

The Legal Politics Harmonization of Sustainable Agricultural Policy

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Abstract

Sustainable agriculture is one of the future-oriented legal policies. In this case, agriculture is oriented to be preserved, especially for future generations. Problems occur when various laws and regulations governing sustainable agricultural law policies are disharmonies even though they are substantially interrelated. This study aims to initiate legal politics of harmonization of sustainable agricultural policies. This research is normative legal research that focuses on analyzing legal issues. Analysis of legal issues is essential in legal research oriented to prescriptions or legal solutions to the problems being discussed. The approach in this study uses a statutory approach and a conceptual approach. The results of the study confirm that the implications of disharmony of sustainable agricultural law policies in various laws and regulations in Indonesia need to make legal harmonization in planning, formulating, and evaluating legislation. Future improvements to the legal politics of sustainable agriculture in Indonesia can be carried out by harmonization of legal policies related to sustainable agriculture by revising the PP PBP to include sustainable agriculture as one of its regulatory substances

A. Introduction

Indonesia has a rural character which means it has advantages in soil fertility. The fertile soil of Indonesia has become a separate "paradise" for the community because, with good soil fertility, various productive activities of

the community can be carried out.¹ One of the productive activities of the community is farming or agricultural activities. Agriculture is one of the essential aspects of Indonesian society. On the one hand, farming is a matter of community culture, while on the other hand, it is an activity that supports the community's economy.² As a cultural activity, agriculture carried out by the Indonesian people is also a process of respect for the "mother earth," which is also commonly referred to as the "motherland."³ The agricultural culture of the Indonesian people is also influenced by the philosophy of the Austro-Melanesian people as the ancestors of the Indonesian nation, coupled with the culture from Southeast Asia, which introduced the farming system as a development of the hunting and gathering system. Agriculture as a form of respect for ancestors as well as respect for the "motherland."⁴ Agriculture, apart from tending to the cultural aspects of the community, also has economic value.⁵ In this case, the economic value of agriculture is related to farming activities to meet the community's needs.⁶

In addition, in an economic context, agriculture also produces agricultural products that can be sold to the community or sold in the market as a gathering place.⁷ In this context, agriculture has an economic dimension and provides added value to the community, including increasing people's income. Thus, for the Indonesian people in general, the agricultural sector is crucial because it relates to culture and improves the community's economy.⁸ The importance of agriculture for the people of Indonesia certainly requires the state's role to facilitate and make various legal products 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 Yudi Latif, *Negara Paripurna: Historisitas, Rasionalitas, Dan Aktualitas*, 5th ed. (Jakarta: Gramedia, 2015).

⁴ 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>.

⁵ Muhammad Chairul Huda, "Meneguhkan Pancasila Sebagai Ideologi Bernegara: Implemetasi 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 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>.

⁷ Aloysius Hari Kristianto and Jones Parlindungan Nadapdap, "Dinamika Sistem Ekonomi Sirkular Berbasis Masyarakat Metode Causal Loop Diagram Kota Bengkayang," *Sebatik* 25, no. 1 (2021): 59–67.

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>.

can empower agricultural activities for the people of Indonesia.⁹ In this context, the state is present not only as a regulator but also as a facilitator in agricultural activities.¹⁰ In its function as a facilitator, the state also needs to empower farmers through various programs and policy orientations that have been proclaimed.¹¹ In its function as a facilitator, the state also needs to empower farmers through various programs and policy orientations that have been proclaimed.¹² In its function as a regulator, one of the things proclaimed is related to agricultural law policies. Agricultural law policy in this context is a direction and guide for various agricultural legal products following the objectives and can empower farming communities.¹³ In this context, agricultural law policy is embodied in the legal politics of agricultural policy.¹⁴ One of the legal and political efforts of agricultural policy in Indonesia launched by the government is the legal politics of sustainable agricultural policy.¹⁵

The agricultural law policies that the state has initiated are stated in various laws and regulations, which include: 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), then there is also Law no. 11 of 2020 concerning Job Creation (UU CK), as well as the implementing regulations, namely Government Regulation No. 26 of 2021 concerning the Implementation of the Agricultural Sector (PP PBP). As stated in Article 1 point 1 of the UU SBDPB, sustainable agriculture is emphasized as an effort by the state to empower various agricultural processes, especially in terms of agricultural management and processing, and to ensure the availability of agricultural land for future generations.¹⁶ The idea of sustainable agriculture in the UU SBDPB is more comprehensive than the UU P3, which does not address sustainable agriculture. Furthermore, legal

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

¹³ 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>.

¹⁴ 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>.

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.

¹⁶ T. F. Setiawati, T. W., Mardjo, M., Mahita Paksi, "Politik Hukum Pertanian Indonesia Dalam Menghadapi Tantangan Global," *Urmal Hukum IUS QUIA IUSTUM* 26, no. 3 (2019): 587.

policies related to sustainable agriculture are also implicitly emphasized in the UU CK and its implementing regulations, namely the PP PBP. Although it has regulated sustainable agriculture, the UU CK and its implementing regulations, namely the PP PBP, have failed to provide further regulations regarding the regulation of sustainable agricultural law policies. Even in the PP PBP, there is no affirmation and orientation related to sustainable agricultural law policies that should receive special attention in the revision of the UU SBDPB, which is pursued through the UU CK and its implementing regulations, namely the PP PBP. In connection with this description, problems in the legal policy of sustainable agriculture occur in disharmony between various laws and regulations governing agriculture, especially discussing sustainable agriculture. This research offers future regulatory ideas for regulating sustainable agricultural law policies.

The novelty of this research is the field of agricultural science studies still dominates research on sustainable agriculture in Indonesia. Other fields of science, such as law and policy, are still minimally contributing ideas to the development of sustainable agriculture. Several studies that discuss sustainable agriculture, including (i) Iim Mucharam, Ernan Rustiadi, Akhmad Fauzi, and Harianto (2020) on *he Significance of Developing Sustainable Agricultural Indicators for Evaluating Indonesia's Agricultural Development Performance* which focuses on updating sustainable agricultural indicators for the formulation of sustainable agricultural policies,¹⁷ (ii) Dadi (2021) on *Agricultural Development and Organic Farming Systems: What are the Processes and Strategies for Sustainable Food Security in Indonesia* are focused on one of the formulations of sustainable agricultural policies,¹⁸ and (iii) Anik Pratiwi and Jossy Prananta Moeis (2022) on *Sustainable Farming: The Response of Food Crops Farmers to Agricultural Land Ownership* constraints in the success of sustainable agricultural policies.¹⁹ Of the three previous studies, research on the disharmony aspect of sustainable agricultural legal policies has never been carried out, so this research is an original study. This research is also oriented toward answering two problem formulations: (i) What are the implications of disharmony of sustainable agricultural law policies in various laws and regulations in Indonesia? Moreover, (ii) How is the future improvement of sustainable agricultural law politics in Indonesia?

This research is normative legal research that focuses on analyzing

¹⁷ 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.

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 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.

legal issues.²⁰ Analysis of legal issues is essential in legal research oriented to prescriptions or legal solutions to the discussed problems.²¹ The primary legal materials in this research include: UU P3, UU UU SBDPB, UU CK, and PP PBP. Secondary legal materials include mixed results of studies and research 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 and conceptual approach.

B. Discussion

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

Harmonization The idea of sustainable agricultural policy is an idea that is actually in line with the philosophy of sustainable development (Sustainable Development Goals). The Sustainable Development Goals, later commonly referred to as the SDGs, are international policy programs and are used as a reference for various countries in the world.²² One of the orientations of the SDGs is the construction of a better future by optimizing future goals so that everything, incredibly natural resources, can be enjoyed by future generations.²³ This orientation to the next generation places the SDGs as a program with the character going forward. In this context, every country in the world is expected to be able to succeed in various indicators of the SDG program. Various indicators in the SDG's program should also be implemented in all areas of life in the community, including various agricultural law programs and policies.²⁴ The idea of sustainable agriculture is influenced by the SDG's program, which is oriented toward optimizing and conserving the present for future generations.²⁵

²⁰ Peter Mahmud Marzuki, *Penelitian Hukum*, 13th ed. (Jakarta: Kencana, 2017).

²¹ 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.

²² 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.

²³ 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>.

²⁴ A. Halim Iskandar, *SDGs DESA : Percepatan Pencapaian Tujuan Pembangunan Nasional Berkelanjutan*, 1st ed. (Jakarta: Yayasan Pustaka Obor Indonesia, 2020).

²⁵ Reema Mishra Renu Soni, Ruchitra Gupta, Preeti Agarwal, "Organic Farming: A Sustainable Agricultural Practice," *Vantage: Journal of Thematic Analysis* 3, no. 1 (2022): 23.

In this context, agriculture is expected to become the main commodity in the future, and the availability of sufficient land for the next generation.²⁶ The idea of sustainable agriculture with SDG's character seeks to place agriculture as a "food source" for the community that must be maintained for sustainability. That can be seen from the industrialization program, which has narrowed agricultural land. Unplanned industrialization that is not even explicitly regulated and concretely can result in a disaster for society in the form of depletion and even loss of agricultural land in the future.²⁷ The loss of agricultural land means the loss of community food sources. That is certainly not a shared desire because if this happens, the next generation will never be able to cultivate crops. After all, the agricultural land has run out. The next generation can only tell that this place used to be one of the fertile places for agriculture. Sustainable agriculture aims to keep agricultural land proportional for the future. In this context, sustainable agriculture seeks to maintain the sustainability of nature so that future generations can enjoy agricultural products while also being committed to preserving agricultural land for future generations. Furthermore, sustainable agriculture is also related to the ecocracy view, which emphasizes that environmental sustainability is as important as the essence of people's sovereignty.²⁸

In general view, it is known that democracy is one of the results of the long struggle of world civilization that has succeeded in overcoming authoritarianism.²⁹ In this context, democracy then becomes a global "idea" and is used as the orientation of various nations and countries' governments. In a country with a Republican character, democracy is manifested in the general election process, while in a country with a monarchical character, democracy is manifested in the limitation of the king's power which is then synonymous with the term constitutional monarchy.³⁰

The importance of democracy in its development raises new problems in society. That is related to the view that democracy emphasizes the "human-

²⁶ 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>.

²⁷ 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>.

²⁸ 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.

²⁹ 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>.

³⁰ 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>.

centre" or focuses on humans.³¹ In specific contexts, putting too much emphasis on the role of humans in managing the universe can potentially be destructive in the form of environmental imbalances, air pollution, and global warming.³² The idea of ecocracy is a counterweight to democracy in which democracy that puts forward the jargon of people's sovereignty must also look at the world and the universe comprehensively.³³ In this context, democracy must be read in the context of maintaining people's and environmental sovereignty simultaneously. The idea of ecocracy seeks to place environmental sovereignty as a guide for the passage of people's sovereignty.³⁴ Therefore, there is a prohibition that people's sovereignty should not deviate from environmental sovereignty. The presence of the ecocracy idea as a counterweight to democracy presents new thoughts and views on sustainable ideas. Sustainable ideas, including sustainable development, embody the ecocracy idea. Furthermore, sustainable agricultural policy is also a development of the idea of ecocracy.

The sustainable agricultural law policy, which is the development of the ecocracy idea, must also be oriented to the legal aspect, namely the formation of legislation.³⁵ In Indonesia, the legal policy on sustainable agriculture has been regulated by various laws and regulations, including: UU P3, UU SBDPB, UU CK, and PP PBP. If we refer to the various laws and regulations, there is a disconnect between one regulation and another. In fact, with one orientation in the form of regulations regarding agriculture, some of these laws and regulations must complement and strengthen each other related to the substance of sustainable agriculture. The substance of sustainable agriculture is not visible in the UU P3. That is understandable because when the Law has drafted, the idea of sustainable agriculture had not yet become the focus of the legislators. Furthermore, sustainable agriculture seems to be emphasized in the UU SBDPB. However, in UU SBDPB, there is no orientation to regulate specifically, let alone compliment the substance in the UU P3. It is as if the legislators separated farmers from agriculture. Farmers and agriculture are two things that complement each other. As organizers of

³¹ Chrisna Bagus Edhita Praja et al., "Strict Liability Sebagai Instrumen Penegakan Hukum Lingkungan," *Varia Justitia* Vol 1 2, no. 1 (2016): 42–62.

³² 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>.

³³ 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>.

³⁴ 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.

³⁵ Ihham Dwi Rafiqi Indah Dwi Qurbani, "Prospective Green Constitution in New and Renewable Energy Regulation," *Legality: Jurnal Ilmu Hukum* 30, no. 1 (2022): 70.

agricultural activities, farmers must also focus on various agricultural policies.³⁶ That is because every action that farmers take impacts the success of agricultural policies. The opposite should also be oriented like that by placing agriculture as a process and policy whose impact is in the form of farmers' welfare and conservation of agricultural land. The separation or disconnection between UU P3 and UU SBDPB is a logical flaw that causes a substance in the legislation to be inharmonious.

The disharmony of sustainable agricultural policies continues in the UU CK and the PP PBP. The UU CK, with its omnibus method, was born as a legal solution to various problems in the legislation..³⁷ However, the swift formation of the UU CK has resulted in a lack of legal harmonization to the substance of the UU CK.³⁸ One is related to the substance of sustainable agricultural policies, which do not get more attention in the UU CK and the PP PBP. There should be an affirmation or special arrangement regarding sustainable agricultural policies, at least in the PP PBP. Based on this understanding, the disharmony of sustainable agricultural policies in various laws and regulations is at least caused by three aspects. *First*, the inaccuracy of legislators and the lack of understanding and awareness of the importance of harmonization of Law in the formation of legislation. That is understood because usually, the formation of laws and regulations is considered the "wish" of the law-making institutions, so it places the "wants" of the law-making institutions as the essential aspect.³⁹

This desire then makes legislators only focus on what they want to be regulated in statutory regulation. That is not balanced with an analysis and understanding of the substance to be regulated by looking at the substance of the previous legislation.⁴⁰ *Second*, there is a sectoral ego in the formation of legislation. Sectoral ego occurs when the legislators emphasize the importance of one area of legislation compared to others. By considering one statutory regulation to be "more important" than another, disharmony is created in the substance of the legislation. *Third*, the inaccuracy and inaccuracy of the substance of the legislation can be possible due to the rapid formation of laws and regulations due to specific political wills that emphasize that a statutory

³⁶ 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>.

³⁷ 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>.

³⁸ Agus Machfud Fauzi Hesty Kartikasari, "Penolakan Masyarakat Terhadap Pengesahan Omnibus Law Cipta Kerja Dalam Perspektif Sosiologi Hukum," *Doktrina* 4, no. 1 (2021): 43.

³⁹ Abdul Latif Mahfuz, "Faktor Yang Mempengaruhi Politik Hukum Dalam Suatu Pembentukan Undang-Undang," *Kepastian Hukum Dan Keadilan* 1, no. 1 (2019): 44.

⁴⁰ 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>.

regulation must be made as quickly as possible. In this case, it has happened in the UU CK and the PP PBP; due to the rapid preparation of the UU CK, the harmonization of the Law was also carried out haphazardly by not effectively seeing the interrelated substances in one statutory regulation with other statutory regulations. Of the three descriptions, the actual deficiency in formulating sustainable agricultural legal policies is related to efforts to harmonize laws.

The harmonization of Law is one of the essential activities in law-making, especially in preparing laws and regulations.⁴¹ Legal harmonization is needed to ensure that the substances in the legislation are interconnected and complement each other.⁴² There are no conflicts and overlaps in the substance of the laws and regulations. Harmonization of Law as a concept and activity began to be known in Germany in 1992, focusing on harmonization between the central and local governments.⁴³ Prior to the harmonization of laws in 1992, the formulation of legal policies in Germany often experienced overlaps, especially between the Federal government and the German state government.⁴⁴ That also has implications for the form of the German state in the form of a Federalism-based government so that there is an effort to struggle for higher regulatory authority between the central government and state governments.⁴⁵ L.M. Gandhi, for example, gave a brief understanding that the orientation of legal harmonization is in the form of adjustments to various legal products such as statutory regulations, government decisions, and judges' decisions in a legal system based on legal principles.⁴⁶ In this view, legal harmonization is a planned, structured, comprehensive, and substantive activity.

In practice, legal harmonization is carried out with two types of harmonization based on legal needs: vertical and horizontal.⁴⁷ Vertical harmonization of Law is carried out by looking at the hierarchy of legal norms,

⁴¹ Aditya Yuli Sulistyawan, "Urgensi Harmonisasi Hukum Nasional Terhadap Perkembangan Hukum Global Akibat Globalisasi," *Hukum Progresif* 7, no. 2 (2019): 174.

⁴² 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.

⁴³ 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.

⁴⁴ Elene Janelidze, "Judicial Review of Constitutional Amendments in Georgia, France and Germany – The Quest for Eternity," *Central European University ETD Collection*, 2016.

⁴⁵ Bayu Dwi Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*, 1st ed. (Jakarta: Konstitusi Press, 2020).

⁴⁶ 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>.

⁴⁷ Mahendra A. A. Oka, "Harmonisasi Peraturan Perundang-Undangan," in *Artikel Hukum Tata Negara Dan Peraturan Perundang-Undangan*, 2021.

which aims to prevent conflicts between lower and higher legal norms.⁴⁸ 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. That can be seen in the harmonization of 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 techniques for 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 particular matters, and the framework of laws and regulations.

That confirms that harmonization is needed when legal disharmony or even legal harmonization aims to prevent legal disharmony. L.M. Gandhi gave an affirmation related to the causes of legal disharmony, which include:⁴⁹

- 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. Conflict between the Act and implementing regulations. It is sometimes found that the will of 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.

Regarding the causes of legal disharmony as described above, several steps can be taken to overcome legal disharmony, including:⁵⁰

- a. Paying attention to the philosophical basis in statutory regulation, especially by basing and testing legislation with the philosophical

⁴⁸ Anggono, *Pokok-Pokok Pemikiran Penataan Peraturan Perundang-Undangan Di Indonesia*.

⁴⁹ L.M. Gandhi, "Harmonisasi Hukum Menuju Hukum Responsif" (Depok: Fakultas Hukum Universitas Indonesia, 1995).

⁵⁰ Sulasno Rokilah Rokilah, "Penerapan Asas Hukum Dalam Pembentukan Peraturan Perundang-Undangan," *Ajudikasi : Jurnal Ilmu Hukum* 5, no. 2 (2021): 179–90.

values contained in the *rechtsidee* of the Indonesian nation, namely Pancasila;

- b. Paying attention to the principles, substance, and formal aspects of the constitution, 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 using the omnibus law/omnibus bill method and other methods.

The harmonization of the above the law has an orientation to realize legal certainty. Legal certainty, in Jaap Hage's view, sees that legal certainty, especially in laws and regulations, is related to the aspect of constancy and details related to legislation.⁵¹ Complicated 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.⁵² In 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.⁵³ Concerning formal legal certainty in laws and regulations, the products of laws and regulations must be transparent, steady, and predictable. The precise nature of laws and regulations emphasizes that laws and regulations must be drafted and adhere to principles and procedures. That includes legal certainty contained in the

⁵¹ 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>.

⁵² 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>.

⁵³ Dyah Ochtorina Susanti A'an Efendi, *Ilmu Hukum*, 1st ed. (Jakarta: Prenadamedia Group, 2021).

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 proper 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 fundamental law values is one of the "central" studies in legal science. That is understandable because the theory of three fundamental legal values can determine the validity and validity of the law. Gustav Radbruch put forward the idea of three fundamental values of law. 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 (*rechtssicherheit*).⁵⁴ The three fundamental values of law are known as triadism.⁵⁵ 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 law⁵⁶. The three basic values in the law sometimes have a spannungsverhältnis, namely when the three basic values of the law experience conflict and tension. In this case, the three basic legal values ideally must be harmonious but in practice, it is possible for sacrifices to occur in a fundamental value.

Even so, even though there is potential spannungsverhältnis in the three fundamental legal values, efforts should be made in a legal product to realize the three basic values, which include justice (*gerechtigkeit*), expediency (*zweckmassigkeit*), and legal certainty (*rechtssicherheit*).⁵⁷ Of the three primary legal values, the value of legal certainty (*rechtssicherheit*) becomes essential, especially in written legal products, especially legislation.⁵⁸ Legal certainty is essential, especially for countries with civil law systems or Continental Europe.⁵⁹ That includes Indonesia which, although not expressively verbis, is a country with a civil law system or Continental

⁵⁴ 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."

⁵⁵ Hari Agus Santoso, "Perspektif Keadilan Hukum Teori Gustav Radbruch Dalam Putusan Pkpu 'PTB,'" *Jatiswara* 36, no. 3 (2021): 329.

⁵⁶ 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.

⁵⁷ Aditya Yuli Mario Julyano, Sulistyawan, "Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum," *Jurnal Crepido* 01, no. 01 (2019): pp.13-22.

⁵⁸ 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>.

⁵⁹ Doron Menashe, "A Critical Analysis of the Online Court," *University of Pennsylvania Journal of International Law* 39, no. 4 (2018): 921–53.

Europe. However, Indonesia is a country with a dominant civil law system or Continental Europe, especially as a result of Dutch colonialism. In this case, in legal products in the form of legislation, among the three primary legal values as conveyed by Gustav Radbruch, the aspect of legal certainty becomes the most essential aspect.

Judging from the importance of legal harmonization above in determining agricultural law policies, it is still missing in making legal harmonization the primary orientation in forming the legislation. The existence of political interests that are too forced, the need for speed in the formation of laws and regulations, and the existence of sectoral egos make the formation of laws and regulations often forget the harmonization aspect of the law. Thus, the implications of disharmony of sustainable agricultural law policies in various laws and regulations in Indonesia make the laws and regulations governing sustainable agriculture seem to stand on their own. That can be seen, for example, between the UU P3 and the UU SBDPB, which do not refer to each other. Farmers and agriculture are two things that cannot be separated. The disharmony in these arrangements also impacts the absence of legal certainty. It confuses the application of the law, the impact of which can make the essence of justice not present in society.

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

Legal disharmony in agricultural law policy is the impact of not maximal efforts to harmonize law in statutory regulations. The lack of harmonization makes the inner substances in the legislation become unrelated and even tend to contradict each other. That can make it challenging to apply the law in society because the laws and regulations that guide the application are not clear and definite in their formulation of regulations. In the context of legal certainty, the actual disharmony of law makes legal certainty unfulfilled in laws and regulations. Legal certainty, as one of the fundamental values of law, is not fulfilled, so a statutory regulation cannot be called law or at least does not fulfill the essence of being a law.⁶⁰ Harmonization of law as one of the efforts to make legal substance harmonious, harmonious, and connected, actually departs from the understanding that positive law is a unified system.⁶¹ As a unified system, positive law has a connectedness dimension between one another. The existence of differences and contradictions between favorable laws certainly requires the application of specific laws, one of which is the use of the principle of preference. In addition, understanding and deepening the

⁶⁰ 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>.

⁶¹ Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, Dan Materi Muatan*, Revisi (Sleman: Kanisius, 2020).

substance is also needed because substances are interconnected between favorable laws. These interrelated substances need to be harmonized through a series of processes so that the legal substance has the power of certainty, can be applied, and is functional while simultaneously guaranteeing the value of justice in society⁶².

Efforts to harmonize laws related to the substance of favorable interrelated laws can be carried out in several steps, such as alignment and harmonization of each statutory regulation's objectives, strategies, and guidelines through legal interpretation efforts, legal construction, and legal reasoning, and providing sound arguments. Rationally while still taking into account the legal system and applicable legal principles.⁶³ The process of harmonization of law, in general, must be understood within a larger framework than the conception of legal politics. Legal politics is a legal policy structured in a planned, participatory, and responsive manner. In a more comprehensive view, legal politics is an activity of carrying out practical law oriented to conceptions, legal principles, and the legal needs of the community to then be inventoried as well as making legal products in the community.⁶⁴ Legal politics offers the existence of "legal policy lines" in preparing a statutory regulation.⁶⁵ In Satjipto Rahardjo's view, legal politics consists of several aspects, which include: the purpose of the legal system, the method to be used in formulating legal policies, the timeline or time for drafting legal policies, and the pattern or method of drafting the legal politics.

Furthermore, in Mahfud MD's view, legal politics is identical to the "official" state policy line in achieving its goals by revising and reforming existing laws. That includes the evaluation of existing laws as well as the formation of laws that are being aspired to. Referring to the views of Satjipto Rahardjo and Mahfud MD above, legal politics must be based on four aspects: planning, discussion or accumulation of existing views or interests, formulation of laws and regulations, and evaluation. In this case, legal politics must be implemented based on these four aspects. The planning stage needs to be harmonized with the law. That is related to efforts to see the substance of the laws and regulations that have been regulated with those that will be regulated. That is to avoid overlapping arrangements in the rules to be formed. Furthermore, an equally important step is related to discussions with various interested parties. Interested parties, in this case, are parties who are directly

⁶² 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.

⁶³ 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>.

⁶⁴ Satjipto Rahardjo, *Ilmu Hukum* (Bandung: PT. Citra Aditya Bakti, 2014).

⁶⁵ Moh. MahfudMD, *Membangun Politik Hukum, Menegakkan Konstitusi*, 2nd ed. (Jakarta: Rajawali Pers, 2017).

or indirectly related to the legislation that will be made. Moreover, Constitutional Court Decision No. 91/PUU-XVIII/2020 emphasizes the need for meaningful participation, which includes the right to be heard, the right to be considered, and the right to obtain an explanation of answers.⁶⁶ In this context, at the discussion level, meaningful participation becomes an important thing to implement. Next is the formulation stage of the legislation. In this stage, legal norms are poured out related to the agreed substance with legal findings (legal interpretation and construction), legal reasoning, and rational arguments, including efforts to carry out precise legal drafting.⁶⁷

Referring to the harmonization of law as an effort to improve the legal politics of sustainable agricultural policies, this can be seen in Article 13 paragraph (2) of the UU SBDPB, which emphasizes that Sustainable Agriculture aims "to protect, restore, maintain, and improve land functions in order to increase agricultural productivity that is sustainable. sustainable" as well as the provisions in Article 13 paragraph (3) of the UU SBDPB if referring to the provisions in Article 13 paragraph (3) of the UU SBDPB, the provisions "regulated by" emphasize that a separate Government Regulation should regulate the legal policy of sustainable agriculture. Ideally, suppose there is an attempt to deregulate following the spirit of the omnibus law in the UU CK. In that case, the provisions of the Sustainable Agriculture policy must get their focus and be changed from the provisions "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 an implementing regulation on the UU SBDPB. Even so, because there is already a PP PBP, it is better to be effective, efficient, and not cause hyper-regulation; it is necessary to revise the PP PBP.

In the context of future arrangements regarding the legal politics of sustainable agriculture, several stages in efforts to reform the legal politics of sustainable agriculture need to be carried out by optimally maximizing several stages, including planning, discussing, or accumulating existing views or interests, the formulation in legislation, as well as the following evaluation with the application of maximum meaningful participation. What is no less important is the effort to harmonize the law at each stage so that there is a harmonious substance in the legal arrangements that have been, are being, and will be enforced. Future improvements to the legal politics of sustainable agriculture in Indonesia can be carried out by harmonization of legal policies related to sustainable agriculture by revising the PP PBP to include sustainable agriculture as one of its regulatory substances. In addition, the revision of PP

⁶⁶ 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.

⁶⁷ Helen Xanthaki, "Legislative Drafting: A New Sub-Discipline of Law Is Born," *IALS Student Law Review* 1, no. 1 (2017): 57–62.

PBP also found its relevance with the presence of the Constitutional Court Decision No. 91/PUU-XVIII/2020, which confirms that the UU CK and its implementing regulations are conditionally unconstitutional, so there needs to be a review of the various substances in the UU CK. In this case, it is necessary to optimize the stages in the development of legal politics to optimize the substances listed in sustainable agriculture, including formulating and harmonizing legal policies for sustainable agriculture.

C. Conclusion

The implications of disharmony of sustainable agricultural law policies in various laws and regulations in Indonesia make the laws and regulations governing sustainable agriculture seem to stand independently. That can be seen, for example, between the UUP3 and the UU SBDP which does not refer to each other. Farmers and agriculture are two things that cannot be separated. The disharmony in these arrangements also impacts the absence of legal certainty and confuses the application of the Law, the impact of which can make the essence of justice not present in society. That is what needs to make legal harmonization in the planning, formulation, and evaluation of statutory regulation. Future improvements to the legal politics of sustainable agriculture in Indonesia can be carried out by harmonization of legal policies related to sustainable agriculture by revising the PP PBP to include sustainable agriculture as one of its regulatory substances. In addition, the revision of the PP PBP also found its relevance with the presence of the Constitutional Court Decision No. 91/PUU-XVIII/2020, which confirms that the UU CK and its implementing regulations are conditionally unconstitutional, so there needs to be a review of the various substances in the UU CK. In this case, it is necessary to optimize the stages in the development of legal politics to optimize the substances listed in sustainable agriculture, including formulating and harmonizing legal policies for sustainable agriculture.

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