BADAN STRATEGI KEBIJAKAN HUKUM DAN HAM

Jurnal Penelitian Hukum De Jure

Published by The Law and Human Rights Policy Strategy Agency
Ministry of Law and Human Rights of the Republic of Indonesia
Volume 24, Number 1, March 2024 ISSN (Print) 1829-7706 ISSN (Online) 2548-1657
Journal Homepage: https://ejournal.balitbangham.go.id/index.php/dejure



The De Jure Legal Research Journal is a quarterly legal magazine (March, June, September and December) published by the Law and Human Rights Policy Strategy Agency of Ministry of Law and Human Rights of the Republic of Indonesia, in collaboration with the **INDONESIAN LEGAL RESEARCHER ASSOCIATION (IPHI)(Legalization of Legal Entity of Association: Decree of Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-13. AHA.01.07 Year 2013, dated January 28, 2013)**. This journal aims to serve as a forum and medium of communication, as well as a means to publish various legal issues that are actual and current for Indonesian legal researchers in particular and the legal community in general. In its management in 2021, the De Jure Legal Research Journal involves various parties as stipulated in the Decree of the Head of the Law and Human Rights Research and Development Agency, Number: PPH-08.LT4.03 Year 2021 dated January 4, 2021 concerning the Establishment of a Publishing Team for the De Jure Legal Research Journals, with the team composition as follows:

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ADVERTORIAL

Thanks to Allah SWT, the De Jure Legal Research Journal published by the Indonesian Legal Research Association in collaboration with the Legal Policy and Human Rights Strategy Agency of the Ministry of Law and Human Rights of the Republic of Indonesia can be republished Volume 24 Number 1 March 2024.

The publication of the De Jure Legal Research Journal Volume 24 Number 1 March 2024 contains 7 (seven) articles from various research institutions in Indonesia. 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 1 March 2024 raised articles including policy reform of the concept of adultery in Article 411 of Law Number 1 of 2023 KUHP Indonesia; is it necessary to include promise in a deed of granting of mortgage rights?; Presidential Decree Number 62 of 2023: distortion regulation or acceleration solution for agrarian reform?; measuring the urgency of criminalization of illicit enrichment through legislation policy in order to eradicate corruption in Indonesia; reformulation of the integrated law enforcement center become an independent eradication agency election crimes; challenges and ideas for integrated assessment design for treatment of narcotics abusers in Indonesia; the urgency of sui generis regime request for geostationary orbit slots through the perspective of equatorial countries, especially Indonesia. 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 Mitra Bestari 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 and Human Rights Policy Strategy Agency, Ministry of Law and Human Rights 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, March 2024

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Mashendra, Jennifer Corrin, Auliah Andika Rukman

Policy Reform of The Concept of Adultery in Article 411 of Law Number 1 of 2023 KUHP Indonesia

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 1-18

The current Dutch colonial Kitab Undang-Undang Hukum Pidana (KUHP) needs to be replaced with an updated Indonesian Criminal Code. Legal scholars, especially those specializing in criminal law, have long debated the overhaul, reformulation, modification, and even reformation of the Criminal Code to conform to the guiding principles of the Indonesian nation as a whole and this discussion has been ongoing for quite some time. This research intends to evaluate the policy basis of the expansion of the definition of adultery and the values protected from the expansion as stipulated in Article 411 of Law Number 1 Year 2023 on the Criminal Code This research is a descriptive study that uses a normative legal approach. Secondary data and document study are used in data collection. A qualitative approach was used to analyze the data. The research findings show that the criminal policy perspective is the basis for the expansion policy that contains a definition of the offense of adultery that is problematic as a policy because it does not reflect the principles that guide Indonesian society and the nation as a whole. With the way the article is currently written, for every person who has sexual intercourse with anyone as long as he is not his husband or wife and does not regulate the imposition of punishment for convicts who are single. The findings in this study highlight the importance of policy implementation of expanding the concept of adultery to ensure that justice is maintained and equal protection is given to all parties accused without sufficient evidence.

Keywords: Punishment; Adultery; Criminal Code Reform

Mada Apriandi, Annalisa Yahanan, Murzal

Is It Necessary to Include Promise in a Deed of Granting of Mortgage Rights?

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 19-30

To secure the funds that have been granted to the debtor, in loan agreement between creditor and debtor, a guarantee agreement is usually included. One form of collaterals that is most in demand is land collateral. This research aims to analyze funds security that has been handed over to debtors in connection with loan agreement and promises (clauses) inclusion in a Deed of Granting of Mortgage Rights. This normative research uses statutory, conceptual and interpretive approaches. This study examines several deeds to search and analyze the promises (clauses) in the guarantee agreement. The result shows that the loan agreement includes a promise to provide collateral that will be attached with mortgage rights, to secure the credit that has been given to the debtor as security for repayment of credit loan. Therefore, the loan agreement contains rights and obligations of parties as a form of prudential principles. Furthermore, a Deed of granting of mortgage rights considerably needs to include promises (clauses) as a manifestation of conditions related to the guarantee provided. In its regulation (Mortgage Rights Law), these promises are optional (not mandatory) being included in a Deed of granting of mortgage rights. However, in practice these promises are always included in a deed at the creditor's request, with the aim being a kind of self-protection to creditor. However, Mortgage Rights Law also provides a balance of protection to debtors, namely promises that are prohibited from being included that creditors can immediately own the object of mortgage rights when the debtor defaults. If such promise is included, then the Deed of Granting of Mortgage Rights is null and void.

Keywords: Loan agreement; Deed of Granting of Mortgage Rights; Promises

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Rahmat Ramadhani, Ida Hanifah, Farid Wajdi

Presidential Decree Number 62 of 2023: Distortion Regulation or Acceleration Solution for Agrarian Reform?

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 31-42

The implementation of Presidential Decree No. 62 of 2023 has substantively attempted to integrate several regulations at technically applicable level; however, on the other hand, it still raises several problems, particularly in relation to the provision of land for agrarian reform objects, land originating from forest areas. This study aimed to analyze the implementation of Presidentialial Decree No. 62 of 2023 as the latest regulation regarding the acceleration of agrarian reform activities in Indonesia as an effort to recognize that land is the greatest source of wealth for people as ordered by the constitution. To analyze the problem, the method used is type study law normative. One of the factors inhibiting agrarian reform from seeming slow in creating just and prosperous land is the dis-harmonization of regulations, that cause legal gaps. The method used is normative legal research with a statutory regulation approach. The sectoral egos and legal gaps can be put aside and released to joint policies between related institutions, and agrarian reform can achieve its main essence; namely making land a source of the greatest prosperity for people. The results show that regulatory disharmony has narrowed the space for implementing agrarian reform. The advice given in this paper is to create an acceleration of agrarian reform that is right on target in accordance with the targets set, all implementing stakeholders must comply with the norms set out in the Presidential Decree in question. Thus, it is feared that Presidential Decree No. 62 of 2023 will become a regulatory distortion, even though its implementation aimed to provide a regulatory solution in the context of accelerating agrarian reform in Indonesia.

Keywords: Acceleration; Agrarian Reform; Distortion; Regulation; Solution

Rieska Ayu Bella Pratiwi, Nur Khamnari Derby Pambudi

Measuring the Urgency of Criminalization of Illicit Enrichment through Legislation Policy in Order to Eradicate Corruption in Indonesia

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 43-56

Ownership of inappropriate assets by public officials or named illicit enrichment is still a hot issue. Indonesia itself has a wealth reporting instrument for public officials called the State Officials' Wealth Report (LHKPN) as a means of controlling and supervising the wealth of public officials. In practice, many public officials have unappropriate assets and are suspected to have been obtained illegally, but these assets cannot be taken by the state because they have not been or have been proven to be the proceeds of criminal act. Thus, this research aims to examine the potential for resolving this problem by criminalizing the ownership of improper assets by public officials, which aims to minimize the incidence of state financial losses. Based on the results of the research, it shows that there are at least two alternative ways, namely (a) making the illegal ownership of public officials whose legality is not proven to be one of the criminal offenses of corruption through the revision of the Corruption Law; or (b) formulate and ratify provisions related to illicit enrichment in the Asset Confiscation Bill. The criminalization of illicit enrichment is a form of implementation of the provisions of Article 20 of the United Nations Convention Against Corruption (UNCAC) as ratified by Indonesia with Law Number 7 of 2006 with the aim of preventing corrupt actions by public officials. This research uses a normative research method with a regulatory-legislative approach and a conceptual approach, the results of which are presented in prescriptive form.

Keywords: Illicit Enrichment, Asset Confiscation, Corruption

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Mario Agritama S W Madjid

Reformulation of The Integrated Law Enforcement Center Become an Independent Eradication Agency Election Crimes

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 57-72

The practice of implementing elections in Indonesia from time to time becomes an antinomy of the principle of honesty and fairness. This practice is evidenced by the increasing number of election violations, especially election crimes. This shows that the role of the Sentra Gakkumdu, which specifically functions to eradicate election crimes, has not been effective. The most highlighted issue regarding the existence of the Sentra Gakkumdu is the weak coordination and its limited nature as a forum between Bawaslu, the Police, and the Prosecutor's Office. This research aims to describe the problematics of election criminal law enforcement in Indonesia and the reformulation of Sentra Gakkumdu into an Independent Institution for Eradicating Election Crimes. This research was conducted using normative juridical research. The results of this study show: First, the ineffectiveness of election criminal enforcement is caused by the limited time for handling cases, the weak institutional building of Gakkumdu which includes institutional nature, authority, human resource capacity and coordination between institutions in it. Second, it is necessary to reformulate the Gakkumdu Center into an Independent Institution for the Eradication of Election Crimes. The idea of making Gakkumdu an Independent Institution departs from several weaknesses in the existing institutional building plus the complexity of handling election crimes and speedy trial design requires a special institution that focuses on handling the eradication of election crimes. The institution will later take the form of an independent institution with prevention and prosecution functions, while. The institutional structure will consist of investigators, investigators, and permanent public prosecutors led by commissioners.

Keywords: Election Crimes; Gakkumdu Center; Independent Institution; Reformulation

Febri Handayani, Lysa Angrayni

Challenges and Ideas for Integrated Assessment Design for Treatment of Narcotics Abusers in Indonesia

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 73-88

Integrated Assessment challenges for handling narcotics abuse include; Narcotics regulation is still debating between a criminal approach and a health approach, this will be related to the request for an assessment from TAT. Integrated assessment becomes a new legal problem if the recommendation procedure is carried out unfairly. Challenges in the coordination function between agencies/institutions. The design idea for an Integrated Assessment for handling narcotics abusers is; availability of government-owned rehabilitation homes in every district/city area, optimization of submission of assessments by investigators to TAT to obtain assessment results in every narcotics case, as well as legalization of integrated assessment norms. The recommendation is that investigators in narcotics cases must submit an assessment request to the TAT as an initial assessment mechanism because it is a guarantee of legal certainty that must be realized if the legalization of norms regarding integrated assessment has been carried out.

Keywords: challenge; idealization; integrated assessment; narcotics

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Rackel Andriwinata, I Dewa Gede Palguna

The Urgency of Sui Generis Regime Request for Geostationary Orbit Slots through the Perspective of Equatorial Countries, Especially Indonesia

The De Jure Legal Research Journal Volume 24, Number 1, March 2024, Page 89-106

Indonesia is one of the countries whose position is crossed by the equator, which is parallel to the Geostationary Orbit (GSO). The passing of Law No. 16 of 2002 marks Indonesia's binding to the Outer Space Treaty, which encourages Indonesia to have regulations regarding the resolution of issues relating to the use of GSO slots in the national interest. Indonesia proposes a special legal regime that recognizes GSO as an independent territory without disturbing existing rules. This research emphasizes the urgency of creating a fair and equitable legal framework in utilizing GSO, especially for developing countries. This research aims to explore legal certainty in the context of space utilization and exploration, especially Geostationary Orbit (GSO). This research uses a normative juridical method with the main approaches, namely legislation and conceptual. The results show the need for a special regime that regulates the utilization of GSO so that there is no gap between countries with the principles of maintaining peace, justice and mutual benefit, with the hope of providing clarity of rules and guidelines in exploring and utilizing space safely and fairly.

Keywords: Geostationary Orbit; Outer Space Treaty; Sui Generis Regime