

IUS CONSTITUENDUM OF SUSTAINABLE AGRICULTURAL POLICY: THE AFTERMATH OF JOB CREATION ACT

Ermanto Fahamsyah¹, Ruetaitip Chansrakao²

¹University of Jember, Indonesia, Email: ermanto_fahamsyah@yahoo.co.id

²University under the Royal Patronage of Valaya Alongkorn Rajabhat, Thailand,
Email: ruetaip@vru.ac.th

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Abstract

Agriculture is an important aspect of the life of the Indonesian people. Apart from being a commodity, agriculture is also a part of Indonesian people's lives. In this case, the state needs to enact legal policies related to sustainable agriculture. This study seeks to discuss legal issues in the form of legal disharmony related to sustainable agricultural legal policies. The study results confirm that the disharmony of legal policies related to Sustainable Agriculture has only become an "ineffective," which means that the rules exist but cannot be implemented because they do not have to implement regulations, so they are difficult to implement. That happens because the respective laws, particularly those related to sustainable agricultural cultivation systems and job creation, which substantially regulate sustainable agriculture, do not refer to each other. That impacts the lack of coordination and horizontal harmonization between fellow laws that substantially regulate sustainable agriculture. Harmonization is also not carried out vertically between Laws and Government Regulations. That occurs when Government Regulations relating to the administration of the agricultural sector do not refer to and harmonize vertically with the Law relating to sustainable agricultural cultivation systems. The results of this study also suggest that in the future, the government, in this case, needs to revise the Government Regulations relating to the implementation of the agricultural sector by incorporating the substance of the Sustainable Agriculture policy as well as being more thorough in harmonizing both vertically and horizontally in drafting legislation.

Keywords: *Ius Constituendum; Legal Harmonization; Sustainable Agriculture*

1. INTRODUCTION

Agriculture is one of the major commodities in Indonesia. As an agricultural country, of course, the agricultural sector is an important sector for the people of Indonesia. In Indonesia, agriculture is not just a process of cultivating land or rice fields to meet needs or as a means to earn profits. Agriculture for the Indonesian people is also related to non-economic aspects such as cultural aspects and local beliefs of the community, which then gives birth to certain traditions and attitudes related to agriculture.¹ In Indonesia,

¹ Gusti Nur Asla Shabia, "Kontribusi Community Supported Agriculture Untuk Gerakan Agraria Di Indonesia: Pelajaran Dari Jerman," *BHUMI: Jurnal Agraria Dan Pertanahan* 7, no. 2 (2021): 181–98, <https://doi.org/10.31292/bhumi.v7i2.490>. Germany, and comparing it with studies of CSA in other countries, this paper tries to explore the possibilities of how CSA can offer farmers an alternative agricultural model for the sustainability of their farm and its contribution to agrarian movement, especially in Indonesia. The results show that CSA provides this alternative through rearranging the food system with a more democratic, autonomous, and equal management of production resources, income certainty for farmers through consumer commitment and by the solidarity economy, and inde-

agriculture is not just a process of cultivating land or rice fields to meet needs or as a means to earn profits. Agriculture for the Indonesian people is also related to non-economic aspects such as cultural aspects and local beliefs of the community, which then gives birth to certain traditions and attitudes related to agriculture.² Thus, agriculture for the Indonesian people is an aspect that is not only an economic commodity but is also related to various aspects of other people's lives. Agriculture in Indonesia also requires state support and efforts to facilitate and empower various steps and efforts to succeed in various aspects of agriculture in Indonesia.³ One of the state's efforts in providing support and facilitating various fields and aspects of agriculture in Indonesia is through agricultural law policies. Agricultural law policy is an attempt by the state to participate in empowering and, at the same time, succeeding various agricultural policies based on certain legal products. In this case, agricultural law policies carried out by the state are generally in the form of statutory regulations or the form of policy regulations (*beleidsregel*).⁴

The state's legal policies, either through laws and regulations or in the form of policy regulations (*beleidsregel*), are then the basis and foundation to be implemented in the community.⁵ Some of the agricultural law policies carried out by the state are outlined in laws and regulations such as Law no. 19 of 2013 concerning the Protection and Empowerment of Farmers (hereinafter referred to as UU P3), Law no. 22 of 2019 concerning the Sustainable Agricultural Cultivation System (hereinafter referred to as UU SBDP), and then there is also Law no. 11 of 2020 concerning Job Creation (hereinafter referred to as UU CK), as well as the implementing regulations, namely Government Regulation no. 26 of 2021 concerning the Implementation of the Agricultural Sector (hereinafter referred to as PP PBP). One of the important things in the agricultural law policy that is important and interesting, as outlined in the legislation above, is the existence of agricultural law policies related to conservation agriculture. Conservation agriculture, as stipulated in Article 13 paragraph (2) of UU SBDP, emphasizes that Sustainable Agriculture aims "to protect, restore, maintain and improve land functions in order to increase sustainable agricultural productivity." It is also emphasized that further provisions regarding Sustainable Agriculture will be regulated by a Government Regulation as stated in Article 13 paragraph (3) of UU SBDP. The orientation related to Sustainable Agriculture is not contained in UU P3 but began to be contained in UU SBDP. Apart from UU SBDP, legal policies related to Sustainable Agriculture are also

pendence through the principles of sustainable agriculture. Therefore, CSA indirectly contributes to the agrarian movement by providing the possibility for farmers to maintain their farming business, along with their land tenure or ownership, as well as a forum for organizing farmers and consumers to raise awareness of the food system. Keywords: Agrarian Movement, Community Supported Agriculture, Solidarity Economy, Producer-Consumer Partnership. Intisari: Community Supported Agriculture (CSA)

² Agustina Bidarti, "Survive of the Indonesia Farmers in during the Covid-19 Pademic: Findings of the South Sumatra," in *E3S Web of Conferences*, vol. 232, 2021, 3, <https://doi.org/10.1051/e3sconf/202123201019>.

³ Wilson Rajagukguk, "Agriculture and Regional Economic Growth in Indonesia," in *E3S Web of Conferences*, vol. 258, 2021, 8, <https://doi.org/10.1051/e3sconf/202125806037>.

⁴ Prof Adam A Anyebe, "An Overview of Approaches to the Study of Public Policy," *International Journal of Political Science* 4, no. 1 (2018): 8–17, <https://doi.org/10.20431/2454-9452.0401002>.

⁵ Maruf, "Law And Policy in Addressing Marine Plastic Litter: Indonesia Response and Recent Development," *JILS: Journal of Indonesian Legal Studies* 4, no. 2 (2019): 5–6.

implicitly mentioned in UU CK, as well as the implementing regulations, namely PP PBP.

However, special and further regulations regarding Sustainable Agriculture are not specifically regulated UU CK and its implementing regulations, PP PBP. PP PBP also does not specifically regulate Sustainable Agriculture even though UU SBDP, in particular, Article 13 paragraph (2) of UU SBDP mandates the need for further regulation of Sustainable Agriculture in the form of a Ministerial Regulation. Thus, legal issues related to the Sustainable Agriculture legal policy are related to the disharmony in the formulation of the Sustainable Agriculture legal policy in UU SBDP, UU CK, as well as the implementing regulations, namely PP PBP. Thus, this study seeks to answer two problem formulations, namely: (i) What are the legal consequences of disharmony in legal policies related to Sustainable Agriculture? And (ii) What are the future arrangements regarding disharmony in legal policies related to Sustainable Agriculture? Research on agricultural law policies, among others, was carried out by Tity Wahyu Setiawati, Mardjo and Tutut Ferdiana Mahita Paksi (2020) on Indonesian Agricultural Law Politics in Facing Global Challenges, which emphasized that during the reformation period, the legislation was dominated by the influence of capitalism and the free market.⁶ Therefore, in the future, the politics of agricultural law must be based on economic democracy, which Bung Hatta initiated. Furthermore, research by Tristam Pascal Moeliono and Koerniatmanto Soetoprawiro (2020) on the Development and Development of Agricultural Legal Thought in Indonesia emphasizes that the most important thing in agricultural law is the need to implement basic concepts of justice related to food security, socio-ecology, and resilience. -food sovereignty and security.⁷ In addition, research conducted by Eka N.A.M. Sihombing, Andryan, and Mirsa Astuti (2021) on the Analysis of Incentive Policy in the Context of Protecting Sustainable Food Agricultural Land in Indonesia emphasized that the policy of providing incentives to farmers in the context of land protection is inappropriate and it is necessary to formulate policies that are following the needs of farmers.

If we look at the three previous studies, this research is original because it focuses on the harmonization of Sustainable Agriculture legal policies after enacting the Job Creation Law. The three previous studies have not comprehensively discussed the focus the researcher examines. This research is normative legal research. Normative legal research is oriented to the internal aspects of a legal system. In this case, normative legal research emphasizes the aspect of coherence between legal principles, theories, concepts, and applicable legal products.⁸ In this study, normative legal research is related to harmonizing laws and regulations. The primary legal materials in this study include

⁶ Tity Wahyu Setiawati, Mardjo Mardjo, and Tutut Ferdiana Mahita Paksi, "Politik Hukum Pertanian Indonesia Dalam Menghadapi Tantangan Global," *Jurnal Hukum Ius Quia Iustum* 26, no. 3 (2019): 585–608, <https://doi.org/10.20885/iustum.vol26.iss3.art8>.

⁷ Tristam Pascal Moeliono and Koerniatmanto Soetoprawiro, "Pengembangan Dan Perkembangan Pemikiran Hukum Pertanian Di Indonesia," *Undang: Jurnal Hukum* 3, no. 2 (December 1, 2020): 409–40, <https://doi.org/10.22437/ujh.3.2.409-440>.

⁸ Emad Mohammad Al Amaren et al., "An Introduction to the Legal Research Method: To Clear the Blurred Image on How Students Understand the Method of the Legal Science Research," *International Journal of Multidisciplinary Sciences and Advanced Technology* 1, no. 9 (2020): 50–55.

UU SBDP, UU CK, and PP PBP. Secondary legal materials include journal articles, books, reports, and websites related to legal issues. Non-legal materials include books or the results of other studies that are not in the field of legal science but have relevance to this research. The approach in this study uses a statutory approach and a conceptual approach.

2. ANALYSIS AND DISCUSSION

2.1. The Legal Consequences of Disharmony Legal Policies Related to Sustainable Agriculture

Harmonization of law is one of the efforts to harmonize and harmonize law in a legal system. Legal harmonization is usually carried out in juridical instruments.⁹ Harmonization of law against statutory regulations is interpreted as an effort to harmonize, harmonize, and balance a statutory regulation both in the substance of the statutory regulations and in the formal aspects of statutory regulations.¹⁰ The term harmonization of law in legal studies developed in 1992 in Germany, oriented toward law and government policies, especially between the central and local governments, which often have a disharmony in law and policy.¹¹ Furthermore, L.M. Gandhi defined the harmonization of law as adjusting laws and regulations, government decisions, and judges' decisions in a legal system based on legal principles.¹² Based on the description above, harmonization is a series of comprehensive efforts toward legal products and legal product designs so that they are aligned, appropriate, harmonious, and balanced in a legal system. Legal harmonization can be done vertically or horizontally.¹³ Vertical harmonization of law is carried out by looking at the hierarchy of legal norms, which aims to prevent conflicts between lower and higher legal norms.

Horizontal harmonization of law is carried out by looking at the substance relevant or related to a statutory regulation that is of the same and equal position. This can be seen in harmonizing laws that substantially regulate the same thing but have a different orientation. In this case, the principle of *lex specialis derogate legi generalis* applies. In addition, legal harmonization can also be carried out based on the technique of drafting laws and regulations or aspects of drafting laws and regulations, which include: various legal languages, forms of draft laws and regulations, arrangements related to special matters, and the framework of laws and regulations. This confirms that harmonization is needed when legal disharmony or even legal harmonization aims to prevent legal

⁹ Aditya Yuli Sulistyawan, "Urgensi Harmonisasi Hukum Nasional Terhadap Perkembangan Hukum Global Akibat Globalisasi," *Hukum Progresif* 7, no. 2 (2019): 174.

¹⁰ Endrik Safudin, "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman)," *Al-Syakh-siyyah Journal of Law & Family Studies*, 2, no. 2 (2020): 203-4.

¹¹ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, 1st ed. (Jakarta: Konstitusi Press, 2020).

¹² Agnes Fitriyantica, "Harmonisasi Peraturan Perundang-Undangan Indonesia Melalui Konsep Omnibus Law," *Gema Keadilan* 6, no. 3 (2019): 300-316, <https://doi.org/https://doi.org/10.14710/gk.6.3.300-316>.

¹³ Mahendra A. A. Oka, "Harmonisasi Peraturan Perundang-Undangan," in *Artikel Hukum Tata Negara Dan Peraturan Perundang-Undangan*, 2021.

disharmony. L.M. Gandhi gave an affirmation regarding the causes of legal disharmony, which include:¹⁴

- a. The disharmony between laws and regulations occurs vertically or horizontally. This often happens because of the desire to produce a legal product but without being balanced with a harmonization process;
- b. Conflict between the Act and implementing regulations. It is sometimes found that the will of the law is understood differently from the will of the implementing official so that it issues implementing regulations contrary to the law;
- c. The disharmony that occurs between the legislation and the Court's Decision. This is especially the case with the judicial review authority carried out by the court, both the judicial review between the Law and the Basic Law conducted by the Constitutional Court and the judicial review conducted by the Supreme Court which examines the regulations under the Law with the Law;
- d. Policy differences between central and local governments; as well as
- e. There is an ego sector between each agency. This is because each agency feels the most authoritative in making a legal product, so they do not feel the need to involve other agencies.

Regarding the causes of legal disharmony as described above, several steps can be taken to overcome legal disharmony, including:¹⁵

- a. Paying attention to the philosophical basis in a statutory regulation, especially by basing and testing legislation with the philosophical values contained in the *rechtsidee* of the Indonesian nation, namely Pancasila;
- b. Paying attention to the constitution's principles, substance, and formal aspects, namely the 1945 Constitution of the Republic of Indonesia. This is because the 1945 Constitution of the Republic of Indonesia is the highest law that tops the hierarchy in the legislation;
- c. Consistent use of relevant legal terms, definitions, and definitions;
- d. Seeing the relationship between a statutory regulation with its substance and formal aspects both vertically and horizontally;
- e. Ensuring the fulfillment of the basic order of laws and regulations and the orderly formation of laws and regulations, including the fulfillment of the principles in the formation of laws and regulations;
- f. The use of legal language that is appropriate, relevant, and based on aspects of legal drafting as regulated in Law no. 12 of 2011 concerning the Establishment of Legislations; and
- g. The use of certain legal methods in the formation and preparation of laws, for example, using the omnibus law/omnibus bill method and other methods.

In this context, legal harmonization is needed as a means to ensure legal certainty.

¹⁴ L.M. Gandhi, 1995, "Harmonisasi Hukum Menuju Hukum Responsif", Fakultas Hukum Universitas Indonesia, Depok, 1995.

¹⁵ Sulasno Rokilah Rokilah, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Ajudikasi: Jurnal Ilmu Hukum* 5, no. 2 (2021): 179-90.

As stated by Jaap Hage, legal certainty is an aspect that can be seen from various points of view. Jaap Hage sees that legal certainty, especially in laws and regulations, is related to the aspects of constancy and details related to laws and regulations.¹⁶ Detailed matters need to be considered in the legislation, especially regarding the rights and obligations of the community and the authority of the relevant institutions. Furthermore, Elina Pauino emphasized that legal certainty is related to matters, namely: substantive legal certainty and formal legal certainty.¹⁷ In terms of substantive legal certainty, Elina Pauino emphasized that in addition to legal aspects, legal certainty also needs to pay attention to aspects of law enforcement, so it is necessary to look at non-legal aspects in society.¹⁸ Concerning formal legal certainty in laws and regulations, the products of laws and regulations must be clear, steady, and predictable. The clear nature of laws and regulations emphasizes that laws and regulations must be drafted and adhere to principles and procedures. This includes legal certainty contained in the preamble and articles in the legislation. The steady nature is oriented to the regularity of laws and regulations that pay attention to aspects of harmonization between laws and regulations, pouring the right content of the material, and obeying principles, especially the principle of preference. Predictability relates to planning and implementing a statutory regulation that must be carefully planned, including being evaluated periodically if statutory regulations are either formally or materially inconsistent or contrary to the law.

The theory of three basic law values is one of the “central” studies in legal science. This is understandable because the theory of three basic legal values can determine the validity and validity of the law. Gustav Radbruch put forward the idea of three basic legal values. Gustav Radbruch, in one of his works entitled, “*Einführung In Die Rechtswissenschaften*” asserts that in law, there are 3 (three) basic values, namely: justice (*gerechtigkeit*), expediency (*zweckmassigkeit*), and legal certainty (*rech tssiche rheit*). The three basic values of law are known as triadism. Triadism, as stated by Gustav Radbruch in the form of justice, expediency, and legal certainty, are three values that *conditio sine qua non* must exist in law. The three basic values in the law sometimes have a *spannungsverhältnis*, namely when the three basic values of the law experience conflict and tension.¹⁹ In this case, the three basic legal values ideally must be harmonious,

¹⁶ Muhamad Erwin, “Reconstruction the Paradigm of Law and Justice on the Regulation of Right to Living Space of the Orang Rimba Tribe in Bukit Duabelas, Jambi Province,” *Sriwijaya Law Review* 2, no. 1 (2018): 56, <https://doi.org/10.28946/slrev.vol2.iss1.110.pp56-68>.this requires further thoughts of the pattern of values and norms to be expansive with an emphasis on a quantity leading to a pattern of systemic values and norms emphasizing the quality of humanist and ecological aspects which complement and maintain each other. This article explores the paradigm of state law and customary law on the regulation of the rights to a living space of Orang Rimba’s tribe, nomadic groups of people who live in wildwood, as well as ways of reconstructing it to fit the spirit of Pancasila,”author”:[{“-dropping-particle”：“”,“family”：“Erwin”,“given”：“Muhamad”,“non-dropping-particle”：“”,“parse-names”：“false”,“suffix”：“”}],“container-title”：“Sriwijaya Law Review”,“id”：“ITEM-1”,“issue”：“1”,“issued”:{“date-parts”:[["2018"]]},“page”：“56”,“title”：“Reconstruction the Paradigm of Law and Justice on the Regulation of Right to Living Space of the Orang Rimba Tribe in Bukit Duabelas, Jambi Province”,“type”：“article-journal”,“volume”：“2”}],“uris”:[“http://www.mendeley.com/documents/?uuid=99d3416b-5059-46f0-a79d-f78989bd87e5”}],“mendeley”:{“formattedCitation”：“Muhamad Erwin, “Reconstruction the Paradigm of Law and Justice on the Regulation of Right to Living Space of the Orang Rimba Tribe in Bukit Duabelas, Jambi Province,” < i > Sriwijaya Law Review < /i > 2, no. 1 (2018

¹⁷ G.G. Bateman, “The Ough To Be a Law: Gustav Radbruch, Lon L. Fuller, and H.L.A. Hart on The Choice Between Natural Law and Legal Positivism,” *The Journal Jurisprudence* 271, no. 1 (2019): 13–15, <https://doi.org/10.1093/ojls/gqi042>.

¹⁸ A’an Efendi and Dyah Octorina Susanti, 2021, *Ilmu Hukum*, Prenada Media, Jakarta.

¹⁹ Sholahuddin Al-Fatih, “Penerapan Threshold Dalam Pemilu Menurut Perspektif Gustav Radbruch Dan Hans Kelsen,” *Audito Comparative Law Journal (ACLJ)* 1, no. 2 (2020): 80–82.

but in practice, sacrifices can occur in a basic value. Even so, even though there is potential spannungsverhältnis in the three basic legal values, it should be in a legal product that efforts are made to realize the three basic values, which include justice (*gerechtigkeit*), expediency (*zweckmassigkeit*), and legal certainty (*rechtssicherheit*).²⁰ Of the three basic legal values, the value of legal certainty (*rechtssicherheit*) is important, especially in written legal products, especially legislation. Legal certainty is the most important aspect, especially for countries with civil law systems or Continental Europe. This includes Indonesia, which, although not expressively *verbis*, is a country with a civil law system or Continental Europe, but Indonesia is a country with a dominant civil law system or Continental Europe, especially due to Dutch colonialism. In this case, in legal products in the form of legislation, among the three basic legal values as conveyed by Gustav Radbruch, the aspect of legal certainty is the most important aspect.

If referring to the provisions in Article 13 paragraph (2) of UU SBDP, which confirms that Sustainable Agriculture aims “to protect, restore, maintain, and improve the function of land in order to increase sustainable agricultural productivity” as well as the provisions in Article 13 paragraph (3) of UU SBDP which emphasizes the need to make Government Regulations related to Sustainable Agriculture. Furthermore, the existence of UU CK failed to provide amendments to Article 13 paragraph (2) of UU SBDP. UU CK related to the legal policy of Sustainable Agriculture only focuses on the sanctions aspect and does not specifically pay attention to the provisions of delegation regulations as stated in Article 13 paragraph (3) of UU SBDP. This has implications for the non-specific regulation of the Sustainable Agriculture legal policy in PP PBP as the implementing regulation of UU CK. Article 131 of UU SBDP concerning the implementing regulations confirms that “The implementing regulations of this Law are stipulated no later than 3 (three) years from the promulgation of this Law”. If referring to the date of promulgation of UU SBDP, which is October 18, 2019, so with a maximum period of three years, then a maximum of October 18, 2022, Government Regulations related to the legal policy of Sustainable Agriculture must be completed. However, until June 2022, there has been no specific study on the legal policy of Sustainable Agriculture except for discussions on PP PBP. Thus, it can be assumed that the government has considered PP PBP to have complied with all agricultural law policies, especially Sustainable Agriculture legal policies, although in substance, it does not specifically mention the Sustainable Agriculture legal policies. Thus, the legal consequences of disharmony in legal policies related to Sustainable Agriculture only become a “paper tiger,” which means that the rules exist but cannot be implemented because they do not have to implement regulations, so they are difficult to implement.

2.2. Ius Constituendum Sustainable Agricultural Policy: The Aftermath of Job Creation Act

²⁰ Aditya Yuli Mario Julyano, Sulistyawan, “Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum,” *Jurnal Crepido* 01, no. 01 (2019): pp.13-22. according to Gustav Radbruch, is included in the basic legal value. This principle basically expects and requires the law to be made definitively in written form. The existence of this principle is important because it will guarantee the clarity of a positive legal product that exists. The important meaning of this principle also has a similarity (similarity

This Legal disharmony, in addition to creating legal uncertainty, also can harm the community's rights. In this case, legal harmonization includes adjustments to laws and regulations, government decisions, judges' decisions, the legal system and legal principles to increase legal unity, legal certainty, justice (justice, *gerechtigheid*) and comparability (equity, *billijkheid*), legal usability and clarity.²¹ In short, legal harmonization is an effort or process of adjusting legal principles and systems to realize legal simplicity, certainty and justice. Harmonization of law is forming laws and regulations, overcoming contradictory matters and irregularities among legal norms in laws and regulations so that harmonious national legislation is formed, in the sense of being harmonious, harmonious, and balanced, integrated and consistent, and adhere to the principles.²² Legal harmonization can be initiated by aligning and harmonizing the objectives, strategies, and guidelines of each law and regulation, invitation through legal interpretation, legal construction, legal reasoning, and providing rational arguments by taking into account the legal system and applicable legal principles.²³ As a system, every legal product is assumed to be a system that is interrelated and complements one another.²⁴ Thus, the law as a system necessitates the existence of a conflict between each legal product in a system, so disharmony is necessary. Disharmony, a necessity in a system, actually emphasizes the urgency of harmonizing law in a legal system.²⁵ In short, legal harmonization is a *conditio sine qua non* in the legal system.

The legal system consisting of various legal products has the potential to experience disharmony, especially if the legal product is in the form of written legislation. The dominant role of written legislation occurs especially in the era of legal modernization, where laws in the form of abstract values are then positioned into statutory regulations. The phenomenon of legal modernization cannot be rejected by any country or any government in the world because it is a necessity that one cannot deny.²⁶ Thus, the dominant role of written legislation in a legal policy becomes a legal custom that must analyze every problem, and legal solutions are sought so that hyper-regulation is maintained in the corridor of harmonization in the legal system. The hyper-regulation as a development phenomenon Modernization of law has the potential for harmonizing various laws and regulations because almost every legal need in society is regulated through laws and regulations.²⁷ This further emphasizes that legal harmonization is needed both

²¹ Indra Rahmatullah, "Filsafat Realisme Hukum: Konsep Dan Aktualisasinya Dalam Hukum Bisnis Di Indonesia," *ADALAH* 5, no. 3 (June 2021), <https://doi.org/10.15408/adalah.v5i3.21395>.

²² Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*, Revisi (Sleman: Kanisius, 2020).

²³ Arini Yunia Pratiwi and Afriana Anita Muhamad Amirulloh, "Harmonisasi Hukum Ketentuan Lisensi Wajib (Compulsory License) Perlindungan Varietas Tanaman Di Indonesia," *Poros Hukum Padjadjaran* 2, no. 2 (2021): 292–93.

²⁴ Jennifer Corrin, "Plurality and Punishment: Competition Between State and Customary Authorities in Solomon Islands," *The Journal of Legal Pluralism and Unofficial Law* 51, no. 1 (January 2, 2019): 29–47, <https://doi.org/10.1080/07329113.2018.1540121>.

²⁵ Fradhana Putra Disantara, "Pancasila Juga Volksgeist, Tanya Kenapa?," in *Filsafat Hukum Pancasila (Suatu Kajian Filsafat, Hukum, Dan Politik)*, ed. Irfan Ronaboyd and Fradhana Putra Disantara (Jakarta Selatan: Kreasi Cendekia Pustaka, 2020), 63–68. p. 64.

²⁶ Bayu Dwi Anggono and Fahmi Ramadhan Firdaus, "Omnibus Law in Indonesia: A Comparison to the United States and Ireland," *Lentera Hukum* 7, no. 3 (November 23, 2020): 319–36, <https://doi.org/10.19184/ejllh.v7i3.19895>.

²⁷ Fradhana Putra Disantara, "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (January 1, 2021): 1–36, <https://doi.org/10.35673/ajmpi.v6i1.1129>. the primary and secondary legal materials used are inventoried in order to obtain

at the time of drafting legislation and when evaluating the implementation of statutory regulation. Thus, efforts to harmonize law on legal policies are important before, during, and during the evaluation of statutory regulation. In general, harmonization of law has a preventive orientation or prevention towards every legal policy as outlined in the legislation. Harmonization of law in terms of prevention, namely harmonization efforts carried out to avoid legal disharmony. Legal disharmony that has occurred requires harmonization of the legal system to realize good governance, and legal disharmony that has not occurred must be prevented through efforts to harmonize, harmonize, and adjust various legal harmonization activities.

Likewise, inconsistencies in imposing sanctions for law violations lead to legal disharmony, which must be harmonized through harmonization and laws. In addition, legal harmonization is carried out to overcome legal disharmony. The state of legal disharmony is seen in reality, for example, overlapping authority, unfair competition, disputes, violations, conflicts of interest, disputes, violations, unfair competition, and criminal acts. So that in order to overcome disharmony between the interests related to the above problems, there must be harmonization efforts. Teleologically, the prevention function in harmonizing law also needs to be equipped with a function to overcome legal disharmony. Harmonization of law to prevent legal disharmony is done through legal discovery (legal interpretation and construction), legal reasoning, and rational argumentation.²⁸ This effort is carried out with directions to affirm the will of the law, the will of the people, and the moral will. Harmonization of law that is preventive in nature is carried out in order to anticipate the reality of the existence of potential factors that can cause legal disharmony.

If referring to the practice of legal disharmony in UU SBDP, UU CK, as well as PP PBP, it has been seen that the planning and prevention aspects in the harmonization of laws have not been effectively and consistently applied. This can be seen in Article 13 paragraph (2) of UU SBDP, which confirms that Sustainable Agriculture aims “to protect, restore, maintain, and improve the function of land in order to increase sustainable agricultural productivity” as well as the provisions in Article 13 paragraph (3) of UU SBDP which emphasizes the need to make Government Regulations related to Sustainable Agriculture. Regarding the provisions in Article 13 paragraph (3) of UU SBDP, the provision “regulated by” emphasizes that a separate Government Regulation should regulate the legal policy on Sustainable Agriculture. Should be, if there is an attempt to deregulate as the spirit of the omnibus law in UU CK, the provisions of the Sustainable Agriculture policy must get their focus and be changed from the provisions

proper legal review; and provides a conceptual analysis of the legal issues discussed. The results of the study stated that as a novelty concept; The concept of typical Indonesian legal pluralism provides equality for the enactment of state law, transnational law and customary law so that they can run together based on the 1945 Constitution of the Republic of Indonesia in the era of legal modernization. Then, the concept of typical Indonesian legal pluralism can be used as a strategy to integrate customary justice into the national legal system through aspects of legal development. Thus, this research is expected to be useful theoretically; namely as a scientific development of customary law, and practical benefits; namely as a reference for drafting regulations on customary villages by local governments. Therefore, researchers recommend that the Indigenous Peoples Bill be a priority in the 2021 National Legislation Program (Prolegnas

²⁸ Helen Xanthaki, “Legislative Drafting: A New Sub-Discipline of Law Is Born,” *IALS Student Law Review* 1, no. 1 (2017): 57–62.

“regulated by” to “regulated in” which is then regulated in detail and technically through PP PBP.

Regarding the not yet specifically regulated Sustainable Agriculture policy, it is necessary to make a Government Regulation on Sustainable Agriculture Policy as the implementing regulation of UU SBDP. Even so, because there is PP PBP, it is better to be effective, efficient, and not cause hyper-regulation; it is necessary to revise PP PBP by including the substance of the Sustainable Agriculture policy. Future arrangements related to the disharmony of legal policies related to Sustainable Agriculture is to harmonize legal policies related to Sustainable Agriculture contained in UU SBDP, UU CK, as well as in PP PBP. One of these things can be realized by revising PP PBP by including the substance of the Sustainable Agriculture policy

3. CONCLUSION

The legal consequences of disharmony in legal policies related to Sustainable Agriculture have only become “paper tigers,” which means that the rules exist but cannot be implemented because they do not have to implement regulations, so they are difficult to implement. Related to sustainable agriculture. One of these things can be realized by revising Government Regulation no. 26 of 2021 concerning the Implementation of the Agricultural Sector by including the substance of the Sustainable Agriculture policy. The government, in this case, needs to revise Government Regulation no. 26 of 2021 concerning the Implementation of the Agricultural Sector by including the substance of the Sustainable Agriculture policy.

REFERENCES

Books

- Anggono, Bayu Dwi, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*. 1st ed. (Konstitusi Press, Jakarta, 2020).
- Efendi, A'an, and Dyah Octorina Susanti, *Ilmu Hukum*, (Prenada Media, Jakarta, 2021).
- Gandhi, L.M., “Harmonisasi Hukum Menuju Hukum Responsif, (Fakultas Hukum Universitas Indonesia, Depok, 1995).
- Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*. (Revisi. Kanisius, Sleman, 2020).

Journals

- A. A. Oka, Mahendra. “Harmonisasi Peraturan Perundang-Undangan.” In *Artikel Hukum Tata Negara Dan Peraturan Perundang-Undangan*, 2021.
- Al-Fatih, Sholahuddin. “Penerapan Threshold Dalam Pemilu Menurut Perspektif Gustav Radbruch Dan Hans Kelsen.” *Audito Comparative Law Journal (ACLJ)* 1, no. 2 (2020): 80–82.
- Amaren, Emad Mohammad Al, Ahmed M. A. Hamad, Omar Farouk Al Mashhour, and Mohammed Ibrahim Al Mashni. “An Introduction to the Legal Research Method: To Clear the Blurred Image on How Students Understand the Method

- of the Legal Science Research.” *International Journal of Multidisciplinary Sciences and Advanced Technology* 1, no. 9 (2020): 50–55.
- Anggono, Bayu Dwi, and Fahmi Ramadhan Firdaus. “Omnibus Law in Indonesia: A Comparison to the United States and Ireland.” *Lentera Hukum* 7, no. 3 (November 23, 2020): 319–36. <https://doi.org/10.19184/ejlh.v7i3.19895>.
- Anyebe, Prof Adam A. “An Overview of Approaches to the Study of Public Policy.” *International Journal of Political Science* 4, no. 1 (2018): 8–17. <https://doi.org/10.20431/2454-9452.0401002>.
- Bateman, G.G. “The Ough To Be a Law: Gustav Radbruch, Lon L. Fuller, and H.L.A. Hart on The Choice Between Natural Law and Legal Positivism.” *The Journal Jurisprudence* 271, no. 1 (2019): 13–15. <https://doi.org/10.1093/ojls/gqi042>.
- Bidarti, Agustina. “Survive of the Indonesia Farmers in during the Covid-19 Pademic: Findings of the South Sumatra.” In *E3S Web of Conferences*, 232:3, 2021. <https://doi.org/10.1051/e3sconf/202123201019>.
- Corrin, Jennifer. “Plurality and Punishment: Competition Between State and Customary Authorities in Solomon Islands.” *The Journal of Legal Pluralism and Unofficial Law* 51, no. 1 (January 2, 2019): 29–47. <https://doi.org/10.1080/07329113.2018.1540121>.
- Disantara, Fradhana Putra. “Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum.” *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (January 1, 2021): 1–36. <https://doi.org/10.35673/ajmpi.v6i1.1129>.
- Disantara, Fradhana Putra. “Pancasila Juga Volksgeist, Tanya Kenapa ?” In *Filsafat Hukum Pancasila (Suatu Kajian Filsafat, Hukum, Dan Politik)*, edited by Irfa Ronaboyd and Fradhana Putra Disantara, 63–68. Jakarta Selatan: Kreasi Cendekia Pustaka, 2020.
- Erwin, Muhamad. “Reconstruction the Paradigm of Law and Justice on the Regulation of Right to Living Space of the Orang Rimba Tribe in Bukit Duabelas, Jambi Province.” *Sriwijaya Law Review* 2, no. 1 (2018): 56. <https://doi.org/10.28946/slrev.vol2.iss1.110.pp56-68>.
- Fitryantica, Agnes. “Harmonisasi Peraturan Perundang-Undangan Indonesia Melalui Konsep Omnibus Law.” *Gema Keadilan* 6, no. 3 (2019): 300–316. <https://doi.org/10.14710/gk.6.3.300-316>.
- Mario Julyano, Sulistyawan, Aditya Yuli. “Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum.” *Jurnal Crepido* 01, no. 01 (2019): pp.13-22.
- Maruf. “Law And Policy in Addressing Marine Plastic Litter: Indonesia Response and Recent Development.” *JILS: Journal of Indonesian Legal Studies* 4, no. 2 (2019): 5–6.
- Moeliono, Tristam Pascal, and Koerniatmanto Soetoprawiro. “Pengembangan Dan Perkembangan Pemikiran Hukum Pertanian Di Indonesia.” *Undang: Jurnal Hukum* 3, no. 2 (December 1, 2020): 409–40. <https://doi.org/10.22437/ujh.3.2.409-440>.

- Pratiwi, Arini Yunia, and Afriana Anita Muhamad Amirulloh. "Harmonisasi Hukum Ketentuan Lisensi Wajib (Compulsory License) Perlindungan Varietas Tanaman Di Indonesia." *Poros Hukum Padjadjaran* 2, no. 2 (2021): 292–93.
- Rahmatullah, Indra. "Filsafat Realisme Hukum: Konsep Dan Aktualisasinya Dalam Hukum Bisnis Di Indonesia." *ADALAH* 5, no. 3 (June 2021). <https://doi.org/10.15408/adalah.v5i3.21395>.
- Rajagukguk, Wilson. "Agriculture and Regional Economic Growth in Indonesia." In *E3S Web of Conferences*, 258:8, 2021. <https://doi.org/10.1051/e3sconf/202125806037>.
- Rokilah Rokilah, Sulasno. "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan." *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 2 (2021): 179–90.
- Safudin, Endrik. "Harmonisasi Hukum Dalam Antinomi Hukum (Analisis Terhadap Penerapan Pasal 20 Ayat 2 Huruf B Undang-Undang Republik Indonesia Nomor 48 Tahun 2009 Tentang Kekuasaan Kehakiman." *Al-Syakhsiyah Journal of Law & Family Studies*, 2, no. 2 (2020): 203–4.
- Setiawati, Tity Wahyu, Mardjo Mardjo, and Tutut Ferdiana Mahita Paksi. "Politik Hukum Pertanian Indonesia Dalam Menghadapi Tantangan Global." *Jurnal Hukum Ius Quia Iustum* 26, no. 3 (2019): 585–608. <https://doi.org/10.20885/iustum.vol26.iss3.art8>.
- Shabia, Gusti Nur Asla. "Kontribusi Community Supported Agriculture Untuk Gerakan Agraria Di Indonesia: Pelajaran Dari Jerman." *BHUMI: Jurnal Agraria Dan Pertanahan* 7, no. 2 (2021): 181–98. <https://doi.org/10.31292/bhumi.v7i2.490>.
- Sulistiyawan, Aditya Yuli. "Urgensi Harmonisasi Hukum Nasional Terhadap Perkembangan Hukum Global Akibat Globalisasi." *Hukum Progresif* 7, no. 2 (2019): 174.
- Xanthaki, Helen. "Legislative Drafting: A New Sub-Discipline of Law Is Born." *IALS Student Law Review* 1, no. 1 (2017): 57–62.