

# Land Bank and Food Sovereignty in Indonesia

Musleh Harry,<sup>1</sup> Ahmad Wahidi<sup>1</sup> and Musataklima<sup>1</sup>

<sup>1</sup>Fakultas Syariah Universitas Islam Negeri Maulana Malik Ibrahim, Malang, Indonesia

Keyword: Food, Land Bank, Indonesia.

**Abstract** This research focuses on two important issues for the continuity of Indonesia's existence as an agrarian country, namely related to the constitutional basis for the urgency of the policy of establishing a Land Bank in Indonesia and its relevance to legal protection of sustainable food agricultural land. The research method used normative law with a legislative approach that relies on secondary legal material obtained through literature study and analysed using qualitative descriptive methods. The research result are first, the constitutional basis for the urgency of the policy of the establishment of the Land Bank based on and realize the constitutional mandate of Article 33 Paragraph 3 of the 1945 Constitution which states that the earth, water and natural resources contain in it are controlled by the State and used for great prosperity of the people. This means that the common interests of the Indonesian people are greater than those of individual interests. Second, the relevance of the policy of land bank formation which will begin in 2017 with the protection of sustainable food agriculture are, *first*, it can be seen from the existence of this land bank that support the implementation of spatial planning in Indonesia, and the protection of sustainable food agricultural land is a mandate contained in the spatial law Article 48 of Law Number 26 of 2007 concerning spatial planning (State Gazette of the Republic of Indonesia of 2007 Number 68, Supplement to the State Gazette of the Republic of Indonesia Number 4725); *second*, the function of the land bank as an institution in providing land for the public interest and the existence of sustainable food agricultural land is one variant of public interest whose existence is to create sovereignty, resilience and food independence in Indonesia

## 1 INTRODUCTION

Indonesia is an agricultural country who is rich in agriculture, forestry and plantation, livestock and fisheries. This natural condition provides an opportunity for most Indonesian people in doing agriculture business and related to it. Agricultural activities are one of the most basic activities for humans, because everyone needs to eat every day. Agribusiness attempt development becomes a very strategic and important choice in line with the government's efforts to develop new sources of economic growth outside oil and gas.

But today, Indonesia is threatened with the loss of agricultural land as one of the conditions of an agrarian country, the faster population growth without being offset by the availability of existing land has caused various problems because of the high demand for land to be made a place of residence that is not offset by the availability of land, the land will never increase while land demand is always increasing. The implication is the shift in

the function of agricultural rice fields and then turned into a residential area which causes the narrowing of the cultivated land area and often results in a decrease in the level of farmers' welfare. Therefore, controlling the conversion of food agricultural land through the protection of food agricultural land is necessary.

Act No. 41 of 2009 concerning Protection of Sustainable Food Agriculture Land, is a legal basis for protecting food agricultural land on the condition that the agricultural land must be determined in advance as an area of sustainable food agriculture. Article 8 of Law No. 41 of 2009 which states that "in the case where there are food farms in the city, the land can be designated as Sustainable Food Farming Land to be protected". Article 25 paragraph (1) states that the Establishment of Sustainable Food Agricultural Land in urban areas as referred to in Article 8 is stipulated by Regional Regulation. (2) Determination of Sustainable Food Farming Land in the city area as referred to in paragraph (1) becomes the basis for zoning regulations to control the utilization of urban space (Law No. 31 of 2009

concerning the Protection of Sustainable Food Agriculture Land, 2009). The stipulation of sustainable food agricultural land will certainly come into contact with the lands owned by farmers, and the designated agricultural land will become eternal land in the duration of 20 years the land cannot be converted as stated in government regulations No. 1 of 2011 Article 35 states that land that has been designated as a sustainable food agricultural land is protected and prohibited from being converted.

In addition to the protection policy for sustainable food agriculture, the government also plans to issue a land bank policy as a land reserve for development in the public interest to ensure the certainty of the availability of land that will be projected for development goal (Ministry of National Development Planning, 2014). The writer has a hypothesis that the policy of the land bank that operates in 2017 has the relevance to the protection of sustainable food agricultural land, to test this hypothesis; the research with the title that has been presented is conducted.

## 2 METHOD

The research method used normative law with a legislative approach that relies on secondary legal material obtained through literature study and analysed using qualitative descriptive methods.

## 3 FINDING AND DISCUSSION

### 3.1 General Bank Concept

Land bank originated of 2 (two) terms: *land banking* and *land banks*. *Land banking* in a general could be translated in Indonesian language as "banking land", which is used to explain activities with a land bank. While the term of *land banks* is used to describe the existence institution or work that deliver institutions that act in the field procurement of the land. Based on some the sense described above, could concluded that land bank is something Policy that land where country through institution government or institution appointed independent by Government, authorized to (1) do acquisition to soil displaced or problematic, land that hasn't been developed and land that is considered have potency for development; (2) manage and arrange it while time; then (3)

distribute it back for interests general corresponding with government programs, both short and long term period.

According to Bernhard Limbong, based on conception and practice of land bank in a number of countries, the implementation of land bank could divided to within three (3) types:

1. Public of Land Bank (*General Land Banking*) addressed for interests development in the future of general nature, scale broad, and *non-profit*, to control disaster nature, defense country, and development city, reconstruction and relocation residents, expansion of agricultural areas, transmigration, and implementation of reformation agrarian;
2. Land Bank of Special Public (*Special Land Banking*) with scale more small and oriented on *public service* at once *profit oriented*, as infrastructure transportation land, sea, air, plantation, region industry, and housing cheap subsidized. Because is nature public, then institutional status second land bank that is can shaped land bank department or institution country, land bank government region/ government city, and BUMN/ BUMD land bank;
3. Private land banks that are *profit oriented*, especially land bank for support activities investment continues improving, like land bank for developer, region industry, center trade, and plantation.

Third alternative type of land bank as should adjusted with objectives to be achieved by the government. The land bank as alternative procurement soil could have some function, namely:

1. As Grouper Land (*Land Keeper*)  
As collector land, institutions of land bank do inventory to lands that were made object management of land bank. Besides activities collection land, land bank to collect and provide land records are complete, accurate, integrated and actual;
2. As Land Safety (*Land Warantee*)  
The land bank in carrying out its activities refers to a spatial plan to secure the provision, designation and utilization of land that has been determined based on a land use plan which is an integrated part of the existing spatial plan;
3. As Controller Land Control (*Land Purchaser*)  
Through activities which refers to the land bank on plan system space already set, then implementation begins from planning, utilization and control.

Through plan system space, land bank could do control to mastery soil so that mastery soil not centered on group society certain;

#### 4. As Business Land (*Land Manager*)

Land banks as conceptual land management activities must contain policies and strategies for optimizing the use and use of land, in order the existence of a land bank must be able to direct the development of land use;

#### 5. As Assessor Land (*Land Appraisal*)

Through land bank expected price and value soil could set and controlled corresponding with regulations applicable legislation;

#### 6. As Land Distributor (*Land Distributor*)

Activities land bank covers activities liberation land, ripening land, then distribution soil corresponding with allotment and its use.

The concept of a land bank already known and applied in several country Europe and America Union since 20th century. Land bank applied in each country different between one with that others. This happen because existence difference reasons behind emergence of land banks in each of them country that is. The Netherlands have the concept of a prominent land bank with regulation complete. As something idea new one yet arranged in a manner Specific in scale national, then implementation of land banks in the country Netherlands that is need studied for look How country that is set and apply the concept of a land bank, so could give away a clear picture for find concept of a land bank that can applied in Indonesia. Implementation the concept of a land bank in the Netherlands could reviewed of 4 (four) indicators, namely: (1) regulations, (2) types, (3) parties that organize, and (4) mechanisms organization.

#### 1. Land Bank Regulation

Regulation of land bank covers (a) Law Consolidated Land (*Land Consolidation Act*), 1954, (b) Law of Rural Development (*The rural area development Act*), 1985, and (c) Law Arrangement Rural Space (*Act on Spatial Structuring of the Rural Areas*), 2005.

#### 2. Type of Land Bank

In the Netherlands there are 2 (two) land banks which are vertical are under auspices of two (2) different ministries. Both land banks that is is a land bank public, so source financing pure originated from the budget government without there is mix hand from party private sector. The first land bank called *State Domain Services* was established on in 1841 below shade Minister Finance. Management of a land bank this decentralized with office scattered

throughout the region, land bank manage agriculture covering an area of 80,000 ha with task the main as the following : (a) development Policy land government , (b) management owned land by government , (c) sales soil the government .

Then on mid-20th century too established agency management soil government second named *Wieringermeer* or later called *Service of Issellake Polders* (RIJP). Agency this established in the environment Ministry Transportation and Water with aim manage "new " lands, that is lands dry out. One of them Lake the widest in the world named Flevopolder managed by agency this and still in stage development. Both banks owned land by Government Netherlands is a land bank manifold public that is automatic authority mastery the land absolute owned by country no other party.

#### 3. Parties in the Land Bank

In the Netherlands There are two (2) that both the land bank is a land bank the public. So that could confirmed not there is element private in system managing land banks in the Netherlands and all source financing for holding a land bank only originated from the budget the government .

#### 4. Mechanism Implementation of a Land Bank

Mechanism holding land banks in the Netherlands composed from 3 (three) stages, namely stage collection land, stage management soil and stage distribution the land. *Land Company Dienst* Program *Landelijk Gebied* as guidelines implementation land bank in the Netherlands, distinguishes method collection and management to distribution soil to in some categories, among others:

- a. Stages collection soil by *Exchange Land Bank*, where soil agriculture bought for saved while time, arrive happen exchange. This intended for develop structure agriculture to the countryside.
- b. Stage management soil by *Financial Instrument*, where land bank rent soil for while or permanent to the farmer or other organizations for maintain system space. Category this already not many used in the sector agriculture. Category this already not many used in the sector agriculture.

Stage distribution soil or *Land Bank as Developer*, where form activities change function from something region as source income. Function soil used for needs housing (*real estate*), development city, source power nature, recreation and so on. Usually category this used in environment urban area big and do by sector private as form

investment, with change region agriculture to be region industry. With purchase a number of land, expected change function and plan system room create enhancement value soil and potency benefits.

### 3.2 The Concept of Social Justice in the Implementation of a Land Bank

Gustav Radbruch argues that the purpose of the law must be understood as the basis and binding for the formation of legislation. There are 3 (three) basic values of law which are known as legal ideals, in which the law must fulfill these basic values, namely: justice, usability, and legal certainty. As a basic value that must be fulfilled, then the instrument for setting up future land banks must be able to accommodate the fulfillment of these three basic values.

Good law must provide justice, because the spirit of the law is justice, as mentioned in the Qur'anic fragments, namely QS a n-Nisa ' verse: 58, which can be interpreted as "And if you set a law among men so that you determine fairly". This verse explains the mandate borne by the legislator to guarantee justice for anyone. To fulfill this mandate, lawmakers should have knowledge in making legislation, so that the substance of article by article can provide protection for the community in fulfilling justice.

A good legislation must be able to create justice for various parties, create a position that is proportional. The core party that is very instrumental in the implementation of public of land bank is the government and the community. As practiced in several other countries, in carrying out public land banks there have been legal actions in the form of asset transfers in the form of land rights which can be in the form of buying and selling, exchanges, or grants between the government and the community. A fair legal relationship can be created through processes, procedures that are correct, transparent, and guarantee accountability. Although everyone wants justice to be realized, not all of them understand and understand the meaning of justice.

In analyzing social inequality and inequality of land acquisition instruments currently used in providing land for infrastructure development of various public interests, the writer uses the theory of social justice in Islam. Furthermore, the theory is used to see the welfare that arises and is expected by the people from the application of the concept of land bank in Indonesia, this is an effort to avoid an adverse position and the lame in providing land for

public interest infrastructure development. The theory of social justice according to Islam was coined by Sayyid Qutb in his book *Al-'Adalah al-Ijtima'iyah fi 'al-Islam* (which was later translated into a book entitled Social Justice in Islam).

Sayyid Qutb believes that social justice in life cannot be enforced if every member of his community wants to enjoy absolute freedom without limits and without a certain direction. Qutb said, this kind of situation is a guarantee for the destruction of society which would also destroy the members of the community themselves. In the sense that freedom must be given in life as long as there is no absolute freedom without limits. Islam will give justice to all aspects of life. It will not provide provisions that are skewed and not influenced by anything except the determination of truth, the right is right and the wrong is wrong. Where everyone enjoys absolute freedom of soul, free from all forms of pressure and obtains full equality that is not accompanied by any ties and conditions.

Sayyid Quthb revealed about social justice in Islam: *"Here every individual enjoys the same justice, there is no discrimination between those who arise because of nasab and wealth, because of the money and rank / position as those of the people outside of Islam, even between Muslims and those non-Muslims have hostility and hatred. Indeed this is a value of justice that has never been achieved by any international law and also by any local law until this moment"* "The meaning is that nothing can affect the upholding of justice, anything that tries to obstruct justice, both property and religion and position is not true.

In relation to the practice of land banks, this social justice lies in equal opportunities in land ownership for all people, especially for farmers who do not own their own land and low income communities, to be able to own land through land redistribution which is the flagship program of land banks. Redistribution of land in land banks is intended to provide the widest opportunity for the poor who have no chance of owning land due to the increasing price of land in Indonesia. Land redistribution is part of an agrarian reform program that aims to prosper farmers in Indonesia. Article 4 letter (g) Decree of the MPR RI Number IX / MPR / 2001 explains that agrarian / natural resources that cover the earth, water, space and natural resources in it are national assets that must be managed and utilized optimally for the present generation and future generations in order to realize a just and prosperous society.

In addition to equality of opportunity in land ownership, in the practice of land banks will also create an equal position in terms of equal rights between the government and the community. For example, in the process of acquiring land ownership through buying and selling, the government as the buyer and the community as the owner of land rights are given the same rights to realize their respective desires regarding the amount of land value / price to be acquired by the land bank price. Land buying and selling should not occur without agreement from both parties. The government as the ruling authority must not be arbitrary in determining the value / price of the land at will at the expense of the expectations of the community, or it can be said that the government must not dance above the grief of the people.

### **3.3 Protection Correlation of Juridical Agricultural Land through Food Sovereignty**

According to Law No. 41 of 2009, land is part of land from the surface of the earth as a physical environment covering the soil along with all influencing factors uses such as climate, relief, geological aspects, and hydrology that is formed naturally or due to human influence, the land is diverse, one of which is agricultural land, what is meant by agricultural land according to the law above is the land area used for agriculture. Then what is called sustainable agricultural land is a field agricultural land that is set to be protected and developed consistently to produce staple food for independence, resilience, and national food sovereignty.

Food agriculture protection is needed for protection in order to make food agriculture guarantee food independence, food security, food sovereignty and at the same time maintain the existence of Indonesia as an agricultural country. Logically without the availability of food agriculture, it is impossible for independence, resilience and food sovereignty to be achieved, because food agriculture is the main requirement for food agriculture and agricultural business as well as the main requirement for food independence, food security and food sovereignty.

Sustainable Food Agriculture Land (abbreviated as SFAL) is a field of agricultural land that is determined to be protected and developed consistently to produce staple food for independence, resilience and national food sovereignty. One of the mechanisms for controlling

sustainable food agriculture carried out by the government is through providing incentives and disincentives to farmers. Land Protection Incentives are awards to farmers who maintain and do not convert LFAL. The disincentive is revocation of incentives, which is carried out if the recipient farmers do not carry out their LFAL protection.

There are seven types of food a sustainable agricultural land incentives offered by the government in accordance with the Government Regulation No. 12 of 2012 concerning Incentives for Sustainable Food Agriculture, namely (1) development of agricultural infrastructure; (2) financing of research and development of superior seeds and varieties; (3) ease in access information and technology; (4) provision of agricultural production facilities and infrastructure; (5) assistance in issuing certificates of land rights; (6) appreciation for high achieving farmers; and (7) earth and building tax relief assistance. There are three types of disincentives imposed by the government, namely, revoking incentives that have been given, replacing paddy fields, and changing the value of infrastructure investment.

### **3.4 Constitutional Platform of Urgency for the Establishment of a Land Bank (Land Banking) as a Means of Providing Land for Public Interest**

The term of Land Bank is commonly heard at present, although it is suspected that it is not well understood. A good understanding of the term of Land Bank becomes a necessity considering that one of the government's priority programs listed in the NMTDP 2015-2019 is the Land Bank (Ministry of National Development Planning, 2014). Theoretically the Land Bank is understood by an institution that provides land for development purposes, as well as acting as the controller of land prices. Land Bank is a Business Entity that is not solely seeking profit but is more of a land manager in terms of controlling land prices and supporting the implementation of the Spatial Plan. Thus, the Land Bank supports the government's task in managing, providing and controlling land prices. Limbong emphasizes that the Land Bank is a land management facility in the context of land use to be more productive (2013).

Furthermore, it is recognized that the Land Bank has at least several main activities, namely (i) buying land, (ii) finalizing land both physically and administratively; (iii) selling land lots ready to build

to those in need; (iv) administering the sale and purchase of land in accordance with the provisions. Van Dijk explains that land bank activities can take the form of systematic land acquisition which is usually on a large scale, and that land will be used in the future to implement land policies (2006).

The functions of the Land Bank include (i) land keeper in the form of inventory and development of land databases, administration and land information systems; (ii) land warrantee in the form of securing supply, designation, land use in accordance with the spatial plan and ensuring the efficiency of the land market; (iii) land control (land purchaser) in the form of control of land ownership and use in accordance with applicable regulations; (iv) land valuers in the form of supporting standard, fair and mandatory land values for various purposes; (v) land distributors (land distributors) in the form of ensuring fair and equitable distribution of land based on the unity of land values, securing land planning, supply and distribution; (vi) land manager in the form of land management, analysis, determination of strategy and implementation management related to land.

Thurston stresses that the objectives of the Land Bank include (i) managing urban growth; (ii) ensuring the availability of land for certain purposes; (iii) taking capital gains due to an increase in land value. Flechner (1974) added, if related to the government, the Land Bank's objectives could include (i) forming regional growth; (ii) arranging the development of the city; (iii) obtaining from increasing the value of land investment; (iv) perfecting the land market so as to reduce land speculation; (v) obtaining land for public use; (vi) reducing the cost of public services as a result of a planned development; (vii) allowing to provide housing subsidies for low-income communities; (viii) maintaining environmental quality (Limbong, 2013).

In general, the Land Bank is useful for (i) controlling the land market that guarantees the efficiency and rationality of land prices; (ii) streamlining and guarantee fair and fair land values; (iii) having able to integrate policies, strategies, implementations and evaluations related to land. While Limbong added other benefits such as (i) helping to achieve various goals (not only one type of activity but can vary from housing, infrastructure, and others); (ii) can be an integral part of metropolitan development. In particular, the benefits of the Land Bank for Indonesia include (i) availability of land guaranteed especially in urban areas; (ii) land prices are affordable and relatively

stable; (iii) support food security and housing programs for low-income communities; (iv) guarantee the implementation of agrarian reform and village modernization (Limbong, 2013).

In addition, Limbong based on his observations of land conditions in Indonesia confirms that the Land Bank is able to answer some of the crucial issues facing the government today, namely the government has land reserves. The Land Bank is the government's engine in providing land reserves for development purposes such as public facilities, infrastructure, development of strategic cities and regions, resettlement of disaster victims, liberation and eviction of slums, and food security through reducing the rate of agricultural land conversion (Limbong, 2013).

The benefits, the purpose and function of the presence of the land bank that has been described by the experts above are the basis for arguments for the urgency of establishing a land bank itself which cannot be bargained again to launch development for the public interest. Because with this land bank the government has a land stock, able to do the state budget efficiency and avoid land acquisition conflicts that always cut development in the public interest.

Constitutionally, the establishment of a land bank in Indonesia is a constitutional mandate Article 33 Paragraph 3 of the 1945 Constitution which states that the earth, water and natural resources contained in it are controlled by the State and used as much as possible for the prosperity of the people. That is, common interests are more important than individual interests. This shared interest is a development that is oriented towards public benefit.

Constitution as the highest law in the legal hierarchy in Indonesia ((Law No. 12 of 2011 concerning Establishment of Legislation Regulations, 2011), the mandate in relation to the earth, water and natural wealth in this country is translated into Law Number 5 of 1960 concerning Agrarian Principles, article 2 paragraph (1) the authority of the State concerning land includes (a) regulating inventory, use, designation and maintenance of the earth, water and space; (b) determine and regulate the legal relations between people regarding the earth, water and space; (c) determine and regulate the legal relationship between people and legal acts regarding the earth, water and space.

In relation to land tenure and ownership aspects, state activities include (a) protection and giving equal opportunities for every Indonesian citizen to own land as a source of life properly; (b) prevention

of excessive land control; (c) realization of the implementation of equitable improvement in the standard of living of the poor economy class; (d) realization of the distribution of ownership and land use. Land banks with good land stock obtained through buying and selling schemes with the community as well as land security schemes abandoned by their owners can be used as a source to provide access to the people who are the objects of agrarian reform to own them, in case the constitutional mandate mentioned above is correct felt by the community.

### **3.5 Relevance of Establishment of Land Banks (Land Banking) with Sustainable Food Farming Protection**

Sustainable Food Farming Protection is a system and process for planning and establishing, developing, utilizing and fostering, controlling, and monitoring food crops and their areas sustainably. Agricultural land is part of the earth as the gift of God Almighty who is controlled by the state and used for the greatest prosperity and prosperity of the people as mandated in the 1945 Constitution of the Republic of Indonesia. Indonesia as an agrarian country needs to guarantee the sustainable supply of food agricultural land as a source of decent work and livelihood for humanity by prioritizing the principles of togetherness, efficiency, fairness, sustainability, environmental insight, and independence, and by maintaining the balance, progress and unity of the national economy.

The state guarantees the right to food as a basic right of every citizen in case the State has an obligation to guarantee the independence, resilience and food sovereignty, the increasing population and economic and industrial development resulting in degradation, the conversion and fragmentation of food agricultural land threaten the regional carrying capacity nationally in maintaining independence, resilience, and food sovereignty, and in accordance with agrarian discussions relating to the restructuring of control, ownership, use and use of agrarian resources, it is necessary to protect food crops sustainably.

The Law of the Republic of Indonesia Number 41 of 2009 is the legal basis for the Protection of Sustainable Food Agriculture Land in this country. The remaining productive land in the land of Indonesia does not automatically become protected by the presence of this law, but it must be

determined first as a sustainable food agriculture land with the procedures and mysticism that has been stipulated in the implementing regulations.

Article 8 of Law No. 41 of 2009 which states that "in the case where there are food farms in the city, the land can be designated as Sustainable Food Farming Land to be protected". Then in Article 25 paragraph (1) states that the Establishment of Sustainable Food Agricultural Land in urban areas as referred to in Article 8 is stipulated by Regional Regulation. (2) Determination of Sustainable Food Farming Land in the city area as referred to in paragraph (1) becomes the basis for zoning regulations to control the utilization of urban space.

Land that has been designated as sustainable food agricultural land will become a permanent land that cannot be converted, if the agricultural land is a state asset, then it will not be a problem, which can cause problems if the land is owned by the people who are not able to cultivate it as agricultural land because farmers in this country have experienced a crisis of regeneration, in case it can be transferred to third parties (developers) and by third parties converted as non-agricultural land.

Based on the results of previous research, information was obtained that farmers are often tempted by developers to release their land at very high prices, this is a threat to the sustainability of sustainable food agriculture which is also a threat to the agenda of sovereignty, independence and food security in Indonesia which can also threaten the existence of Indonesia as an agricultural country that relies on the availability of agricultural land.

The country will experience difficulties in realizing its ideals and goals, the process of selling sustainable food agricultural land by its owner to the parties when those originating from property rights are the strongest right, fulfilled (Santoso, 2005) a is legal according to the law of sale and purchase. Against the above issues, the expected land bank policy in each region is found, finding the momentum of its relevance to the protection of sustainable food agricultural lands, namely by making purchases of sustainable food agricultural lands that will be released. The purchase of agricultural land carried out by land banks is one of the main activities of land banks in addition, finalizing the land both physically and administratively; sell land lots ready to build to those in need; administer the sale and purchase of land in accordance with the provisions. Van Dijk explains that land bank activities can take the form of systematic land acquisition which is usually on a

large scale, and that land will be used in the future to implement land policies (2006).

The process of purchasing land carried out by a land bank other than its main activity, is also a means for the availability of land collected except by utilizing the central / regional government land; utilizing state-owned enterprises land which can be in the form of a partnership pattern; Utilizing non-extended abandoned and HGU land and unproductive HGU. This scheme to buy sustainable food cropland will be successful if it is supported by large funds that are balanced with developer capital, because in the field of land banks as a private representation vis a vis with large capital developers. The land bank in carrying out its activities can collaborate with the local agriculture service and it can involve all of its extension elements to socialize the activities of the land bank to the farmer groups under its guidance in case if one of the farmers wants to release ownership of sustainable food agricultural land better released to the land bank.

Sustainable food agricultural land purchased by land banks which are government institutions, the land becomes safe from the threat of land conversion and land supply for food agriculture is safe too so that food sovereignty ideals become the light of attack. But the problem that then arises is, who will next manage the food farming land. According to the writer, the land is used as a cultivated land by local people with a fair profit sharing scheme that is oriented towards the prosperity of the cultivators so as not to repeat events in the past.

Incentives provided by the state mandated in the Government Regulation of the Republic of Indonesia Number 12 of 2012, and protection financing mandated in the Government Regulation of the Republic of Indonesia Number 30 of 2012, in the opinion of the author also needs to be given to tenants not only to owners of sustainable food agricultural land to sustain farmer production business, because it's useless even though there are agricultural land controlled by the land bank if no one is working on it. Based on this, according to the author, the pioneer of the success of food sovereignty in this country is the availability of land and farmers.

#### 4 CONCLUSION

Based on the discussion above, it can be concluded that *first*, the urgency of establishing a land bank cannot be separated from the function and benefits of the land bank itself and the constitutional

basis for its formation is Article 33 Paragraph 3 of the 1945 Constitution which states that the earth, water and natural wealth contained in it is controlled by the State and used as much as possible for the prosperity of the people. *Second*, the relevance of establishing a Land Bank with the protection of sustainable food agricultural land can be seen in the aspect of spatial planning in which the land bank will later support the implementation of Spatial Plans in Indonesia, and the protection of sustainable food agricultural lands is a mandate contained in spatial law Article 48 Law Number 26 of 2007 concerning Arrangement; *third*, see from the function of the land bank as a land provider institution for the public interest and the main activity of buying land to the community can later be done to people who want to release sustainable food agricultural land in case it becomes safe and the aspiration of the food sovereignty can be reached.

#### REFERENCES

- Ministry of National Development Planning, 2014. *National Medium Term Development Plan 2015-2019 (RPJMN 2015-2019)*. Ministry of National Development Planning, Jakarta.
- Limbong, B., 2013. *Land bank*. Margaretha Pustaka, Jakarta.
- Santoso, U., 2005. *Agrarian law & land rights*. Kencana, Jakarta.
- Law No. 12 of 2011 concerning *Establishment of Legislation Regulations*, 2011.
- Law No. 31 of 2009 concerning *the Protection of Sustainable Food Agriculture Land*, 2009.
- van Dijk, T., Kopeva, D., 2006. *Land banking and Central Europe: future relevance, current initiatives, Western European past experience*. Land Use Policy 23, 286–301.
- <https://doi.org/10.1016/j.landusepol.2004.07.005> Ministry of National Development