

The Legal Politics Harmonization of Sustainable Agricultural Policy

Ermanto Fahamsyah¹, Ruetaitip Chansrakao²

¹University of Jember, Indonesia

E-mail: ermanto_fahamsyah@yahoo.co.id

² University under the Royal Patronage of Valaya Alongkorn Rajabhat, Thailand

E-mail: ruetaitip@vru.ac.th

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Abstract

Sustainable agriculture represents a forward-looking legal policy aimed at preserving agricultural practices for future generations. Challenges arise when various laws and regulations governing sustainable agricultural policies exhibit disharmony, despite their substantial interconnections. This study seeks to advocate for the legal harmonization of sustainable agricultural policies. Employing a normative legal research methodology, this research focuses on analyzing legal issues to develop prescriptive legal solutions for the identified problems. The study utilizes both a statutory approach and a conceptual approach. The findings indicate that the disharmony among sustainable agricultural law policies across various regulations in Indonesia necessitates legal harmonization in the planning, formulation, and evaluation of legislation. Future improvements to the legal framework for sustainable agriculture in Indonesia can be achieved by harmonizing legal policies related to sustainable agriculture, particularly through the revision of Government Regulation (PP) No. 12 of 2021 to include sustainable agriculture as a core regulatory component.

A. Introduction

Indonesia's rural character confers distinct advantages in terms of soil fertility, rendering its fertile lands a veritable "paradise" for local communities. This soil fertility facilitates various productive activities, among

which agriculture is paramount.¹ Agricultural practices constitute an essential aspect of Indonesian society, serving dual purposes: they are deeply embedded in the cultural fabric of the community while simultaneously bolstering the local economy.²

As a cultural endeavor, agriculture embodies the Indonesian people's reverence for "Mother Earth,"³ or the "motherland."⁴ This agricultural culture is significantly influenced by the philosophical heritage of the Austro-Melanesian ancestors of the Indonesian nation, along with cultural contributions from Southeast Asia, which introduced farming systems as advancements over traditional hunting and gathering practices.⁵ Thus, agriculture is both a tribute to ancestral traditions and a demonstration of respect for the land.

In addition to its cultural significance, agriculture possesses substantial economic value.⁶ It encompasses activities aimed at meeting community needs through the cultivation of crops, which can subsequently be marketed to consumers or sold in local markets.⁷ This economic dimension of agriculture enhances community welfare by generating income for its practitioners. Consequently, the agricultural sector holds critical importance for the Indonesian populace, as it intertwines cultural identity with economic development.⁸

Recognizing agriculture's significance necessitates an active role for the state in facilitating and establishing legal frameworks and policies that

¹ Zuhud Rozaki, "Food Security Challenges and Opportunities in Indonesia Post COVID-19," in *Advanced in Food Security and Sustainability* (Cambridge: Elsevier, 2021), 159.

² Keijiro Otsuka, "Strategy for Transforming Indonesian Agriculture," *Bulletin of Indonesian Economic Studies* 57, no. 3 (2021): 325.

³ Sartika Intaning Pradhani, "Sejarah Hukum Maritim Kerajaan Sriwijaya Dan Majapahit Dalam Hukum Indonesia Kini," *Lembaran Sejarah* 13, no. 2 (2017): 186, <https://doi.org/10.22146/lembaran-sejarah.33542>.

⁴ Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas*, 5th ed. (Jakarta: Gramedia, 2015).

⁵ Muhammad Chairul Huda, "Meneguhkan Pancasila Sebagai Ideologi Bernegara: Implementasi Nilai-Nilai Keseimbangan Dalam Upaya Pembangunan Hukum Di Indonesia," *Resolusi: Jurnal Sosial Politik* 1, no. 1 (2018): 78–99, <https://doi.org/https://doi.org/10.2489/resolusi.v1i1.160>.

⁶ Aloysius Hari Kristianto and Jones Parlindungan Nadapdap, "Dinamika Sistem Ekonomi Sirkular Berbasis Masyarakat Metode Causal Loop Diagram Kota Bengkulu," *Sebatik* 25, no. 1 (2021): 59–67.

⁷ Ramli Muasmara and Nahrin Ajmain, "Akulturasi Islam Dan Budaya Nusantara," *TANJAK: Journal of Education and Teaching* 1, no. 2 (2020): 111–25, <https://doi.org/10.35961/tanjak.v1i2.150>.

⁸ Ning Karna Wijaya and Soraya Aini, "Pemberdayaan Santri Dalam Pengembangan Ekonomi Kreatif 'Kimi Bag' Di Pondok Pesantren Al Qohar Klaten," *Dimas: Jurnal Pemikiran Agama Untuk Pemberdayaan* 20, no. 1 (2020): 23, <https://doi.org/10.21580/dms.2020.201.5124>.

empower agricultural practices among the Indonesian people.⁹ The state must function not only as a regulator but also as a facilitator of agricultural activities.¹⁰ In this role, it is imperative for the state to empower farmers through various programs and policy initiatives that have been articulated.¹¹ Moreover, agricultural law policies are essential in providing direction and guidance for the development of legal products that align with the objectives of enhancing farming communities.¹²

In this context, agricultural law policy manifests within the broader legal and political framework governing agricultural policies in Indonesia.¹³ A notable initiative undertaken by the government is the implementation of sustainable agricultural policy¹⁴, which represents a key aspect of this legal and political effort.¹⁵

The agricultural law policies initiated by the state are codified in various laws and regulations, including Law No. 19 of 2013 concerning the Protection and Empowerment of Farmers (*UU P3*), Law No. 22 of 2019 concerning the Sustainable Agricultural Cultivation System (*UU SBDPB*), and Law No. 11 of 2020 concerning Job Creation (*UU CK*). Implementing regulations, such as Government Regulation No. 26 of 2021 concerning the Implementation of the Agricultural Sector (*PP PBP*), further delineate these policies. According to Article 1, point 1 of the *UU SBDPB*, sustainable agriculture is framed as a critical effort by the state to enhance agricultural processes, particularly concerning agricultural management and processing, while ensuring the availability of agricultural land for future generations. The concept of sustainable agriculture outlined in the *UU SBDPB* is more comprehensive than that presented in the *UU P3*, which does not specifically address sustainable agricultural practices.

Moreover, legal policies pertaining to sustainable agriculture are implicitly highlighted in the *UU CK* and its implementing regulations, namely the *PP PBP*. However, despite these regulations, the *UU CK* and the *PP PBP*

⁹ 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>.

¹⁰ 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>.

¹¹ Shabia, "Kontribusi Community Supported Agriculture Untuk Gerakan Agraria Di Indonesia: Pelajaran Dari Jerman."

¹² 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>.

¹³ Dewa Gede Atmadja, "Asas - Asas Hukum Dalam Sistem Hukum," *Kertha Wicaksana* 12, no. 2 (2018): 145–55.

¹⁴ Yuli Asmara Triputra, "Implementasi Nilai-Nilai HAM Global Ke Dalam Sistem Hukum Indonesia Yang Berlandaskan Pancasila," *Jurnal Hukum IUS QUIA IUSTUM* 24, no. 2 (2017): 279–300, <https://doi.org/10.20885/iustum.vol24.iss2.art6>.

¹⁵ 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.

do not provide sufficient guidance or detailed regulations concerning sustainable agricultural law policies. Notably, the *PP PBP* lacks explicit affirmation and orientation regarding sustainable agricultural law policies, which warrants special attention in the revision of the *UU SBDPB*. This analysis reveals significant issues in the legal policy surrounding sustainable agriculture, particularly regarding the disharmony among various laws and regulations governing agricultural practices. Consequently, this research proposes future regulatory frameworks aimed at enhancing the coherence and effectiveness of sustainable agricultural law policies.

The agricultural law policies initiated by the state are codified in various legal frameworks, including Law No. 19 of 2013 concerning the Protection and Empowerment of Farmers (*UU P3*), Law No. 22 of 2019 concerning the Sustainable Agricultural Cultivation System (*UU SBDPB*), and Law No. 11 of 2020 concerning Job Creation (*UU CK*). Additionally, these policies are complemented by implementing regulations such as Government Regulation No. 26 of 2021 concerning the Implementation of the Agricultural Sector (*PP PBP*). According to Article 1, point 1 of the *UU SBDPB*, sustainable agriculture is framed as a crucial effort by the state to empower diverse agricultural processes, particularly in terms of management and processing, while ensuring the availability of agricultural land for future generations. The conception of sustainable agriculture presented in the *UU SBDPB* is more comprehensive than that in the *UU P3*, which does not specifically address sustainability within agricultural practices.

Furthermore, legal policies pertaining to sustainable agriculture are implicitly referenced in the *UU CK* and its implementing regulations, including the *PP PBP*. However, despite their provisions for sustainable agriculture, the *UU CK* and the *PP PBP* lack comprehensive regulations regarding the governance of sustainable agricultural law policies. Notably, the *PP PBP* does not provide explicit affirmation or orientation concerning sustainable agricultural law policies, which necessitates special attention in the revision of the *UU SBDPB*, as advocated through the *UU CK* and its implementing regulations. Consequently, significant issues arise from the disharmony among various laws and regulations governing agriculture, particularly regarding sustainable practices. This research proposes future regulatory frameworks aimed at improving the coherence and effectiveness of sustainable agricultural law policies.

The novelty of this research lies in its focus on the intersection of law and policy within the context of sustainable agriculture in Indonesia, an area that has been predominantly dominated by agricultural science studies. While agricultural science has produced substantial insights into sustainable practices, contributions from legal and policy perspectives remain minimal. Previous studies have addressed various aspects of sustainable agriculture, including (i) Mucharam et al. (2020), who examined the significance of developing sustainable agricultural indicators for evaluating Indonesia's

agricultural development performance, emphasizing the need for updated indicators to inform policy formulation;¹⁶ (ii) Dadi (2021), who investigated agricultural development and organic farming systems, exploring processes and strategies for achieving sustainable food security in Indonesia; and (iii) Pratiwi and Moeis (2022), who focused on the responses of food crop farmers to agricultural land ownership constraints in relation to the success of sustainable agricultural policies.¹⁷ However, none of these studies have explored the disharmony within sustainable agricultural legal policies, making this research an original contribution to the field.¹⁸

This study is designed to address two primary research questions: (i) What are the implications of the disharmony among sustainable agricultural law policies within various laws and regulations in Indonesia? and (ii) How can sustainable agricultural law policies in Indonesia be improved in the future? This research employs a normative legal approach¹⁹, focusing on the analysis of legal issues to propose prescriptive solutions to the identified problems. The primary legal materials utilized in this study include the *UU P3*, *UU SBDPB*, *UU CK*, and *PP PBP*. Secondary legal materials consist of a review of existing literature and research relevant to the legal issues at hand. Additionally, non-legal materials, such as books and research findings from other disciplines, are included for their relevance to the study. The methodological approach incorporates both statutory and conceptual frameworks to facilitate a comprehensive analysis.

B. Discussion

1. The Implications of Disharmonization from Sustainable Agricultural Legal Policies in Indonesia

Harmonization of sustainable agricultural policies aligns with the philosophy of sustainable development, particularly the Sustainable Development Goals (SDGs). The SDGs, an international framework adopted by various countries²⁰, focus on building a better future by optimizing

¹⁶ Harianto Iim Mucharam, Ernan Rustiadi, Akhmad Fauzi, "Signifikansi Pengembangan Indikator Pertanian Berkelanjutan Untuk Mengevaluasi Kinerja Pembangunan Pertanian Indonesia," *Rumusan Kajian Strategis Bidang Pertanian Dan Lingkungan* 7, no. 2 (2020): 65.

¹⁷ Jossy Prananta Moeis Anik Pratiwi, "Sustainable Farming: Respons Petani Tanaman Pangan Terhadap Kepemilikan Lahan Pertanian," *Jurnal Ekonomi Dan Pembangunan Indonesia* 22, no. 1 (2022): 45.

¹⁸ Dadi, "Pembangunan Pertanian Dan Sistem Pertanian Organik: Bagaimana Proses Serta Strategi Demi Ketahanan Pangan Berkelanjutan Di Indonesia," *Education and Development* 9, no. 3 (2021): 570.

¹⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, 13th ed. (Jakarta: Kencana, 2017).

²⁰ Santhana Krishnan Mohd Fadhil Md Din, Wahid Omar, Shazwin Taib, Shamsul Sarip, "Humanizing the Localizing Sustainable Development Goals (SDGs) in Education and Research at Higher Education Institutions (HEIs)," *Journal of Sustainability Perspectives*: 1, no. 1 (2021): 453–60.

resources for the benefit of future generations²¹, especially natural resources. This future-oriented approach places the SDGs as a forward-thinking agenda aimed at ensuring long-term global well-being. In this context, every nation is expected to achieve the SDGs' various targets, which extend across all sectors, including agricultural policies and laws.²² The concept of sustainable agriculture is shaped by the SDGs, with a focus on optimizing and conserving resources for future generations.²³

Agriculture is envisioned to remain a key commodity in the future, ensuring that sufficient arable land is available for upcoming generations.²⁴ The integration of sustainable agriculture with the SDGs aims to establish agriculture as a vital "food source" that must be preserved for the sake of future sustainability. This necessity becomes apparent as unregulated industrialization has significantly reduced agricultural land, potentially leading to its depletion and the subsequent loss of a crucial food source. Such a scenario, where future generations are left without fertile agricultural land, poses a significant threat to food security. Without proper conservation, future generations may only be able to recount the history of what was once fertile agricultural land.²⁵

The goal of sustainable agriculture is to maintain a balanced proportion of agricultural land for future use, ensuring the ongoing availability of agricultural products. In addition to securing food sources, sustainable agriculture aligns with the principles of "ecocracy," which underscores the importance of environmental sustainability as being equally essential to the sovereignty of the people.²⁶

Democracy is widely recognized as a result of the long struggle of world civilizations to overcome authoritarianism.²⁷ It has since become a global ideal, serving as the foundation for governance in various nations. In republican systems, democracy is expressed through electoral processes,

²¹ Adrian Furnham, "Culture Shock: A Review of the Literature for Practitioners," *Psychology* 10, no. 13 (2019): 1832–55, <https://doi.org/10.4236/psych.2019.1013119>.

²² A. Halim Iskandar, *SDGs DESA : Percepatan Pencapaian Tujuan Pembangunan Nasional Berkelanjutan*, 1st ed. (Jakarta: Yayasan Pustaka Obor Indonesia, 2020).

²³ Reema Mishra Renu Soni, Ruchitra Gupta, Preeti Agarwal, "Organic Farming: A Sustainable Agricultural Practice," *Vantage: Journal of Thematic Analysis* 3, no. 1 (2022): 23.

²⁴ Lisa Murken and Christoph Gornott, "The Importance of Different Land Tenure Systems for Farmers' Response to Climate Change: A Systematic Review," *Climate Risk Management* 35, no. February (2022): 100419, <https://doi.org/10.1016/j.crm.2022.100419>.

²⁵ Neneng Yani Yuningsih, "Modernisasi Politik Sistem Pemerintah Kecamatan Majalaya Kabupaten Bandung Tahun 2012," *CosmoGov* 1, no. 1 (2017): 167, <https://doi.org/10.24198/cosmogov.v1i1.11805>.

²⁶ Setia Untung Arimuladi, "The Ecocracy Of Water Resources On Water Cultivation Rights In Realizing Soil And Water Conservation," *Pembaruan Hukum* 9, no. 2 (2022): 175.

²⁷ Melissa Crouch, "The Challenges for Court Reform after Authoritarian Rule: The Role of Specialized Courts in Indonesia," *Constitutional Review* 7, no. 1 (2021): 1–25, <https://doi.org/10.31078/consrev711>.

while in monarchies, it is manifested through limitations on the monarch's power, often termed constitutional monarchy.²⁸

However, the evolution of democracy has introduced new challenges, particularly in relation to its emphasis on human-centered governance. Excessive focus on human interests²⁹, especially in managing the environment, can lead to negative consequences such as ecological imbalances, air pollution, and global warming.³⁰ The concept of "ecocracy" has emerged as a counterbalance to democracy, suggesting that the sovereignty of the people must be accompanied by a comprehensive consideration of environmental sovereignty.³¹ In this view, democracy must integrate the protection of both human and environmental rights, ensuring that the exercise of popular sovereignty does not compromise the sustainability of the planet.³²

Ecocracy promotes the idea that environmental sovereignty should guide and support popular sovereignty, establishing a clear principle that people's sovereignty must not conflict with environmental protection. This notion has contributed to the development of sustainable ideas, including sustainable development, which incorporates ecocratic principles. One such extension of ecocracy is the formulation of sustainable agricultural policies.³³

In Indonesia, the development of sustainable agricultural policies, rooted in the idea of ecocracy, must also take into account the legal framework, particularly the formation of legislation.³⁴ Several laws and regulations govern sustainable agriculture, including the *UU P3*, *UU SBDPB*, *UU CK*, and *PP PBP*. However, upon closer examination, there appears to be a disconnect between these regulations. Although they share a common orientation toward agricultural governance, the laws and regulations should

²⁸ Rehia K. Isabella Barus et al., "Politics and Political Participation of 'Grass-Roots' in General Election 2019, Bandar Selamat Regency, Medan, Indonesia," *Budapest International Research and Critics Institute (BIRCI-Journal) : Humanities and Social Sciences* 2, no. 1 (2019): 279–83, <https://doi.org/10.33258/birci.v2i1.180>.

²⁹ Chrisna Bagus Edhita Praja et al., "Strict Liability Sebagai Instrumen Penegakan Hukum Lingkungan," *Varia Justicia* Vol 1 2, no. 1 (2016): 42–62.

³⁰ Danang Wahyuhono, Suryo Purwono, and Dyah Mutiarin, "Kontrol Pemuda Terhadap Tata Kelola Migas Dan Implikasinya Pada Ketahanan Wilayah Di Kawasan Migas Blok Cepu Kabupaten Bojonegoro," *Jurnal Ketahanan Nasional* 25, no. 1 (2019): 1, <https://doi.org/10.22146/jkn.38265>.

³¹ Bobi Aswandi and Kholis Roisah, "Negara Hukum Dan Demokrasi Pancasila Dalam Kaitannya Dengan Hak Asasi Manusia (Ham)," *Jurnal Pembangunan Hukum Indonesia* 1, no. 1 (2019): 128, <https://doi.org/10.14710/jphi.v1i1.128-145>.

³² Muhammad Pasha Nur Fauzan, "Meninjau Ulang Gagasan Green Constitution: Mengungkap Miskonsepsi Dan Kritik," *LITRA: Jurnal Hukum Lingkungan, Tata Ruang, Dan Agraria* 1, no. 1 (2021): 3.

³³ Arief Budiono, "TEORI UTILITARIANISME DAN PERLINDUNGAN HUKUM LAHAN PERTANIAN DARI ALIH FUNGSI," *Jurnal Jurisprudence* 9, no. 1 (September 18, 2019): 102–16, <https://doi.org/10.23917/jurisprudence.v9i1.8294>.

³⁴ Ihham Dwi Rafiqi Indah Dwi Qurbani, "Prospective Green Constitution in New and Renewable Energy Regulation," *Legality: Jurnal Ilmu Hukum* 30, no. 1 (2022): 70.

complement and reinforce each other in addressing the substance of sustainable agriculture.

For instance, the concept of sustainable agriculture is absent in the *UU P3*, which is understandable given that the idea had not yet gained prominence during its drafting. Conversely, the *UU SBDPB* does emphasize sustainable agriculture, but it lacks provisions to address or complement the gaps in the *UU P3*. This disconnection between the two laws reflects a flawed logic, as it separates farmers from agriculture, despite the fact that they are interdependent. Farmers, as key actors in agriculture, should be central to agricultural policies, as their actions directly impact the success of those policies. At the same time, agricultural policies should aim to ensure both the welfare of farmers and the preservation of agricultural land. The failure to harmonize these laws results in legislative inconsistencies that undermine the goal of sustainable agriculture.

The lack of harmony in sustainable agricultural policies extends to both the *UU CK* and the *PP PBP*. The *UU CK*, created using the omnibus method, was intended as a legal solution to various legislative challenges.³⁵ However, the rapid drafting process of the *UU CK*³⁶ resulted in inadequate legal harmonization, particularly in relation to sustainable agricultural policies, which received insufficient attention in both the *UU CK* and the *PP PBP*. There should have been a clearer affirmation or specific provisions regarding sustainable agricultural policies, especially within the *PP PBP*.

This disharmony can be attributed to three main factors. First, there is the inaccuracy of lawmakers, coupled with a lack of understanding and awareness regarding the importance of harmonizing laws during the legislative process. This is often because lawmaking is seen as fulfilling the "desires" of legislative institutions, where the focus is placed on what these institutions wish to regulate, rather than on a thorough analysis of existing legal frameworks. This results in insufficient consideration of how new legislation aligns with the substance of previous laws.³⁷

Second, sectoral egos often play a role in the legislative process. Legislators may prioritize certain areas of law over others, leading to imbalances and inconsistencies across legal frameworks. When one regulation

³⁵ Suryati, Ramanata Disurya, and Layang Sardana, "Tinjauan Hukum Terhadap Omnibus Law Undang-Undang Cipta Kerja," *Jurnal Ilmiah Ilmu Hukum Simbur Cahaya* 28, no. 1 (2021): 97–111, <https://doi.org/http://dx.doi.org/10.28946/sc.v28i2.902>.

³⁶ Agus Machfud Fauzi Hesty Kartikasari, "Penolakan Masyarakat Terhadap Pengesahan Omnibus Law Cipta Kerja Dalam Perspektif Sosiologi Hukum," *Doktrina* 4, no. 1 (2021): 43.

³⁷ Abdul Latif Mahfuz, "Faktor Yang Mempengaruhi Politik Hukum Dalam Suatu Pembentukan Undang-Undang," *Kepastian Hukum Dan Keadilan* 1, no. 1 (2019): 44.

is viewed as more "important" than others, it creates disharmony in the legislative substance.³⁸

Third, the rapid drafting of laws, driven by political agendas, can lead to inaccuracies and inconsistencies in the legislative substance. In the case of the *UU CK* and the *PP PBP*, the accelerated formation process undermined the effectiveness of legal harmonization, as legislators did not adequately consider the interconnections between different statutory regulations.

These three factors collectively highlight the core issue in formulating sustainable agricultural policies: the failure to harmonize laws effectively. This lack of coordination between legislative frameworks impedes the development of coherent and sustainable agricultural policies.

Harmonization of law is a critical element in the law-making process, particularly in the preparation of legislation.³⁹ It ensures that the provisions within different laws are interconnected, complementary, and free from conflicts or overlaps.⁴⁰ The concept of legal harmonization first gained prominence in Germany in 1992, with a focus on aligning the legal frameworks between central and local governments.⁴¹ Prior to this, legal policy formulation in Germany often suffered from overlaps, especially between the federal and state governments.⁴² This issue was further complicated by Germany's federal system, which resulted in tensions over regulatory authority between the central and state governments.⁴³

L.M. Gandhi offers a succinct definition of legal harmonization, describing it as an effort to align various legal products, including statutes, government decisions, and judicial rulings, within a legal system based on established legal principles. Legal harmonization, in this view, is a structured, comprehensive, and substantive process aimed at creating consistency within the legal framework.⁴⁴

³⁸ Hananto Widodo, "The Legal Politics of the Inquiry Rights of the House of Representatives Post 1945 Constitutional Amendment," *Journal of Law, Policy and Globalization* 85 (May 2019): 123, <https://doi.org/10.7176/JLPG/85-14>.

³⁹ Aditya Yuli Sulistyawan, "Urgensi Harmonisasi Hukum Nasional Terhadap Perkembangan Hukum Global Akibat Globalisasi," *Hukum Progresif* 7, no. 2 (2019): 174.

⁴⁰ 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-Syakhsyiyah Journal of Law & Family Studies*, 2, no. 2 (2020): 203–4.

⁴¹ Martika Dini Syaputri Nany Suryawati, "Harmonization of the Application of Customary Law and Positive Law in Village Communities of Malang Regency," *International Journal of Applied Business and International Management (IJABIM)* 6, no. 2 (2021): 6.

⁴² Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, 1st ed. (Jakarta: Konstitusi Press, 2020).

⁴³ Elene Janelidze, "Judicial Review of Constitutional Amendments in Georgia, France and Germany – The Quest for Eternity," *Central European University ETD Collection*, 2016.

⁴⁴ Agnes Fitryantica, "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>.

In practice, legal harmonization is carried out in two ways: vertical and horizontal harmonization, depending on legal needs. Vertical harmonization involves ensuring consistency across different levels of legal norms, focusing on preventing conflicts between lower and higher legal norms. Horizontal harmonization⁴⁵, on the other hand, addresses the alignment of laws that are of the same legal status and regulate similar or related issues.⁴⁶ This is often governed by the principle of *lex specialis derogat legi generali*, where more specific laws override general ones.

Additionally, legal harmonization can involve the technical aspects of drafting legislation. This includes considerations of legal language, the format of legal drafts, specific regulatory matters, and the structural framework of laws. These drafting techniques help ensure that legal texts are clear, consistent, and aligned with existing legal frameworks.

That confirms that harmonization is needed when legal disharmony or even legal harmonization aims to prevent legal disharmony. L.M. Gandi gave an affirmation related to the causes of legal disharmony, which include:⁴⁷

- a. The disharmony between laws and regulations, both vertically and horizontally. That often happens because of the desire to produce a legal product but without being balanced with a harmonization process;
- b. The 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 that are contrary to the Law;
- c. The disharmony that occurs between the legislation and the Court's Decision. That 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. That is because each agency feels the most authorized to make a legal product, so they feel no need to involve other agencies.

⁴⁵ Mahendra A. A. Oka, "Harmonisasi Peraturan Perundang-Undangan," in *Artikel Hukum Tata Negara Dan Peraturan Perundang-Undangan*, 2021.

⁴⁶ Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*.

⁴⁷ L.M. Gandhi, "Harmonisasi Hukum Menuju Hukum Responsif" (Depok: Fakultas Hukum Universitas Indonesia, 1995).

Regarding the causes of legal disharmony as described above, several steps can be taken to overcome legal disharmony, including:⁴⁸

- a. Paying attention to the philosophical basis in 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 Legislation; and
- g. The use of certain legal methods in the formation and preparation of laws, for example, the omnibus law/omnibus bill method and other methods.

The harmonization of law aims to achieve legal certainty. In Jaap Hage's view, legal certainty, particularly in legislation, involves consistency and attention to detail in legal frameworks.⁴⁹ Complex issues, such as the rights and obligations of the public and the authority of relevant institutions, must be carefully considered in drafting laws. Similarly, Elina Pauino highlights two dimensions of legal certainty: substantive and formal legal certainty.⁵⁰

Substantive legal certainty, according to Pauino, requires not only attention to legal aspects but also the consideration of non-legal factors, particularly in law enforcement.⁵¹ In contrast, formal legal certainty

⁴⁸ Sulasno Rokilah Rokilah, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 2 (2021): 179–90.

⁴⁹ 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>.

⁵⁰ 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>.

⁵¹ Dyah Ochtorina Susanti A'an Efendi, *Ilmu Hukum*, 1st ed. (Jakarta: Prenadamedia Group, 2021).

emphasizes that laws must be transparent, stable, and predictable. Transparency requires that laws are drafted clearly and adhere to established principles and procedures, including those set out in the preamble and articles. Stability refers to the need for coherence and harmonization across laws, ensuring that content is properly formulated and follows principles such as the principle of preference. Predictability involves the careful planning, implementation, and periodic evaluation of laws to ensure they remain consistent, both formally and materially.

The theory of three fundamental legal values—justice, expediency, and legal certainty—is central to legal science. Gustav Radbruch, in his work "*Einführung In Die Rechtswissenschaften*" asserts that in law, there are 3 (three) basic values, namely: justice (*gerechtigkeit*), expediency (*zweckmassigkeit*), and legal certainty (*rechtssicherheit*).⁵² The three fundamental values of law are known as triadism.⁵³ Triadism, as stated by Gustav Radbruch in the form of justice, expediency, and legal certainty, are three values that *condition sine qua non* must exist in law⁵⁴. While they ideally operate in harmony, conflicts between them may arise in practice, sometimes requiring the sacrifice of one value to uphold another.

Despite the potential for tension (*spannungsverhältnis*) between the three fundamental legal values—justice (*gerechtigkeit*), expediency (*zweckmassigkeit*), and legal certainty (*rechtssicherheit*)⁵⁵—efforts must be made to achieve all three in any legal product. Of these values, legal certainty⁵⁶ holds particular significance, especially in written legal frameworks such as legislation. Legal certainty is crucial in civil law systems, including Indonesia's, which, although not explicitly defined as such, follows a civil law tradition influenced by its colonial history under Dutch rule. In the context of legislation, among the three legal values identified by Gustav Radbruch, legal certainty often takes precedence.

However, in the formation of agricultural law policies in Indonesia, the importance of legal harmonization as a foundational element has been largely overlooked. Political interests, the rush to enact laws, and sectoral egos have all contributed to the neglect of harmonization in legislative drafting. This neglect has led to a lack of coherence in laws regulating sustainable

⁵² Bateman, "The Ought To Be a Law: Gustav Radbruch, Lon L. Fuller, and H.L.A. Hart on The Choice Between Natural Law and Legal Positivism."

⁵³ Hari Agus Santoso, "Perspektif Keadilan Hukum Teori Gustav Radbruch Dalam Putusan Pkpu 'PTB,'" *Jatistwara* 36, no. 3 (2021): 329.

⁵⁴ 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.

⁵⁵ Aditya Yuli Mario Julyano, Sulistyawan, "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum," *Jurnal Crepido* 01, no. 01 (2019): pp.13-22.

⁵⁶ Hananto Widodo and Fradhana Putra Disantara, "Problematisasi Kepastian Hukum Darurat Kesehatan Masyarakat Pada Masa Pandemi COVID-19," *Jurnal Suara Hukum* 3, no. 1 (March 9, 2021): 197, <https://doi.org/10.26740/jsh.v3n1.p197-226>.

agriculture, causing these laws to appear fragmented and disconnected. For example, the *UU P3* and the *UU SBDPB* do not reference each other, despite the fact that farmers and agriculture are inherently linked and cannot be separated.

2. Future Improvements to the Politics of Law on Sustainable Agriculture in Indonesia

The legal disharmony in agricultural law policy stems from insufficient efforts to harmonize the law within statutory regulations. The lack of harmonization causes the internal substance of these laws to become disconnected, and in some cases, contradictory. This lack of coherence complicates the application of the law in society, as the regulatory framework guiding legal implementation becomes unclear and indefinite. In terms of legal certainty—a fundamental value of law—the disharmony undermines its fulfillment. Without legal certainty, a statutory regulation cannot be considered valid law or at least fails to meet the essence of what constitutes law.⁵⁷

Harmonization of law is essential to ensuring that legal substances are consistent, interconnected, and functional. It is grounded in the understanding that positive law forms a unified system⁵⁸, where each law is linked to others. When differences or contradictions arise between laws, specific legal principles, such as the principle of preference, must be applied. Additionally, understanding and analyzing the interrelated substances of positive laws are crucial, as harmonization ensures that legal provisions are coherent, enforceable, and capable of guaranteeing justice within society⁵⁹.

Efforts to harmonize laws involving interconnected legal substances require several steps, such as aligning and harmonizing the objectives, strategies, and guidelines of each regulation through legal interpretation, legal construction, and sound legal reasoning.⁶⁰ This approach should consider the broader legal system and applicable legal principles.⁶¹ In this context, the harmonization process must be understood as part of a broader framework of legal politics. Legal politics refers to a planned, participatory, and responsive

⁵⁷ Indra Rahmatullah, "Filsafat Hukum Utilitarianisme: Konsep Dan Aktualisasinya Dalam Hukum Di Indonesia," *Adalah: Buletin Hukum & Keadilan* 5, no. 2 (2021): 19–32, <https://doi.org/10.15408/adalah.v5i2.22026>.

⁵⁸ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*, Revisi (Sleman: Kanisius, 2020).

⁵⁹ 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.

⁶⁰ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2014).

⁶¹ Arif Hidayat and Zaenal Arifin, "Politik Hukum Legislasi Sebagai Socio-Equilibrium Di Indonesia," *Jurnal Ius Constituendum* 4, no. 2 (2019): 147–59, <https://doi.org/10.26623/jic.v4i2.1654>.

legal policy aimed at meeting the legal needs of society.⁶²

Satjipto Rahardjo's view of legal politics emphasizes several key aspects: the goals of the legal system, the methods used to formulate legal policies, the timeline for drafting such policies, and the patterns or techniques applied in the process. Legal politics thus offers a clear framework for preparing statutory regulations, ensuring that they are conceptually sound, responsive to societal needs, and aligned with established legal principles.

In Mahfud MD's view, legal politics is synonymous with the "official" state policy aimed at achieving its objectives by revising and reforming existing laws. This encompasses both the evaluation of current legal frameworks and the formation of new laws that reflect evolving aspirations. Combining the perspectives of Satjipto Rahardjo and Mahfud MD, legal politics must rest on four key pillars: planning, the accumulation of views or interests, the formulation of laws, and evaluation. These elements should guide the implementation of legal politics.

First, the planning stage requires careful legal harmonization to avoid overlap and contradictions between existing and newly proposed laws. This process ensures that the substance of new legislation aligns with what has already been regulated. Second, the discussion or consultation phase with interested parties becomes essential. These stakeholders, directly or indirectly connected to the legislation, play a vital role in shaping the law. Moreover, Constitutional Court Decision No. 91/PUU-XVIII/2020 highlights the importance of "meaningful participation," which guarantees the right to be heard, considered, and provided with explanations. Thus, ensuring meaningful participation at this stage is crucial.⁶³

Third, during the formulation stage, legal norms should reflect the substance agreed upon during the discussions. This stage requires robust legal interpretation, construction, and reasoning, ensuring that the resulting legal text is clear and well-drafted.⁶⁴ Finally, the evaluation phase assesses the effectiveness of the laws and regulations after their implementation, ensuring that the legal framework remains responsive and aligned with societal needs.

Referring to the harmonization of laws in the context of sustainable agricultural policy, the importance of aligning legal politics with agricultural sustainability goals can be seen in Article 13(2) of the *UU SBDPB*. This article emphasizes that sustainable agriculture is intended "to protect, restore, maintain, and improve land functions to increase agricultural productivity sustainably." Article 13(3) indicates that the legal framework for sustainable

⁶² Moh. MahfudMD, *Membangun Politik Hukum, Menegakkan Konstitusi*, 2nd ed. (Jakarta: Rajawali Pers, 2017).

⁶³ Hananto Widodo Dicky Eko Prasetyo, "Ius Constituendum Pengujian Formil Dalam Perubahan Konstitusi," *AL-MANHAJ: Jurnal Hukum Dan Pranata Sosial Islam* 4, no. 1 (2022): 2.

⁶⁴ Helen Xanthaki, "Legislative Drafting: A New Sub-Discipline of Law Is Born," *IALS Student Law Review* 1, no. 1 (2017): 57–62.

agriculture should ideally be regulated by a separate Government Regulation.

However, given the omnibus law approach of the *UU CK*, the policy on sustainable agriculture needs greater focus. A shift from "regulated by" to "regulated in" is required to ensure that sustainable agricultural policies are explicitly detailed and technically incorporated into the *PP PBP*. This approach would avoid hyper-regulation while ensuring that the legal policy of sustainable agriculture is thoroughly addressed. In line with this, a revision of *PP PBP* should be undertaken to ensure a comprehensive legal framework that integrates sustainable agriculture within the larger legal system.

In the context of future arrangements regarding the legal politics of sustainable agriculture, several key stages must be undertaken to effectively reform these legal frameworks. This process should include optimal planning, discussion, and the aggregation of existing perspectives and interests, alongside the formulation of legislation and subsequent evaluations, all underpinned by meaningful participation.

C. Conclusion

The implications of disharmony among sustainable agricultural law policies across various regulations in Indonesia render these laws and regulations seemingly independent of one another. This is exemplified by the lack of reciprocal references between the Agricultural Law (*UU P3*) and the Law on Sustainable Food Agricultural Practices (*UU SBDP*). Given that farmers and agriculture are intrinsically linked, this disharmony also contributes to a lack of legal certainty, leading to confusion in the application of the law. Consequently, this confusion undermines the essence of justice within society.

To address these issues, legal harmonization is essential in the planning, formulation, and evaluation of statutory regulations. Future enhancements to the legal politics of sustainable agriculture in Indonesia can be achieved through the harmonization of legal policies by revising Government Regulation (PP) No. 12 of 2021 to incorporate sustainable agriculture as a fundamental regulatory component. Furthermore, this revision is relevant in light of Constitutional Court Decision No. 91/PUU-XVIII/2020, which affirms that the Job Creation Law (*UU CK*) and its implementing regulations are conditionally unconstitutional, necessitating a review of various components within the *UU CK*. In this context, it is imperative to optimize the stages of legal political development to enhance the substantive elements pertaining to sustainable agriculture, including the formulation and harmonization of related legal policies.

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