Jurnal Penelitian Hukum De Jure
Volume 22 Number 3, September 2022
P-ISSN: 1410-5632, E-ISSN: 2579-8561
Accredited No: 10/E/KPT/2019

The De Jure Legal Research Journal is a quarterly legal magazine (March, June, September and December) published by the Research and Development Board for Law and Human Rights of the Ministry of Law and Human Rights of the Republic of Indonesia, in collaboration with the I**NDONESIAN LEGAL RESEARCHER ASSOCIATION (IPHI) (Legalization of Legal Entity of Association: Decree of the Minister of Law and Human Rights 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 Research and Development Board for Law and Human Rights Number: PPH-08.LT4.03 Year 2021 dated January 4, 2021 concerning the Establishment of a Publishing Team for De Jure Legal Research Journals, with the team composition as follows:

Editor's Address:
Research and Development Board for Law and Human Rights Building,
the Ministry of Law and Human Rights of the Republic of Indonesia
Jl. HR. Rasuna Said Kav. 4-5, 7th Floor, Kuningan, Jakarta Selatan
Telephone: (021) 2525015, Facsimile: (021) 2526438

Email:
balitbangkumham@gmail.com

PT Pohon Cahaya Printing
Jalan Tanah Abang 1 No. 11
Gambir - Jakarta Pusat
DKI Jakarta 10160
Phone (021) 30305459
Mobile 08999045858
Email:info@solusipenerjemah.com
Website:www.solusipenerjemah.com

Layouter and Printer:
PT Pohon Cahaya Printing
Jalan Gedung Baru 18 Jakarta Barat 11440
Telephone: (021) 5600111, Fax: (021) 5670340

The editor accepts original actual papers in the field of law in the form of research results from various people, such as: legal researchers, practitioners and theorists, as well as various other people. The papers published are the personal opinion of the researchers, not the opinion of the editor.

The editor has the right to reject and to shorten the paper as long as it does not change the contents. The paper can be sent to the editor's address, in a maximum of 30 A4 pages, typed in dou ble spacing and submitted to the Open Journal System (OJS) application at the URL/website: ejournal.balitbangham.go.id

LIST OF CONTENTS

Halaman

ADVERTORIAL

GratitudeIn the presence of God Almighty, the De Jure Legal Research Journal published by the Indonesian Legal Research Association in collaboration with the Research and Development Agency for Law and Human Rights of the Indonesian Ministry of Law and Human Rights can re-publish Volume 22 Number 3 September 2022.

The publications of the De Jure Legal Research Journal Volume 22 Number 3 September 2022, will contain 10 (ten) articles from various research institutions in Indonesia.Changes in the new life order have an effect on the development of the digital era as well as strengthening the role of the Research and Development Agency for Law and Human Rights as a Legal and Human Rights Policy Strategy Body for the Governance of Quality Public Policy with Evidence base Policy.

In this regard, the editor of the De Jure Research Journal in Volume 22 Number 3 September 2022, raised articles including: Limiting the President's Power to Declare Emergency: Comparison of France, India, and Indonesia, The Idea of One Term of Office of the President and Vice President in Indonesia, Controversy on Presidential Decrees in a State of Emergency in Indonesia: A Case Study of the Decisions of President Soekarno and President Abdurrahmanwahid; A Critical Review of the Application of State-Owned Enterprises as a State-Owned Enterprise Holding From the Perspective of Anti-Monopoly And Unfair Business Competition; Responsibilities of the Government After the Covid-19 Pandemic With Increasing Social Problems In The Community In An Effort To Restore The World Economy. The three priority issues that Indonesia is fighting for in the G20 Presidency include the global health architecture, digital-based economic transformation, and energy transition. Calling on the whole world to work hand in hand, support each other to recover together and grow stronger and more sustainable.

We deliver thank you to the author who has given the trust to the De Jure Legal Research Journal to publish his work. We also thank the Bestari Partners who have been willing to help, examine and correct the writings of the authors in this publication.

Finally,We would like to thank the Head of the Research and Development Agency for Law and Human Rights of the Ministry of Law and Human Rights of the Republic of Indonesia and the Indonesian Legal Research Association who have been pleased to publish this De Jure Legal Research Journal.

Jakarta, September 2022

Editor

The keywords noted here are the words which represent the concept applied in article. This abstract sheet may be reproduced without permission or charge

Ayup Suran Ningsih

Rules Regarding Mandatory Equity Securities Listing: Is It Possible For A Public Company Without Listing On The Indonesian Stock Exchange?

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 285-294

The Financial Services Authority has issued the latest regulation in the Capital Market sector, namely the Financial Services Authority Regulation Number 3/POJK.04/2021 concerning the Implementation of Activities in the Capital Market Sector. This paper aims to conduct a more specific analysis regarding the mandatory elements for a company that will conduct a public offering to list its equity securities on the stock exchange. The initiation of the obligation to conduct equity securities listing is carried out in order to reduce the intensity of backdoor listing or efficient efforts towards Initial Public Offering activities by acquiring a company whose shares have been listed on the Stock Exchange. This article was compiled using a normative legal research method. Based on Financial Services Authority Regulation Number 3/POJK.04/2021, the Financial Services Authority through the Depository and Settlement Institution conducts electronic securities listing which is not part of the securities collective custody. The Depository and Settlement Institution checks the conformity of the Securities records in the Depository and Settlement Institution with the records in the Securities Administration Bureau or the Public Company which conducts its own Securities administration. The mandatory to be listed for the equity securities of a public company closes legal loopholes for companies that wish to become public company using a procedure that is not in accordance with the provisions of the prevailing laws and regulations.

Keywords: registered; capital market; public company; securities

Nabilah Luhtfiyah Chusnida, Teddy Prima Anggriawan

Dispensation of Marriage in The Perspective of Children's Rights: Best Interest of The Children

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 295-310

Underage marriage with marriage dispensation is very influential in the life of children and adolescents. The Convention on the Rights of the Child has determined that the best interest of the child is the primary interest in any action concerning the child. This study uses a normative juridical method based on a statutory approach. The purpose of this research is to find out the judge's considerations and what factors cause the rise of early marriage. This study concludes that the number of marriage dispensations in Indonesia continues to increase from 2016-2018, and is stagnant from 2019-2020. This figure increases because awareness of the meaning of marriage is reduced and many people in Indonesia think that *adat* must still be maintained. The high dispensation of marriage is caused by economic factors, pregnancy out of wedlock, and cultural factors. Thus, the judge assessed that the granting of a marriage dispensation had the best impact on the child in accordance with the theory of the best interests of the child. The implementation of the regulations that have been implemented still requires derivative regulations that regulate the basics of granting marriage dispensations in court. In order for the application for a marriage dispensation to be granted wisely, it is recommended to refer to Law Number 16 of 2019 concerning Marriage and PERMA Number 5 of 2019 concerning Guidelines for the Termination of Marriage Dispensation. So that judges avoid subjective considerations in adjudicating marital dispensation cases.

Keywords: Best Interests of The Child; Children's Right; Marriage Dispensation

The keywords noted here are the words which represent the concept applied in article. This abstract sheet may be reproduced without permission or charge

M Jeffri Arlinandes Chandra, Febrian, Bayu Dwi Anggono

The Urgency Of Reharmonization in Construction of The Stage Formation of Law

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 311-324

Indonesia is a state of law that relies on a rule of law formed as a basic rule in the state and society. The law as the primary basis must be made following the principles of the Formation of good law so that it is expected that later it can be applied and has binding legal force for all levels of society. However, the current situation is far from the expectation of the formation of good law. For example, the Formation of a job creation law which is considered not to involve the community actively, many articles are contrary to legal principles, disharmonized and unsynchronized between law. The formation of law seems in a hurry so there are many errors in writing (typo) and many other things. Therefore, it is necessary to reconstruct the stages in making good law. This paper uses normative research with a statutory approach, a comparative approach, and finally concludes with a conceptual approach where concepts that are considered suitable can be applied in Indonesia. This article provides two conclusions. First, the practice of harmonization, synchronization and consolidation of conceptions that have been well implemented but only exist at the planning and drafting stages of the Bill. While after the discussion/mutual agreement (plenary), no further harmonization and synchronization are carried out. Second, the post-discussion (plenary) re-harmonization stage can provide space for the implementation of educational facilities, consultations and publications of pre-validation and enactment of law that will be ratified in the form of meaningful public participation.

Keywords: Reharmonization; Study; Stage

Emaliawati, Bonarsius Saragih, Aji Mulyana

Effectiveness of Social Work Sanction as A Substitute For Imprisonment in The Perspective of Sentencing Purposes

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 325-336

Imprisonment is a criminal sanction that eliminates the freedom of perpetrators with the aim of providing a deterrent effect so as not to commit criminal acts and improve behavior in order to become better human beings. In this study, problems were formulated regarding the effectiveness of social work sanctions as a substitute for imprisonment from the perspective of sentencing purposes. This study uses a normative juridical approach, with descriptive-analytical research specifications. The data used are primary data obtained through an analytical study of applicable laws, followed by concepts that have been carried out, and secondary data obtained through literature studies (references from various countries that have imposed social work sanctions), which are then analyzed utilizing a comparison between primary and secondary data qualitatively. From the study results the issue regarding the effectiveness of social work sanction as a substitute for imprisonment focuses on changing the behavior of the convict in reducing the level of crime in society and the effectiveness of social work punishment for criminals associated with the purpose of sentencing, it is used as an alternative for sentencing that is in line with the purpose of sentencing itself.

Keywords: social work; imprisonment; sentencing

The keywords noted here are the words which represent the concept applied in article. This abstract sheet may be reproduced without permission or charge

Marulak Pardede

Initiating The ASEAN Arbitration Board as A Forum For Settlement of Investment Legal Disputes in The Framework of Integration of The Asean Economic Community (AEC) REGION

(Integrative Legal Theory as the Basis for the Study with an Analytical Knife)

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 337-360

The impact of liberalization and globalization of the world economy is that all countries in the ASEAN region, have become an area of a borderless economic community (AEC). This has triggered an increase in the foreign investment business and its legal disputes, which of course need legal certainty for dispute resolution. The parties must resolve it through general courts (litigation), or alternative dispute resolution out of court or arbitration (non-litigation). Therefore, it becomes a legal issue: what are the legal aspects of resolving legal disputes between the Indonesian government and foreign investors; and what efforts should be made to facilitate the settlement of investment law disputes, within the framework of regional integration of the ASEAN economic community? This study aims to analyze investment dispute resolution and the idea of establishing an MEA arbitration body as a forum for resolving investment legal disputes between business actors. This study uses a normative juridical method, which is based on library research to obtain secondary data, sourced from primary, secondary, and tertiary legal materials. The specifications of the analytical descriptive research describe the establishment of the MEA arbitration body and the potential positive impacts. The data analysis method used is juridical qualitative. The results of the study indicate that the development of investment business legal dispute resolution in the MEA area requires the AEC Arbitration Board as a forum for resolving investment disputes between business actors, mainly due to differences in legal systems between countries.

Keywords: Marulak Pardede; Business Law: Investment Disputes, ASEAN Arbitration Board.

Fatihani Baso, Andi Yaqub, Andi Novita Mudriani Djaoe, Ashadi L. Diab

Power Oligarchy: The Game of Cartel in Cooking Oil Scarcity

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 361-370

Limiting the term of office of the head of government is an important prerequisite for realizing a democratic state life. In Indonesia, these restrictions are imposed on the President and Vice President with a term of office of 5 years and after that, they can be re-elected only for 1 term of office. Using the normative juridical method, this study shows that this choice has become a source of debate in other parts of the world, and several presidential countries have chosen different models of restrictions. In Indonesia, it has been revealed that this choice is not based on a deep conceptual debate and empirically has threatened the continuity of a principled election. As a solution, this study offers the application of the concept of a single term of office for the President and Vice President in Indonesia. This research also enriches the study of state administration in the theme of structuring the presidential system.

Keywords: office; term; president

The keywords noted here are the words which represent the concept applied in article. This abstract sheet may be reproduced without permission or charge

Rizki Amalia Yuliani, S.H., M.H.

Legal Certainty of Suspension of Debt Payment Obligations Proceedings During The COVID-19 Pandemic Period

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 371-386

During the Covid-19 pandemic period, the Suspension of Debt Payment Obligations (PKPU) Proceedings at the Commercial Court in Indonesia are now carried out online. The implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online in the Commercial Court during the Covid-19 pandemic period was carried out based on the Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 1 of 2019 and the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 109/KMA/SK/IV/2020. However, the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online during the Covid-19 pandemic period in every Commercial Court in Indonesia varies, depending on the conditions and facilities at the Commercial Court. In response to this, since the beginning of 2022, the Supreme Court has drawn up a draft amendment to PERMA Number 1 of 2019 and formed technical instructions for amendments to PERMA Number 1 of 2019 which the preparation is still ongoing until August 2022. This research was conducted using a normative juridical law research method. This study discusses the amendments to PERMA Number 1 of 2019 and the draft technical instructions for amendments to PERMA Number 1 of 2019. The results of the study showed that the draft amendments to PERMA Number 1 of 2019 and the draft of technical instructions for amendments to PERMA Number 1 of 2019 still do not regulate the implementation of creditor meetings and online voting. In this regard, it is recommended that the Supreme Court add rules regarding guidelines for conducting creditor meetings and online voting in the Suspension of Debt Payment Obligations (PKPU) Proceedings Online process so that the Suspension of Debt Payment Obligations (PKPU) Proceedings Online process in all Commercial Courts is uniform and provides legal certainty for the parties.

Keywords: Online; Covid-19; Commercial Court; e-Court

Andryan

Open Court Principle For The Public in Material Judicial Review Right in The Supreme Court

Analysis of Constitutional Court Decision No. 85/PUU-XVI/2018

Law Research Journal De Jure, 2022 September, Volume 22, Number 3, Page 387-394

The Supreme Court (MA) has the authority legality review on regulations under the law against the law as stated in Article 34A paragraph (1) of the 1945 Constitution. Unlike the Constitutional Court (MK) in the examination process until the ruling applies Open Court Principle the Supreme Court does not implement it because apply the legal provisions that apply to the application case in the shortest possible time. This research uses normative legal research methods with conceptual approaches, philosophical approaches, and statute approaches. There are two research questions of this study namely why is the principle of the trial open to the public in the right of judicial review in the MA in the concept of modern legal states and what is the constitutional basis for a trial open to the public based on the principle of *Audi et Alteram Partem*? Based on principles of law country, Indonesia should emphasize on transparency to make a public decision in court so that justice will prevail. The Supreme Court can make a rule that accommodate the spirit of a trial that is open to the public as in the principle of *Audi et Alteram Partem*.

Keywords: Judicial Review; The Supreme Court; Trials