

Coherencing a Diametrical Interests between the State, Adat Community and Private Interests in Utilising the Land for Investment in Indonesia

Authors : L. M. Hayyan ul Haq, Lalu Sabardi

Abstract : This research is aimed at exploring an appropriate regulatory model in coherencing a diametrical interest between the state, Adat legal community, and private interests in utilising and optimizing land in Indonesia. This work is also highly relevant to coherencing the obligation of the state to respect, to fulfill and to protect the fundamental rights of people, especially to protect the communal or adat community rights to the land. In visualizing those ideas, this research will use the normative legal research to elaborate the normative problem in land use, as well as redesigning and creating an appropriate regulatory model in bridging and protecting all interest parties, especially, the state, Adat legal community, and private parties. In addition, it will also employ an empirical legal research for identifying some operational problems in protecting and optimising the land. In detail, this research will not only identify the problems at the normative level, such as conflicted norms, the absence of the norms, and the unclear norm in land law, but also the problems at operational level, such as institutional relationship in managing the land use. At the end, this work offers an appropriate regulatory model at the systems level, which covers value and norms in land use, as well as the appropriate mechanism in managing the utilization of the land for the state, Adat legal community, and private sector. By manifesting this objective, the government will not only fulfill its obligation to regulate the land for people and private, but also to protect the fundamental rights of people, as mandated by the Indonesian 1945 Constitution.

Keywords : adat community rights, fundamental rights, investment, land law, private sector

Conference Title : ICLS 2015 : International Conference on Law and Society

Conference Location : Paris, France

Conference Dates : June 25-26, 2015