finance to be realistic in preparing the economic growth scenario for 2020, which is as follows:

INDIKATOR	APBN	SKENARIO		KOMPONEN PDB PENGELUARAN (%)	APBN	SKENARIO	
		BERAT	SANGAT BERAT			BERAT	SANGAT BERAT
Pertumbuhan PDB (% yoy)	5,3	2,3	-0,4	Konsumsi RT	5,0	3,22	1,60
Harga ICP (USD/barel)	63	38	31	Konsumsi LNPRT	-1,6	-1,78	-1,91
Nilai Tukar Rupiah (Rp/USD)	14.400	17.500	20.000	Konsumsi Pemerintah	4,3	6,83	3,73
Inflasi (%)	3,1	3,9	5,1	PMTB	6,0	1,12	-4,22
				Ekspor	3,7	-14,00	-15,60
				Impor	3,2	-14,50	-16,65
				Pertumbuhan PDB	5,3	2,3	-0,4

Figure 1. Outlook Scenario for Main Macroeconomic Indicators

Source: Ministry of Finance (2020)

From the figure above, the Ministry of Finance predicts that Indonesia's economic growth in 2020 will reach negative numbers in a very severe scenario (-0.4). However, the dynamics of the economy and society in its development shows a situation much worse than the initial predictions, due to the continued decline in national economic growth from the 1st to the 4th quarter. The continuing decline in economic growth in 2020 has made Indonesia enter a recession, as can be seen from the figure as follows:

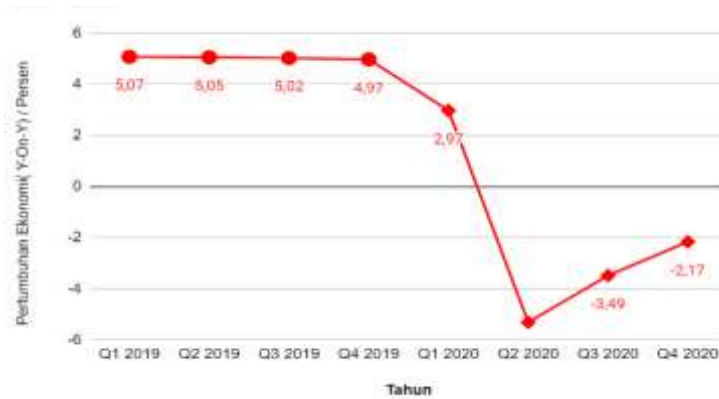


Figure 2. Indonesia's Economic Growth in 2019-2020

Source: BPS (processed data)

The weakening of the Rupiah exchange rate also exacerbated poor economic growth throughout 2020, where it weakened by an average of -14.88%. In the financial markets, pressure is visibly seen from the increase in SBN yields and correction in the stock market, that are in line with increasing concerns on the impact of the COVID-19 pandemic. The Composite Stock Price Index (IHSG) also recorded a correction of 26.7%. The overall SBN yield is at the level of 7.45%. The yield on corporate bonds with an AAA rating also decreased by an average of 13 bps. [25]

Burden Sharing as a Policy for Overcoming the Impact of the Economic Crisis

Burden sharing is a joint responsibility between the Government and Bank Indonesia [26]. Its implementation is carried out to support crisis management in a country by buying and selling securities between the government and the central bank [27]. In its capacity as a policy, burden sharing is nothing new, as it has been done by Indonesia before as a measure to speed up the completion of Bank Indonesia Liquidity Assistance (BLBI) in 2003[28]. The burden-sharing policy in dealing with COVID-19 is based on Law Number 2 of 2020 concerning the Stipulation of Government Regulations instead of Law Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the 2019 Coronavirus Disease (COVID-19) Pandemic and /or To face threats that endanger the national economy and/or the stability of the financial system into law[29] (Law No. 2 of 2020), a cooperation agreement between the Director General of Financing and Risk Management of the Ministry of Finance and the Deputy Governor of BI (PKS Ministry of Finance and Bank Indonesia), and a Joint Decree (SKB) between the Minister of Finance and the Governor of BI, which consist of:

- 1) Joint Decree of the Minister of Finance and the Governor of BI Number 190/KMK.08/2020 and Number 22/4/KEP.GBI/2020 concerning SBSN Schemes and Mechanisms in the Primary Market to Maintain Continuous State Financial Management as Implementation of Perppu Number 1 of 2020 concerning State Financial Policy and Financial System Stability for Handling the COVID-19 Pandemic and/or in the context of Facing Threats that Endanger the National Economy and/or Financial System Stability (SKB I);
- 2) Joint Decree of the Minister of Finance of the Republic of Indonesia and the Governor of BI Number 326/KMK.08/2020 and Number 22/8/KEP.GBI/2020 concerning Scheme and Coordination Mechanism for Purchases of SUN and/or SBSN by BI in the Primary Market and Distribution of Cost Burden in the Context of Financing Handling the Impact of the COVID-19 Pandemic and National Economic Recovery (SKB II) And
- 3) Joint Decree of the Minister of Finance and the Governor of BI regarding Coordination Schemes and Mechanisms between the Government and Bank Indonesia in the Context of Financing Health and Humanitarian Treatment to Handle the Impact of the 2019 Coronavirus Disease (COVID-19) Pandemic

Through Purchases in the Primary Market by Bank Indonesia of Government Debt Securities and/or Government Sharia Securities Issued by the Government (SKB III).

In implementing the burden-sharing policy, Bank Indonesia purchased SBN amounting to IDR 974.09 trillion up until November 2022[30]. These funds are used to support various crisis management efforts, which have significantly burdened the state budget [31]. To prevent substantial limitations in government performance at the time [32], the Government and Bank Indonesia continued to coordinate in formulating the appropriate policy to suit the country's conditions at the time. This aims to ensure that monetary and fiscal policies can ensure Indonesia's economic development continues as expected.[33] Burden sharing is principally related to Bank Indonesia's support for funding the State Revenue and Expenditure Budget (APBN) in financing goods and non-public goods [34]. This is done by strengthening its coordinating role [35] and implementing Bank Indonesia's LoLR function through the purchase of SBN [36] in the primary market [37], whilst still maintaining the integrity of the market. Due to this policy, the total number of SBN purchases made by Bank Indonesia reached IDR 694.97 trillion on September 27, 2022.

Legal Issues in the Burden Sharing Policy

One of Bank Indonesia's involvement in the burden-sharing policy is based on the LoLR role of the central bank. However, different to LOLR which is currently interpreted as providing loan facilities to banks experiencing liquidity difficulties and functions to avoid financial crises [38], the implementation of LoLR in this policy has expanded. This is because the party receiving support of liquidity is not the bank but is actually the government, to reassure investors and prevent market loss [39].

Such expansion means that the burden-sharing policy is only partially welcomed by the public, although similar events have happened in several countries [40]. The rejection of this policy is understandable, [41] because apart from affecting the independence of the central bank [42], burden sharing can endanger the central bank's financial balance sheet [43] and economic stability [44], hence encouraging moral hazard in APBN financing [45]. Implementing LoLR in this way is still in line with the central bank's existence as an institution designed to prevent financial crises [46]. Loans in the LoLR context differ from loans in general [47], because it's aim is to save the financial system [48], a system constantly experiencing uncertainty. LoLR is the central bank's response to market behavior that is in shock. In the Indonesian context, the implementation of the LoLR role by Bank Indonesia is currently based on several provisions, which include:

- 1) Article 10 Paragraph (2) of the Bank Indonesia Law states that in determining and implementing monetary policy, Bank Indonesia has the authority to carry out various policies, including those not explicitly mentioned in this provision;[49]
- 2) Article 10 Paragraph (3) of the Bank Indonesia Law, which requires Bank Indonesia to coordinate with the government, authorities, and relevant stakeholders in determining and implementing monetary policy;[50]
- 3) Article 11 of the Bank Indonesia Law states that the scope of liquidity management carried out by Bank Indonesia is not only limited to monetary policy but also to support economic growth [51]. The implementation of Bank Indonesia's authority can be carried out without limitation by purchasing or selling SBN in the secondary market, placing funds in financial institutions in the context of Money Market development, minimum statutory reserve policy, and various monetary policy [52] which take into account macroeconomic conditions [53], as well as implementing good governance [54]; And
- 4) Article 55 Paragraph (4) and Paragraph (5) essentially prohibit Bank Indonesia from purchasing SBN in the primary market, except:
 - a. Short-term SBN needed for monetary control operations; And
 - b. SBN issued to provide emergency financing facilities.

The various provisions above are a form of acceptance of the provisions of Article 10 Paragraph (1) and Article 11 Paragraph (4) of the Bank Indonesia Law before it was revised by the Financial Sector Development and Strengthening Law [55], which was in effect when the burden sharing policy was implemented in 2020 to 2022. Therefore, implementing this policy does not deviate from the Bank Indonesia Law. This is also supported by Law Number 2 of 2020, the Cooperation Agreement between the Ministry of Finance and Bank Indonesia, SKB I, SKB II, and SKB III, and several Presidential Decrees that underlie the pandemic emergency at that time. As a central bank, Bank Indonesia is an independent state institution that is not interfered by the government [56]. However, this independence

does not mean that Bank Indonesia can carry out its duties freely, because it still requires to abide Article 23D of the 1945 Constitution and the entire state constitution.

The correlation between the Bank Indonesia Law and the 1945 Constitution (Pancasila) above shows that Bank Indonesia was formed to realize justice in the context of a welfare state. Implementing Bank Indonesia's role as LoLR in the burden-sharing policy during the economic crisis can be understood as a way to uphold its values of justice and state goals. As a welfare state, Indonesia is a country that is not only based on law [57] but also uses law as a means to achieve justice [58] by maximizing the role of beneficial values [59]. Just like the law, the state exists for the people, and not vice versa [60]. It would be wrong if implementing Bank Indonesia's authority had to be shackled by a narrow interpretation of the LoLR based on concepts, doctrine, and whether or not the terminology is explicitly included in the statutory regulations.

The motivation and aim of Bank Indonesia's LoLR role in the burden-sharing policy is the value of justice and benefit [61]. Therefore, this value should be reflected in the policy's objectives and the implementation process. Legal certainty is needed throughout statutory regulations to achieve justice. The previous explanation stated that the burden-sharing policy between Bank Indonesia and the Government was based on Law Number 2 of 2020, PKS Ministry of Finance and Bank Indonesia, SKB I, SKB II, SKB III. Apart from that, the implementation of the burden-sharing policy is also in line with Law Number 9 of 2016 concerning the Prevention and Handling of Financial System Crises [62] (Law on the Prevention and Handling of Financial System Crises), both before and after being amended by Law Number 4 of 2023 concerning Development and Strengthening of the Financial Sector (UU PPSK) [63]. However, the publication of Constitutional Court Decision Number 37/PUU-XVIII/2020 (MK Decision No. 37/PUU-XVIII/2020) means that the values of justice and benefit of the burden-sharing policy cannot be realized optimally. This decision distorts the guarantee of legal certainty because its substance concerns several matters. Among them are:

- 1) Statement that Law Number 2 of 2020 only applies as long as the President still declares the status of the COVID-19 as a pandemic; And
- 2) UU no. 2 of 2020 is only valid for two years from its promulgation.

The limited validity period of Law No. 2 of 2020 means that Article 27 of the law cannot fully provide legal protection for policymakers from the threat of criminalization in the future. Although purchasing SBN by BI through the primary market at the time was possible based on Article 55 Paragraph (4) and Paragraph (5) of the Bank Indonesia Law, not all parties (especially economists and legal experts) agreed on the economic conditions underlying the implementation of this policy due to various reasons (e.g., differences in perspectives or lack of understanding). The average maturity period for SBN based on SKB I, SKB II, and SKB III is 12 years or more, after Law No. 2 of 2020 is no longer valid at the end of 2022. These problems can potentially mislead law enforcement, that the burden-sharing policy, especially the purchase of SBN in the primary market by the central bank, has caused financial losses to the State [64].

Condition of the State Debt in Response to Economic Challenges during the Pandemic

The provisions of Article 1 Number 6 of Law Number 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations [65] (Law No. 37 of 2004) define debt as an obligation that can be expressed in terms of money, either directly or which will arise at a later date, or contingencies resulting from agreements or laws that the Debtor must fulfill and, if not fulfilled, give the Creditor the right to obtain fulfillment from the Debtor's assets. The definition of debt as such has the same understanding as the term state debt. However, unlike the usual interpretation of debt, state debt is issued or guaranteed by the government [66].

Debt [67] is one source of state financing. The management of the financing is carried out by the Minister of Finance in his authority as State General Treasurer [68]. As a source of financing, the government can use debt to cover the budget deficit by issuing SBN and Republic of Indonesia Bonds (ORI) [69]. For example, during the economic crisis, the pandemic damaged the global and national economies. The situation at the time made the State issued Law No. 2 of 2020, in which the regulation included the government's authority to do the following: [70]

- 1) Set a limit for the APBN deficit to exceed 3% of Gross Domestic Product (GDP) during the period of handling COVID-19, or facing threats that endanger the national economy, or financial system stability until the end of the 2022 Fiscal Year [71];
- 2) Adjust the amount of mandatory spending [72];

- 3) Shift the budget between units in organization, between functions, or between programs;[73]
- 4) Carry out other actions that result in APBN expenditure [74];
- 5) Issuing SBN for a specific purpose, especially in the COVID-19 pandemic, so that it can be purchased by central banks, State-Owned Enterprises (BUMN), corporate investors, and/or retail investors.[75]

Law No. 2 of 2020, in its development, has become the legal basis for issuing SKB I, SKB II, and SKB III. The issuance of the various SKBs aims to save Indonesia from the crisis arising from the pandemic. However, this policy increased debt by IDR 1,295 trillion, or an increase of 27% compared to the previous year, as can be seen below:

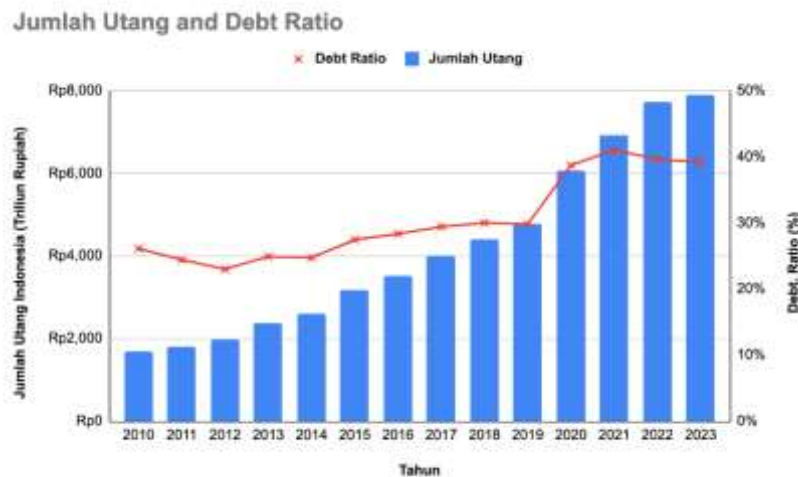


Figure 2. Debt Ratio and Total Debt in Indonesia 2010-2023

On the one hand, the value of the debt appears to increase. However, it should be noted that the main indicator for assessing the debt condition of a country is based on the debt to gross domestic product (GDP) ratio. From a debt-to-GDP ratio perspective, Indonesia's debt level from 2010 to 2019 was relatively stable at around 20 to 30 percent of GDP. This amount is still far from the limit set in Law Number 17 of 2003 concerning State Finances [76] (UU No. 17 of 2003) [77]. However, easing the budget deficit and the sale of SBN caused Indonesia's debt rating to drop to investment grade level (BBB) with a stable outlook [78]. What is certain is that the issuance of SKB I, SKB II, and SKB III has increased one of the components that make up Indonesia's debt composition.

Strengthening Legal Certainty Guarantees to Address National Economic Challenges

Regulation of legal certainty in the provisions of Article 27 of Law No. 2 of 2020 aims to optimize overcoming the economic crisis by the legal system. The legal system, in this case, is not limited to the system of statutory regulations but is a system that involves the role of regulations, institutions, and human resources within it [79]. The guarantee of legal certainty cannot only be seen from the perspective of statutory regulations as a collection of texts but to what extent the law can protect Ministries and State Institutions and their personnel from misuse of the law for various reasons. Legal protection based on Article 27 of Law No. 2 of 2020 exists because the law that guarantees in provisions of Article 48 and Article 49 of the Financial System Crisis Prevention and Handling Law were deemed insufficient, considering that the economic crisis at that time originated from the health sector, not the financial sector as happened in 1965, 1998, and 2008. Meanwhile, the implementation of the non-retroactive principle based on the provisions of Article 28I of the 1945 Constitution [80] and Article 1 Paragraph (1) of the Criminal Code (KUHP) [81] is not always consistent in practice. The existence of such problems shows the need for legal policies to be pursued by the following:

- 1) Incorporate the substance of Article 27 of Law No. 2 of 2020 into the revision of the Bank Indonesia Law;
- 2) Strengthening guarantees of legal certainty for policymakers through the use of SKB instruments that involve not only Bank Indonesia and the Ministry of Finance but also other stakeholders such as the Financial Services Authority, the Supreme Audit Agency, and law enforcement institutions (Police, Prosecutor's Office, Corruption Eradication Commission, and Courts Agung) during the crisis; And
- 3) Support the implementation of the impunity articles contained in the revision of the Bank Indonesia Law and other financial system laws by issuing Circular Letters in each law enforcement institution.

These various efforts must be made to prevent the criminalization of policies in various ways, and to prevent the rigid application of the law.

4. Conclusion

The burden-sharing policy implemented by Bank Indonesia and the Government in dealing with the economic crisis during the pandemic is one form of implementing the central bank's role as LoLR. In normative juridical terms, this policy is based on Law no. 2 of 2020, PKS Ministry of Finance and Bank Indonesia, SKB I, SKB II, and SKB III. Burden sharing is a policy that aims to maintain economic stability and continuity of the government. However, the current arrangement is not supported by legal certainty after the issuance of Constitutional Court Decision No. 37/PUU-XVIII/2020, which limits the validity period for Law No. 2 of 2020. The problem of policy criminalization can occur regarding implementing burden sharing under the pretext of state losses. Therefore, the government should provide guarantees of legal certainty by:

- 1) Incorporate provisions that resemble the substance of Article 27 of Law No. 2 of 2020 into the revision of the Bank Indonesia Law;
- 2) Use of SKB instruments involving Bank Indonesia, Ministry of Finance, Financial Services Authority, Financial Audit Agency, and law enforcement institutions; And
- 3) Issuance of Circular Letters in each law enforcement institution that prohibits law enforcement from being directed at criminalizing policies.

References:

1. The role of the central bank includes as a circulation bank, agent bank, and advisor to the Government, holder of commercial bank reserves, holder of state gold and deviation reserves, bank that provides rediscounts and lender of last resort (LoLR), transfer, clearing and final settlement centers (settlement), and credit control. Indonesian Central Bank Research and Education Center, *Introduction to Central Banking: Theory and Practice in Indonesia*, ed. Iskandar Simorangkir, Rajawali Press, Jakarta, 2014, p. 15; Compare with Bank Negara Malaysia, "About the Bank – Introduction," <https://www.bnm.gov.my/introduction>, accessed April 4, 2023, at 12.30 WIB.
2. This is related to the function of the central bank as: (1) Issuer of money or legal means of payment to answer people's needs; (2) implementing and formulating monetary policy; (3) Banking service providers, government agents, and government loan managers; (4) Custodian of commercial bank reserves and completes interbank clearing transactions; (5) Maintaining the integrity of the financial system and acting as an emergency LoLR and banking prudential supervisor; (6) Implementing Government policies in the field of exchange rates and as custodian of reserves foreign exchange the country and assisting the country in managing foreign exchange reserves; (7) Policy makers to encourage economic growth; (8) Government advisor related to economic policy; (9) Institutions participating in international monetary regulatory cooperation; and (10) Implementing other functions based on the close relationship between the central bank and the Government. Indonesian Central Bank Research and Education Center, *Ibid.*, p. 16-17; Compare with Gail Rolland, *Market Players: A Guide to the Institution in Today's Financial Markets*, John Wiley and Sons, West Sussex, 2011, p. 59.
3. The provisions of Article 23D of the 1945 Constitution read: "The state has a central bank whose composition, position, authority, responsibility and independence are regulated by law."
4. State Gazette of the Republic of Indonesia of 1999 Number 66; Supplement to the State Gazette of the Republic of Indonesia Number 3843.
5. Previously amended by Law Number 3 of 2004 concerning Amendments to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia (State Gazette of the Republic of Indonesia of 2004 Number 7; Supplement to the State Gazette of the Republic of Indonesia Number 4357).
6. State Gazette of the Republic of Indonesia 2023 Number 4; Supplement to the State Gazette of the Republic of Indonesia Number 6845.
7. State Gazette of the Republic of Indonesia 2023 Number 70; Supplement to the State Gazette of the Republic of Indonesia Number 5872.
8. See Theresia Anita Christiani, *Bank Indonesia's Function as the Lender of the Last Resort within the Framework of Law no. 9 of 2016 concerning Prevention and Handling of Financial System Crisis*, Cahaya Atma Pustaka, Yogyakarta, 2017, p. 25-26.
9. The provisions of Article 7 of the Bank Indonesia Law state that Bank Indonesia's objectives are to achieve stability in the value of the rupiah, maintain payment system stability, and contribute to maintaining financial system stability in order to support sustainable economic growth.
10. In Article 8 of the Bank Indonesia Law, Bank Indonesia's duties are: (1) Establishing and implementing monetary policy in a sustainable, consistent and transparent manner; (2) Regulate and maintain the smooth running of the payment system; and (3) Establish and implement macroprudential policies.
11. See Chapter IV, Chapter V and Chapter VI of the Bank Indonesia Law.
12. Regarding the role of central banks as government bankers, see A.P. Faure, *Central Banking and Monetary Policy: An Introduction*, Quoin Institute Limited, Grahamstown, 2013, p. 40-41.

13. Esti Retnowati, "Synergy between BI and the Government, Agree on Burden Sharing to Handle the Impact of Covid-19 in Indonesia," <https://www.djkn.kemenkeu.go.id/berita/baca/21127/Sinergi-BI-dan-Pemerintah-Sepakati-Burden-Sharing-Guna-Tangani-Dampak-Covid-19-di-Indonesia.html>, accessed April 6 2023, at 14.15 WIB.
14. State Gazette of the Republic of Indonesia 2020 Number 134; Supplement to the State Gazette of the Republic of Indonesia Number 6516.
15. The fourth paragraph of the Preamble to the 1945 Constitution reads: "Furthermore, to establish an Indonesian State Government which protects the entire Indonesian nation and all Indonesian blood and to promote general welfare, educate the life of the nation, and participate in implementing world order based on freedom and peace, eternal and social justice, then the Indonesian National Independence was formulated in the Constitution of the State of Indonesia, which was formed in the structure of the Republic of Indonesia which is the sovereignty of the people based on the belief in one God, just and civilized humanity, the unity of Indonesia and the people who led by wisdom in Deliberation/Representation, and by realizing social justice for all Indonesian people."
16. According to Gustav Radbruch, law aims to realize three basic values consisting of justice, legal certainty and benefit. If the law fulfills these three values, then the objectives of the law can be said to have been achieved because the law has been able to realize itself ideally. See Inge Dwiswimiar, "Justice in the Philosophy of Legal Science Perspective," *Journal of Legal Dynamics*, Vol. 11, no. 3, Jenderal Soedirman University, 2011 p. 522-531.
17. Walter Bagehot in his view states that when providing loans by the central bank, three principles must be taken into account, namely: (1) Freedom in providing loans; (2) Use of high interest rates; and (3) Security guarantees to prevent and overcome market panic. See Walter Bagehot, *Lombard Street: A Description of the Money Market*, Hyperion Press, New York, 1979.
18. Normative legal research is the process of finding legal rules, legal principles, and legal doctrines in answering the legal issues faced. Peter Mahmud Marzuki, *Legal Research*, Kencana, Jakarta, 2010, p. 35.
19. Krismiyarsi, "Study of the Normative Legal Science Approach and Empirical Legal Science as Two Complementary Approaches," *Legal Issues*, Vol. 44, no. 1, January 2015, Diponegoro University, 2015, p. 114.
20. See Richard L. Kirkham, *Theories of Truth: A Critical and Comprehensive Introduction*, trans. M. Khozim, Nusa Media, Bandung, 2013, p. 72.
21. The statutory approach is an approach to normative legal research carried out by examining all statutory regulations related to the legal issue being analyzed. Peter Mahmud Marzuki, *Op. Cit.*, p. 35.
22. The conceptual approach is a normative legal research approach carried out by examining doctrines, ideas, concepts and legal principles that are relevant to the legal issue at hand. *Ibid.*, p. 135.
23. Keumala Sari's daughter, Fakhrudin, "Identification Causes of the Monetary Crisis and Central Bank Policy in Indonesia: Cases of the Crisis Years (1997-1998 and 2008)," *Scientific Journal of Development Economics Students, Unsyiah Faculty of Economics and Business*, Vol. 1, No. 2, November 2016, Syiah Kuala University, 2016, p. 379.
24. Katadata, "Sri Mulyani Calls Covid-19 More Complex than the 1998 and 2008 Crisis", [Sri Mulyani Says Covid-19 is More Complex than the 1998 and 2008 Crisis - Makro Katadata.co.id](https://www.katadata.co.id/news/2023/07/27/sri-mulyani-calls-covid-19-more-complex-than-the-1998-and-2008-crisis), accessed on July 27 2023, at 15.30 WIB.
25. See Bank Indonesia, *First Quarter Monetary Policy Report*, Bank Indonesia, Jakarta, 2020.
26. CNN Indonesia, "Understanding Burden Sharing, BI-Government Cooperation that IMF 'Narrowed'," <https://www.cnnindonesia.com/ekonomi/20220128132558-532-752451/memahami-burden-sharing-kerja-sama-bi-pemerintah-yang-disempit-imf>, accessed April 10 2023, at 10.09 WIB.
27. See Ocbcnisp.com, "Understanding Burden Sharing and its Impact on the Indonesian Economy," <https://www.ocbcnisp.com/id/article/2023/02/15/burden-sharing-adalah#:~:text=Burden%20sharing%20adalah%20attempts%20for,load%20during%20pandemi%20COVID%2D19.>, accessed April 10 2023, at 10.39 WIB.
28. On 1 August 2003, the Government and Bank Indonesia agreed on several things as follows: (1) To settle BLBI amounting to IDR 144.5 trillion, the Government issued a letter debt new as a replacement for old debt letters without carrying out further verification. These debt securities are government bonds which came into effect on August 1 2003, without indexation, and have a term of 30 years and can be extended. These bonds bear annual interest of 0.1% per year from the remaining principal of state bonds, non-tradable and owned by Bank Indonesia until maturity; (2) Repayment of state bonds comes from the Bank's surplus Indonesia which is part of the Government and is carried out if the ratio of capital to monetary liabilities of Bank Indonesia has reached above 10%; (3) In the event that the ratio of capital to Bank Indonesia's monetary obligations is less than 3%, the Government shall pay a charge to Bank Indonesia in the amount of the lack of funds required to achieve that capital ratio. The charge paid by the Government is revenue for Bank Indonesia, not as a capital injection. If Bank Indonesia's capital ratio is equal to or above 3% but is below or equal to 10%, then the Government does not need to provide a budget to pay charge to Bank Indonesia; (4) Bank Indonesia Suggested to remain not subject to tax, and the government account balance at Bank Indonesia is proposed to remain not subject to tax, and the Government account balance at Bank Indonesia is proposed to remain interest-free; (5) With Handled the agreement, thendral Previously regarding the BLBI settlement dated 17 November 2000

- and 11 June 2002 were revoked and declared invalid. Bank Indonesia History Writing Team, *Bank Indonesia in the Journey of Indonesian Economic Development 1953-2003*, Bank Indonesia, Jakarta, 2009, p. 462.
29. State Gazette of the Republic of Indonesia 2009 Number 7; Supplement to the State Gazette of the Republic of Indonesia Number 4962.
 30. Cantika Adinda Putri, "3 Years Duet Burden Sharing BI and Srimul, Value IDR 1,144 T," <https://www.cnbcindonesia.com/market/20221121141048-17-389874/3-tahun-duet-burden-sharing-bi-srimul-nilainya-rp1144-t>, accessed November 21 2022, at 11.25 WIB.
 31. Regarding this, see Arrijal Rachman, "Confiding in Sri Mulyani: Twists and Twists of 3 Years of Burden Sharing with BI," <https://www.cnbcindonesia.com/news/20230109132049-4-403977/curhat-sri-mulyani-lika-liku-3-tahun-burden-sharing-sama-bi>, accessed April 11 2023, at 11.33 WIB.
 32. Related to this, see Arrijal Rachman, "Confiding in Sri Mulyani: Twists and Twists of 3 Years of Burden Sharing with BI," <https://www.cnbcindonesia.com/news/20230109132049-4-403977/curhat-sri-mulyani-lika-liku-3-tahun-burden-sharing-sama-bi>, accessed April 11 2023, at 11.33 WIB.
 33. Paul Soetopo Tjokronegoro, "Central Bank Independence in Maintaining Economic Stability," *Economic Analysis of Law in the Indonesian Legal System: Collection of Writings 2018-2021*, Diadit Media, Jakarta, 2022, p. 177.
 34. Fika Nurul Ulya, "Bank Indonesia: Public Goods Financing Can Be Extended Next Year." <https://money.kompas.com/read/2020/10/13/181616226/bank-indonesia-pembiayaan-public-goods-bisa-diperpanjang-tahun-depan>, accessed April 11 2023, at 12.49 WIB.
 35. This is done in the case of: (1) Purchase of SBN repo belonging to the Deposit Insurance Corporation; (2) Regulation of the obligation to receive and use foreign exchange for residents; and (3) Cast access to corporate funding through SBN repo.
 36. The types and characteristics of SBN issued are long-term, tradable and marketable SBN.
 37. The purchase was carried out using several schemes, namely the main auction scheme, green shoe option and private placement. Fika Nurul Ulya, "Loc. Cit.," accessed April 11 2023, at 12.38 WIB.
 38. Iman Sugema, Iskandar Simorangkir, "The Role of the Lender of Last Resort (LoLR) in the Economy: An Empirical Study of Bank Indonesia Liquidity Assistance (BLBI)," *Bulletin of Monetary Economics and Banking*, Vol. 7, no. 1, June 2004, Bank Indonesia, 2004, p. 55.
 39. Lihat Paolo Cavallino, Fiorella de Fiore, "Central Banks Response to COVID-19 in Advanced Economies," *BIS Bulletin*, No. 21, Bank of International Settlements, Basel, 2020.
 40. Examples include Chile, Colombia, Hungary, India, South Korea, Mexico, Poland, Romania, the Philippines and South Africa. In India, for example, purchases of SBN in the primary market by the Central Bank contribute to 0.2% of India's GDP so that the market remains liquid, stable and functions normally. Meanwhile, similar policies in the Philippines and Türkiye were implemented to strengthen the mechanism transition monetary policy to increase the liquidity of the state bond market and maintain public confidence in state bonds. Look Yavuz Arslan, Mathias Drehmann, Boris Hofmann, "Central Bank Bond Purchases in Emerging Market Economies," *BIS Bulletin*, No. 20, Bank of International Settlements, Basel, 2020, hlm. 3.
 41. For example, see Novita Intan, "IMF asks Bank Indonesia to stop helping to finance the 2022 APBN," <https://ekonomi.republika.co.id/berita/r6bjkr423/imf-minta-bank-indonesia-setop-bantu-pembiayaan-apbn-2022>, accessed April 13 2023, 15.00 WIB.
 42. This is because the burden sharing policy has the potential to be used by the Government to pressure the central bank to meet fiscal goals which could complicate the central bank's task of maintaining stability from where giving rise to high inflation. Abinawa Putri, "IMF Implicit Criticism Regarding Burden Sharing in Developing Countries," https://hotstock.id/views/web/insights_read/kritik-implisit-imf-terkait-burden-sharing-di-negara-berkembang, accessed April 13 2023, at 15.08 WIB
 43. Kuntum Khaira Riswan, "CORE Economist Values "Burden Sharing Is Indeed the Role of Bank Indonesia," <https://www.antaraneews.com/berita/2684021/ekonom-core-nilai-burden-sharing-memang-peran-bank-indonesia>, accessed April 13 2023, at 15.16 WIB.
 44. Hendra Friana, "IMF Criticizes Bank Indonesia and Ministry of Finance 'Burden Sharing' Scheme," <https://www.fortuneidn.com/news/friana/imf-kritik-skema-burden-sharing-bank-indonesia-dan-kemenkeu>, accessed April 13 2023, at 15.18 WIB.
 45. It is said to be a moral hazard because the burden sharing policy can also be used to finance deficits in unproductive state spending. Irawati, "The Next BI Governor Must Have the Courage to Reject Burden Sharing, Can Sri Mulyani?," <https://infobanknews.com/gubernur-bi-selanjutnya-harus-berani-tolak-burden-sharing-sri-mulyani-bisa/>, accessed April 13 2023, 15.13 WIB; See also Iwan Purwantono, "Burden Sharing Makes the Government Spoiled and Potentially a Moral Hazard," <https://www.inilah.com/burden-sharing-bikin-pemerintah-manja-dan-potensi-moral-hazard>, accessed April 13 2023, at 15.21 WIB.
 46. See Walter Bagehot, *Op. Cit.*;
 47. Similar thinking in the process also underlies the need for an international institution that acts as a LoLR when a country's central bank fails to handle a crisis. See Frank C. Genovese, "Introduction," *Lombard Street: A Description of the Money Market*, Hyperion Press, Inc., Westport, Connecticut, 1979, p. v-xii; See

- also Maurice Obstfeld, *Lenders of Last Resort in a Globalized World*, Center for Economic Policy Research, Paris, London, Brussels, 2009.
48. Based on John Maynard Keynes' view that in a situation of rapid economic decline, the government and central bank have an obligation to provide stimulation and encouragement from external sources to replace the lack of funds in the private sector. Rowan Williams, Larry Elliot, *Crisis and Recovery: Ethics, Economics, and Justice*, Palgrave Macmillan, London, 2010, hlm. 46-47.
 49. The full text of Article 10 Paragraph (2) of the Bank Indonesia Law reads: "In determining and implementing monetary policy as intended in Article 8 letter a, Bank Indonesia has the authority to: a. managing interest rates; b. managing exchange rates; c. managing liquidity; d. managing foreign exchange traffic; e. managing the country's foreign exchange reserves; f. regulate, supervise and develop the Money Market and Foreign Exchange Market; and g. determine and implement other monetary policies."
 50. The full text of Article 10 Paragraph (3) of the Bank Indonesia Law reads: "In order to exercise the authority as intended in paragraph (2), Bank Indonesia carries out: a. regulation, supervision, inspection and imposition of sanctions; b. accountable policy communication and transparency; and c. policy coordination with the Government, authorities and relevant stakeholders."
 51. See Article 11 Paragraph (1) of the Bank Indonesia Law.
 52. Article 11 Paragraph (2) of the Bank Indonesia Law.
 53. Article 11 Paragraph (3) of the Bank Indonesia Law.
 54. Article 11 Paragraph (4) of the Bank Indonesia Law.
 55. The provisions of Article 10 Paragraph (1) of the Bank Indonesia Law before being revised by the PPKSK Law stated that to determine and implement monetary policy, Bank Indonesia could exercise monetary control using methods that were not limited to: (1) Open market operations in money market, both rupiah and foreign exchange; (2) Determination of the discount rate; (3) Determination of GWM; and (4) Credit or financing arrangements. Meanwhile, the provisions of Article 11 Paragraph (4) of the Bank Indonesia Law before it was revised with the PPKSK Law stipulated that in order to prevent a crisis from occurring due to a bank experiencing financial difficulties, Bank Indonesia could provide emergency financing facilities, the funding of which would be borne by the Government.
 56. See Article 4 Paragraph (2) of the Bank Indonesia Law.
 57. See Article 1 Paragraph (3) of the 1945 Constitution; See also Padmo Wahjono, *State Science: Lectures by Padmo Wahjono*, SH at the Faculty of Law, University of Indonesia Jakarta, ed. Teuku Amir Hamzah, et. al., In-Hill Co., Jakarta, 2003, vol. 102.
 58. Based on Imam Anshori Saleh's views regarding the welfare state. See Imam Anshori Saleh, *Improving the Law from Proclamation to Reform: The Urgency of Prolegnas in National Legal Development*, Constitution Press, Jakarta, 2009, p. 13.
 59. Based on Harold J. Laski's views on the welfare state. Harold J. Laski, *Introduction to Political Science*, PT Pembangunan, Jakarta, 1964, p. 33.
 60. Based on Satjipto Rahardjo's view regarding progressive law that law exists for humans, not humans for the law. See Turiman, "Understanding Progressive Law Prof. Satjipto Rahardjo in the "Tawaf" Paradigm (A Contemplation of How to Realize Grounded Legal Theory / Grounded Theory Meng-Indonesia)," Paper, Law Doctoral Study Program, Diponegoro University, Semarang, 2010, p. 3.
 61. The existence of the value of justice (and benefit) as a driving force in this case is based on Jacques Derrida's view of justice as difference. See Kristanto Naku, "Should Justice be Born from the Law?," <https://thecolumnist.id/artikel/haruskah-keadilan-lahir-dari-hukum-1253>, accessed April 17 2023, at 10.30 WIB.
 62. State Gazette of the Republic of Indonesia 2016 Number 70; Supplement to the State Gazette of the Republic of Indonesia Number 5872.
 63. Look at and compare the provisions of Article 2, Article 3, Article 4 Paragraph (2), Article 5, Article 6, and Article 16 of the Financial System Crisis Prevention and Handling Law from before and after it was revised with the PPSK Law.
 64. This is related to the overcriminalization of policies carried out using statutory regulations in the criminal law system. For example, Article 2 and Article 3 of Law Number 39 of 1999 concerning the Eradication of Corruption Crimes (State Gazette of the Republic of Indonesia of 1999 Number 140; Supplement to the State Gazette of the Republic of Indonesia Number 3874) as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (State Gazette of the Republic of Indonesia of 2001 Number 134; Supplement to the State Gazette of the Republic of Indonesia Number 4150).
 65. State Gazette of the Republic of Indonesia of 2004 Number 131; Supplement to the State Gazette of the Republic of Indonesia Number 4443.
 66. Willa Wahyuni, "Getting to Know Indonesia's National Debt and State Causes In debt," <https://www.hukumonline.com/berita/a/kenali-utang-negara-indonesia-dan-penyebab-negara-berutang-1t62590e594bf93/>, accessed on July 28 2023, at 15.00 WIB.
 67. Based on the provisions of Article 1 Number 8 of Law Number 1 of 2004 concerning State Treasury (State Gazette of the Republic of Indonesia of 2004 Number 5; Supplement to State Gazette of the Republic of Indonesia Number 4355), State Debt is money that must be paid by the Central Government and/or

- Central Government obligations that can be valued in money based on applicable laws and regulations, agreements, or based on other valid reasons.
68. Article 7 Law Number 1 of 2004 concerning the State Treasury.
 69. [69] FacultyFrom economics Gadjah Mada University Business, "Answering Debt Concerns," <https://macroeconomicdashboard.feb.ugm.ac.id/menjawab-kekhawatiran-utang/>, accessed on July 6 2023, at 10.36 WIB.
 70. See Article 2 of Law no. 2 of 2020.
 71. Article 2 Paragraph (1) letter a number 1 of Law No. 2 of 2020.
 72. Article 2 Paragraph (1) letter b of Law No. 2 of 2020.
 73. Article 2 Paragraph (1) letter c of Law No. 2 of 2020.
 74. Article 2 Paragraph (1) letter d of Law No. 2 of 2020.
 75. Article 2 Paragraph (1) letter f of Law No. 2 of 2020.
 76. State Gazette of the Republic of Indonesia of 2003 Number 47; Supplement to the State Gazette of the Republic of Indonesia Number 4286.
 77. See Explanation of Article 12 and Article 17 of Law no. 17 of 2003.
 78. Arif Gunawan, "This is Fitch's Comment on RI's Debt-Based Stimulus," <https://www.cnbcindonesia.com/market/20200407160820-17-150357/ini-komentar-fitch-soal-stimulus-ri-yang-berbasis-utang>, accessed on July 7 2023, at 10.08 WIB.
 79. Based on the view of Lawrence M. Friedman which states that the legal system consists of legal substance, legal structure and legal culture. See Abdul Halim Barkatullah, "Community Legal Culture from a Legal System Perspective," UKSW Journal, <http://eprints.ulm.ac.id/138/>, Satya Wacana Christian University, 2014, p. 11.
 80. The provisions of Article 28I of the 1945 Constitution read: "(1) The right to life, the right not to be tortured, the right to freedom of thought and conscience, the right to religion, the right not to be enslaved, the right to be recognized as a person before the law, and the right to not being prosecuted on the basis of retroactive law is a human right that cannot be reduced under any circumstances. (2) Every person is free from discriminatory treatment on any basis and has the right to receive protection against such discriminatory treatment. (3) The cultural identity and rights of traditional communities are respected in line with developments over time and civilization. (4) Protection, promotion, enforcement and fulfillment of human rights is the responsibility of the state, especially the government. (5) To uphold and protect human rights in accordance with the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated and stated in statutory regulations."
 81. The provisions of Article 1 Paragraph (1) of the Criminal Code read: "An act cannot be punished, except based on the strength of existing criminal law provisions."