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TABLE OF CONTENTS

TABLE OF CONTENTS iii

ADVERTORIAL v

ABSTRACT COLLECTION vii

Synchronization of Green Bond Regulations as Financing for Battery Electric Vehicle Conversion in Indonesia 215-228
Budi Endarto

Deconstruction of Indonesian Social Commerce Law: The Economic Democracy Perspective in Digitalization Era 229-246
Aditya Prastian Supriyadi

The Usage of Artificial Intelligence as Material for Consideration of the Judge's Decision in the Criminal Justice System in Indonesia 247-264
Syamsul Fatoni, Erma Rusdiana

Promotion of Sustainable Social Bonds Base on Indonesia's Constitutional Perspective 265-278
Dwi Elok Indriastuty, Nur Hidayatul Fithri

Existence of Wali Mujbir Syafi'i Fiqh from the Perspective of Law No. 12 of 2022 on Sexual Violence Crimes 279-294
Zaein Wafa, Miftahudin Azmi

Online Investment Security: Evaluation of Investor Protection Regulations in the Context of Trading Robots in Indonesia 295-306
Muhammad Saeful Rizzal, Ahmad Rustan, Rudy Iskandar Ichlas

Comparative Analysis of Land Management Approaches for Public Development on Customary Land: Emphasizing Cooperative Land Banking (CLB) in the Minangkabau Case Study 307-320
Refina Mahargita, Ahmad Baikuni Perdana, Muhammad Yusuf Syaifullah

National Law Development in The Perspective of Legal Theory and Philosophy 321-334
Subianta Mandala

AUTHORS' PROFILE xi

GUIDELINES FOR WRITING IN DE JURE LEGAL RESEARCH JOURNAL xv

TEMPLATE FOR WRITING IN DE JURE LEGAL RESEARCH JOURNAL xvii

ADVERTORIAL

Thanks to Allah SWT, the De Jure Legal Research Journal published by the Legal Policy Strategy Agency of the Ministry of Law of the Republic of Indonesia in collaboration with the Indonesian Legal Research Association can be republished Volume 24 Number 3 November 2024.

The publication of the De Jure Legal Research Journal Volume 24 Number 3 November 2024 contains 8 (eight) articles from various research institutions in Indonesia or academic community. To improve the legal and legislative system, significant improvements to government strategic policies are needed. In connection with this, the editor of the De Jure Research Journal Volume 24 Number 3 November 2024 raised articles including synchronization of green bond regulations as financing for battery electric vehicle conversion in Indonesia; deconstruction of Indonesian social commerce law: the economic democracy perspective in digitalization era; the usage of artificial intelligence as material for consideration of the judge's decision in the criminal justice system in Indonesia; promotion of sustainable social bonds base on Indonesia's constitutional perspective; existence of *wali mujbir syafi'i* fiqh from the perspective of law no. 12 of 2022 on sexual violence crimes; online investment security: evaluation of investor protection regulations in the context of trading robots in Indonesia; comparative analysis of land management approaches for public development on customary land: emphasizing cooperative land banking (CLB) in the Minangkabau case study; national law development in the perspective of legal theory and philosophy. Through these writings, they can contribute ideas that can become reference material in fulfilling the sense of justice and legal protection in society.

We would like to express our thanks to the authors who have trusted the De Jure Legal Research Journal to publish their work. We would also like to express our thanks to peer reviewers who was willing to help, research and correct the author's writings in this publication.

Finally, we would like to express our gratitude to the Head of the Legal Policy Strategy Agency, Ministry of Law of the Republic of Indonesia, and the Association of Indonesian Legal Researchers who have agreed to publish this De Jure Legal Research Journal.

Editor:

Jakarta, November 2024

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Budi Endarto

Synchronization of Green Bond Regulations as Financing for Battery Electric Vehicle Conversion in Indonesia

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 215-228

Transportation is still the largest emission-contributing sector in Indonesia. However, the Government has set an aggressive electrification target in the transportation sector if it needs to be balanced with a financing scheme for energy conversion towards battery electric vehicles (BEV). For this reason, BEV conversion industry players should utilize green bond financing schemes. The main issue lies in the need for more alignment between EV conversion industry regulations and financing models for the sector. However, the Government needs to harmonize rules and coordination among sectoral institutions such as the OJK, Ministry of Finance, Ministry of Industry, and Ministry of Transportation. Especially concerning Regulation Number 39 of 2023 regarding the Conversion of Fuel-Powered Motorcycles into Battery-Based Electric Motorcycles, and Minister of Transportation Regulation Number 15 of 2022 regarding Motor Vehicle Conversion to formulate green bonds as an alternative financing option for BEV programs. The method used in this writing is normative legal research of the exploratory type with a statutory and conceptual approach. The result shows that through the synchronization model of green bond financing regulations with the battery electric vehicle conversion regulation and coordination between sectoral institutions, it is expected to accelerate the commitment to realize net zero emission and as an effort to mitigate the energy crisis and reduce fuel energy subsidies in Indonesia.

Keywords: Green Bond; Conversion Finance; Battery Electric Vehicle

Aditya Prastian Supriyadi

Deconstruction of Indonesian Social Commerce Law: The Economic Democracy Perspective in Digitalization Era

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 229-246

Social commerce (S-Commerce) comes from the disruption of business digitalization that explores social media. When s-commerce was developing, Indonesia banned the platform because it was considered to kill local businesses and capitalize on the market. The decision can potentially contradict economic democracy in one of the provisions of Article 33, paragraph (4) of the 1945 Constitution, which opens up technological space for developing the national economy. The purpose of writing this article is to deconstruct economic democracy on commercial law on social media as a Government policy that prohibits S-Commerce. The writing article uses normative legal research methods with statutory, legal comparison, and conceptual approaches. There are two research results in this article. First, at a time when significant nations are embracing technology at a rapid pace to boost their businesses, the government's decision to outlaw s-commerce has negatively impacted the nation. Based on the doctrine of digitalization, economic law is not appropriate if it has to ban S-Commerce. The business paradigm of the contemporary era must be integrated with technology to compete with the development of the digital economy in the global realm. Second, based on economic democracy in Article 33, paragraph (4) of the 1945 Constitution, S-Commerce manifests a national economy balanced with technological progress by the constitution's mandate. S-Commerce law provisions need to be deconstructed using the principles of economic democracy. So, reasonable legislative parameters may promote the growth of the digital economy while not jeopardizing the local economy.

Keywords: Economic Democracy; Social Commerce; Law

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Syamsul Fatoni, Erma Rusdiana

The Usage of Artificial Intelligence (Artificial Intelligence) as material for consideration of the judge's decision In the Criminal Justice System in Indonesia

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 247-264

This study evaluates the integration of artificial intelligence in the judicial processes, focusing on how technology can promote fairness in the Indonesian Criminal Justice system, where there are no specific guidelines for using AI in legal proceedings. The research follows a normative legal approach, analyzing laws and court cases and comparative methods using various legal sources and qualitative analysis methods. The findings reveal that incorporating AI in the judge's decision-making process aids in assessing information and data, facilitating optimal, effective, and efficient decision-making. On the other hand, incorporating AI into the decision-making process of judges within the Criminal Justice System implies that judges act as a smaller version of the system itself, considering various factors such as examination records, charges, and real-life circumstances impacted by social, cultural, and economic elements. Ultimately, integrating AI into the evidential process for judicial decision-making aims to align the criminal justice system with factual situations and the goals of punishment. It is recommended that the use of AI in legal proceedings should not only focus on algorithm-based legal aspects but also take into account non-legal aspects such as humanitarian, social, and economic conditions that contribute to criminal activities. This holistic approach is crucial for ensuring alignment in the Criminal Justice System to uphold legal, moral, and societal justice. The role of the Supreme Court is no exception in providing guidance and supervision of Judges regarding the use of technology, including legal legalization, while still paying attention to law, ethics, social values , and just legal principles.

Keywords: artificial intelligence; criminal justice system; judge's decision

Dwi Elok Indriastuty, Nur Hidayatul Fithri

Promotion of Sustainable Social Bonds Base on Indonesia's Constitutional Perspective

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 265-278

Social bonds are one of the types based on available themes regulated in POJK No 18 of 2023. The drafting of POJK 18/2023 did not consider regulations from a theoretical or constitutional perspective, which should be the primary consideration for any legislative regulation. This article results from research aimed at finding arguments and constitutional rationality. The research method used in this study is normative exploratory legal research with a constitutional approach and a conceptual approach. According to universal legal principles, laws and regulations subordinate to the Constitution must not contradict higher laws. This is where the concept of legal hierarchy and regulations becomes necessary so that regulations do not conflict with those above them, including the highest point, the Constitution. This article will closely examine several areas of social bond regulation from the perspective of the Indonesian Constitution. The research findings reveal juridical arguments and rationality that, as a welfare-oriented state in its constitution and born from its collectivist cultural background, social bond regulation aligns with the principles of the constitution applicable in Indonesia.

Keywords: constitutional, regulation, social bond

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Zaein Wafa, Miftahudin Azmi

Existence of Wali Mujbir Syafi'i Fiqh from the Perspective of Law No. 12 of 2022 on Sexual Violence Crimes

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 279-294

Forced marriage by guardians is recorded as a form of sexual violence in Indonesia. Government regulation Article 10 of Law No. 12 of 2022 explains that forced marriage is divided into 3, namely child marriage, in the name of culture, and rape victims. The background of this research is due to the problem of the great authority held by the guardian of the mujbir as the guardian of the marriage of children or grandchildren. This great authority is in the form of forced marriage carried out by the guardian of the mujbir without the consent of the bride. The concept of the guardian of the mujbir is a concept contained in the views of the Imam Syafi'i school of thought, as one of the schools of thought widely used in Indonesia. The practice of the guardian of the mujbir in Indonesia certainly raises problems when associated with the provisions of Article 10 of Law Number 12 of 2022, which states that forced marriage is a criminal act of sexual violence. So there are two legal problems. First, is it possible for the view of the Imam Syafi'i school of thought on wali mujbir to be applied in Indonesia second, how is the legitimacy of the authority to force marriage held by the wali mujbir reviewed from the objectives of Islamic law maqashid sharia By using the normative legal research method with a conceptual approach and literature study method, the results obtained are that the concept of wali mujbir is contrary to Law Number 12 of 2022 because it causes forced marriage which is a criminal act of sexual violence so that the view on the concept of wali mujbir cannot be implemented in Indonesia. Viewed from the perspective of its benefits, the concept of wali mujbir is not more beneficial. It causes more forced marriage practices and does not protect women and their rights.

Keywords: Forced Marriage; *Maqasid Syari'ah*; *Wali Mujbir*

Muhammad Saeful Rizzal, Ahmad Rustan, Rudy Iskandar Ichlas

Online Investment Security: Evaluation of Investor Protection Regulations in the Context of Trading Robots in Indonesia

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 295-306

Investment has become a new lifestyle for some people, as investment promotions typically entice potential investors with promising returns. In Indonesia, investments are broadly categorized into tangible and financial investments. This study aims to review the licensing system and protection for victims of online robot trading investments in Indonesia, focusing on safeguarding the public as investors. This research aims to provide knowledge so that the public can differentiate between legal and illegal investments, thus encouraging more cautious investment decisions. The method employed in this study is a normative juridical approach involving an analysis of existing laws and regulations, including the Consumer Protection Law, Capital Market Law, and regulations issued by the Financial Services Authority (OJK). A qualitative analysis of the collected data was conducted to assess the extent to which current regulations can protect the public from potential losses arising from investments in robot trading. The research findings indicate that the protection of victims in online robot trading investments in Indonesia needs to be strengthened and adapted to technological and market developments. Stricter and more specific regulations governing the operations of robot trading platforms are necessary. It is advisable for the public to exercise caution when engaging in online investments to avoid becoming victims.

Keywords: Investment License; Regulation; Robot Trading

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Refina Mahargita, Ahmad Baikuni Perdana, Muhammad Yusuf Syaifullah

Comparative Analysis of Land Management Approaches for Public Development on Customary Land: Emphasizing Cooperative Land Banking (CLB) in the Minangkabau Case Study

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 307-320

Customary land, known as tanah ulayat in Indonesia, holds a unique status that differentiates it from other land types, particularly when used for public purposes. Government land acquisition practices risk eroding this status, potentially affecting Indigenous social groups. Cooperation between the government and indigenous communities, through regional governments and other institutions, is recommended as an alternative approach to land acquisition. This research examines various land management tools, focusing on customary land in Minangkabau for public and development purposes. Using a juridical-normative method linked to legal products and content analysis of previous studies, the research identifies three key variables related to customary land: control, utilization, and legality. These variables are analyzed within the context of public interest and research limitations. Three land provision schemes are explored: Land Provision, Cooperative Land Banking (CLB), and Land Commercialization. Each scheme has distinct impacts on land ownership, legality, and the collective well-being of indigenous communities. While Land Provision offers immediate compensation but forfeits land control, CLB and Land Commercialization allow indigenous groups to retain land ownership, with CLB being the preferred option due to its promotion of sustainable land use and active community involvement. The study concludes that CLB is the most viable approach for ensuring long-term economic benefits and land control for Indigenous communities. However, it requires government support regarding legal adjustments and frameworks for cooperation.

Keywords: Land Management Approaches, Customary Land, Cooperative Land Banking (CLB)

Subianta Mandala

National Law Development in The Perspective of Legal Theory and Philosophy

The De Jure Legal Research Journal Volume 24, Number 3, November 2024, Page 321-334

This paper discusses some strategic issues about national legal development, which is viewed in the light of legal theory and philosophy. The need to replace the laws of the colonial regime has been discussed for quite some time, and in fact, since Indonesia declared its independence. However, the process of replacing the Dutch laws and developing its own national law is quite slow. There are some strategies issues discussed in this writing, namely, among others: what is the legal politics/policy of the issue of legal unification and legal pluralism in Indonesia, what is the legal approach about the development of unwritten and written laws, what is the legal policy to address the issue of adat law as one of the material legal sources for the future Indonesian laws, and how jurisprudence (court decisions) may be used to develop Indonesian national legal system. With those backgrounds, the formulation of the problems is as follows: how can legal theory and philosophy be used as theoretical and philosophical argumentation to address some strategic issues of Indonesian legal development as mentioned above, and what is the legal politics/policy for the development of national legal system of Indonesia, in particular, of those strategic legal issues. The method used in this research paper is normative juridical or library research with a descriptive-qualitative analytical approach. The result of the research shows that, as of today, there are no official documents or any existing laws that comprehensively give direction to the legal politics/policy on the strategic issues of Indonesian legal development. In general, the discussion on the issues of national legal development is limited among legal experts and academicians, and the debate on contentious issues has fundamental arguments based on legal theory/philosophy. So far, legal positivism has a a significant influence on the way we respond to those strategic issues. However, there has been an interesting development recently. We can gradually see a paradigm shifting from legal positivistic to a more sociological, human and ethical approach.

Keywords: legal development, legal theory, legal politics