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Integration Between Customary Law and National Law: An Effort to Build a Pancasila Prismatic Law State

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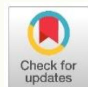

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Abstract

Introduction: *This article to examine and analyze aspects of integration between national law and customary law in the context of the prismatic Pancasila state law, especially after the enactment of the draft criminal code (RKUHP) as a law.*
Purpose of The Research: *This research seeks to answer two problem formulations, namely: integration of customary law and national law in the Pancasila law state and how are efforts to organize harmonious relations between customary law and national law in the perspective of the prismatic Pancasila state law, especially after the ratification of the RKUHP.*
Methods of Research**:** *This study uses normative legal research methods based on authoritative legal products in the form of laws and regulations. The analysis was carried out by prioritizing the concept approach, historical approach, and statutory approach.*
Result of The Research: *Even though customary law and national law are different in substance and character, but customary law and national law must be integrated because have important relations in relation to practice in society. Efforts to organize a harmonious relationship between customary law and national law in the perspective of the Pancasila prismatic state law, especially after the ratification of the RKUHP by optimizing the three year transitional provisions in the RKUHP to socialize as well as determining steps and efforts that can guarantee harmonious relations between customary law and national law.*

1. INTRODUCTION

The study of the relation between national and customary law is an exciting and relevant study to continue to be of concern to law bearers, both at a practical and theoretical level. Moreover, conventionally national and customary law are seen as a dualism with its own orientation and starting point.[1] National law is considered to move from the positivism paradigm in which the orientation is written positive law, which is then manifested as a product of state institutions. In this context, national law, which is embodied in a positive

[1] Wendra Yunaldi, *Nagari Dan Negara: Perspektif Otentik Kesatuan Masyarakat Hukum Adat Dalam Ketatanegaraan Indonesia*, 1st ed. (Yogyakarta: Jual Buku Sastra, 2021).

character in the development of the times. That is identified as modern law, which places national law as the most superior law in the land so that it has implications for the existence of customary law, which is a law that originates, grows and develops in social reality.[2]The understanding that identifies national law whose application is "superior" to other laws, such as customary law, is the main characteristic of the era of legal modernization, which is actually being challenged from a legal view based on society (law in society).[3]

In this view, state institutions as the "origins" of the birth of positive law are not the only standard for assessing when the law was made and enforced. From a societal perspective, the science of law is based on the historical school of law (historical school of thought) fronted by Von Savigny and his colleagues, law is considered to have been born from the birth of society itself. That means that before state institutions existed, there were already substantively applicable laws.[4] The law that substantively applies before the presence of this state institution is what is commonly referred to as customary law. The view of dualism, which tends to find a point of "dichotomy" between national law and customary law in the context of Indonesian law is deemed irrelevant. The Indonesian legal system, which is then often referred to as the "Pancasila legal system", seeks to balance national and customary law as equally applicable laws in society. Based on the Pancasila legal system, the Indonesian context sees law as a value that manifests the five precepts in its application. That means that the Pancasila legal system views the relationship between national and customary law proportionally. Even more so after the passage of the Draft Criminal Code (RKUHP) at the end of 2022. One of the provisions in the RKUHP is Article 2, which seeks to provide proportional space for customary law and the national legal system. The formulation in Article 2 of the RKUHP becomes a "bridge" for integrating national law and customary law in a Pancasila law state. This study examines and analyses integration between national law and customary law in the Pancasila prismatic legal state, especially after ratifying the RKUHP as a law.

Research on the relationship between customary law and state law has been carried out by several researchers before, including a study conducted by Dominikus Rato (2021) which focuses on how the era of digitalization of technology provides an appropriate space for the protection of human rights for indigenous peoples.[5] Furthermore, research conducted by Rikardo Simarmata (2021) focuses on aspects, namely future ideas, on how customary justice and national justice are integrated, especially in practice in court.[6] Further research on the relationship between customary law and national law was carried out by Hazar Kusmayanti, Dede Kania, and Galuh Puspaningrum (2022) regarding the orientation so that customary law principles obtain legal status in legal practice in the national justice

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[2] Ellectrananda Anugerah Ash-shidiqqi, "Rule of Law Dalam Perspektif Critical Legal Studies," *Amnesti Jurnal Hukum* 3, no. 1 (2021): 25–36, https://doi.org/10.37729/amnesti.v3i1.895.

[3] Mateja Čehulić, "Perspectives of Legal Culture," *Revija Za Sociologiju* 51, no. 2 (August 31, 2021): 257–82, https://doi.org/10.5613/rzs.51.2.4.

[4] M. Zulfa Aulia, "Friedrich Carl von Savigny Tentang Hukum: Hukum Sebagai Manifestasi Jiwa Bangsa," *Undang: Jurnal Hukum* 3, no. 1 (July 7, 2020): 201–36, https://doi.org/10.22437/ujh.3.1.201-236.

[5] Dominikus Rato, "Perlindungan Ham Masyarakat Hukum Adat Yang Bhinneka Tunggal Ika Di Era Digital," *Majalah Hukum Nasional* 51, no. 2 (2021): 157.

[6] Rikardo Simarmata, "Kedudukan Dan Peran Peradilan Adat Pasca-Unifikasi Sistem Peradilan Formal," *Undang: Jurnal Hukum* 4, no. 2 (2021): 282.

system.[7] Of the three previous studies, the research conducted by the author is original because studies on the integration between customary law and national law concerning the ratification of the RKUHP have never been comprehensively studied. This research seeks to answer two problem formulations, namely: (1) How is the integration of customary law and national law in the Pancasila law state?, and (2) How are efforts to organize harmonious relations between customary law and national law in the perspective of the prismatic Pancasila state law, especially after the ratification of the RKUHP?.

2. METHOD

The perspective of a prismatic Pancasila state law with an integration orientation between state law and customary law as the focus of this research is actually legal research with a normative legal research type. Normative legal research focuses on authoritative legal products, one of which is legislation. The primary legal materials in this study include the 1945 Constitution of the Republic of Indonesia and the RKUHP. Secondary legal materials include journal articles, books, and the results of studies on the relationship between customary law and national law from the perspective of the Pancasila prismatic legal state. Non-legal materials, namely legal dictionaries. To optimize the analysis in research, a conceptual approach, statutory approach, and historical approach are used.

3. RESULTS AND DISCUSSION

3.1 The Integration of Customary Law and National Law: What and How?

The Indonesian context's relation between customary and national law is a complex discussion.[8] For example, can be seen in its development; Indonesian national law cannot be separated from two aspects, namely aspects of customary law and religious law (especially Islamic law).[9] Even so, before Indonesia proclaimed its independence on August 17, 1945, when Indonesia was still called the Dutch East Indies, efforts to make customary law and national law *vis a vis* (opposite each other) were commonplace during the Dutch colonial period. According to the writer's opinion, there are two arguments why the Dutch colonizers had an orientation to confront customary law and national law. These two arguments. *First*, during the Dutch colonial period in Indonesia, legal positivism was a massive development. Legal positivism is a universal phenomenon and, in its time, used to be a kind of "single creed" in interpreting the law. Legal positivism, which later gained theoretical legitimacy from Hans Kelsen, H.L.A. Hart and other colleagues, actually mandated that the law has a positive character, which means that the law must be written and determined by an authoritative institution.[10] That implies that law is a written rule established by an authoritative institution. Authoritative institutions in this context are

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[7] Galuh Puspaningrum Hazar Kusmayanti, Dede Kania, "Praktik Beracara Penyelesaian Sengketa Adat Sumatera Barat Berdasarkan Asas Bajanjang Naiak Batanggo Turun," *Refleksi Hukum: Jurnal Ilmu Hukum* 6, no. 2 (2022): 187.

[8] Fradhana Putra Disantara, "Konsep Pluralisme Hukum Khas Indonesia Sebagai Strategi Menghadapi Era Modernisasi Hukum," *Al-Adalah: Jurnal Hukum Dan Politik Islam* 6, no. 1 (January 1, 2021): 1–36, https://doi.org/10.35673/ajmpi.v6i1.1129.

[9] Nurul Hikmah, "Fikih Waris," in *Ilmu Fikih*, 1st ed. (Banyumas: Wawasan Ilmu, 2022), 181.

[10] 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.

undoubtedly relevant to the state because the state is considered a social-community institution that regulates society and determines the direction of people's lives at that time.

The *argumentum a contrario* with the view of legal positivism is that any law not written in character and determined by an authoritative institution is considered not a law.[11] Suppose there is something that has a "law-like" character but does not have a written character and is determined by an authoritative institution. In that case, it can only be called societal morality or an ethical framework that is currently in effect. This sharp separation of legal positivism views between something that qualifies as "law" and "non-law" further distances the relationship between customary law and national law.[12] Because legal positivism became the "single qualification" in understanding law in the Dutch East Indies era, naturally, in the Dutch colonial era, there were strict "lines of demarcation" in distinguishing customary law from national law. Customary law is considered not law because it does not have the two characteristics of positive law. There is in written form and determined by an authoritative institution or institution. Customary law does not substantially have a written character because customary law develops and is applied based on the behaviour and oral speech of traditional leaders, which are either directly or tacitly agreed upon by the community.[13] In addition, traditional leaders as institutions or institutions that determine customary law are also considered not "official" institutions because they do not have specific mechanisms and procedures in determining the formulation and validity of customary law.[14] Thus, the customary law in the view of legal positivism is regarded as "not law" and, at most, is only considered as "applicable morality" or "customary ethics", which applies within a specific scope.

In contrast to customary law, which was "considered" not law by legal positivism, national law. In the colonial era, a law made by the Dutch East Indies Government was called law because it was clearly and unequivocally present in written form and stipulated by an authorized institution. During the Dutch East Indies era,[15] the symptoms of legal positivism contributed to creating a line of demarcation that strictly separated customary law from national law so that integration between customary law and national law was a utopian thing at that time.[16] In subsequent developments, efforts to integrate customary and national law must be encouraged as part of Indonesia's identity as a country that wants to be independent. *Second*, the strict separation between customary and national law during the Dutch colonial period was part of colonial legal politics to divide the Indonesian nation. That is understandable because by "bumping into" national and customary law, Indonesia can be divided so that it does not have an orderly legal system. Then, the society is alienated,

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[11] Herabudin, "Implementation Of Norms And Ethics In Public Services In Indonesia," *Jurnal Ilmiah MEA (Manajemen, Ekonomi, & Akuntansi)* 6, no. 2 (2022): 1901.

[12] Yunani Abiyoso et al., "Adat Institutions In Aceh Government: A Constitutional Perspective Constitutional Perspective," *Journal of Islamic Law Studies* 4, no. 1 (2020): 1–15.

[13] 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.

[14] Dicky Eko Prasetio et al., "The Legal Pluralism Strategy of Sendi Traditional Court in the Era of Modernization Law," *Rechtsidee* 8 (March 9, 2021): 1–14, https://doi.org/10.21070/jihr.2021.8.702.

[15] Arif Hidayat and Zaenal Arifin, "POLITIK HUKUM LEGISLASI SEBAGAI SOCIO-EQUILIBRIUM DI INDONESIA," *Jurnal Ius Constituendum* 4, no. 2 (October 15, 2019): 133, https://doi.org/10.26623/jic.v4i2.1654.

[16] Soetandyo Wignjosoebroto, *Desentralisasi Dalam Tata Pemerintahan Kolonial Hindia-Belanda (Kebijakan Dan Upaya Sepanjang Babak Akhir Kekuasaan Kolonial Di Indonesia (1900-1940)*, 1st ed. (Surabaya: Bayumedia, 2004).

so it is easy to be pitted against each other (*de vide it impera* politics). In the minutes of the BPUPK-PPKI session, the country's founding leaders had an orientation towards integrating customary law and national law. Moh. Yamin, in the minutes of the BPUPK meeting, proposed integration between national law and customary law through a judicial review mechanism. In Moh. Yamin's language, namely "comparing laws, " must be carried out by the Balai Agung (which was meant to be the Supreme Court) to examine conflicts between national law and customary law as well as Islamic law.

However, it is a visionary idea, Moh. Yamin was later refuted by Soepomo with the argument that judicial review only exists in countries that qualify themselves as countries with a trias politica system. In contrast, according to Soepomo, the Indonesian state at that time was not established based on trias politica. Although the view of Moh. Yamin was then not agreed upon and did not receive further attention, but this implies that in the period leading up to independence, there was an orientation towards integration between customary law and national law by the founders of the country through a judicial review mechanism. In further developments, the idea of integrating customary and national law was also discussed to formulate its Criminal Code after Indonesia's independence.[17] That can be seen at the beginning of the independence of the laws and regulations in the Dutch East Indies era being re-enforced. Based on the concordance principle and the transitional rules in the 1945 Constitution (before amendments), transitional provisions that re-enacted the laws and regulations in the Dutch East Indies era to avoid a vacuum regulation (*wetvaccum*).[18] That has caused even though Indonesia is already independent, the laws and regulations still have a colonial spirit and style as a relic of the Dutch colonial era. One of the efforts initiated to integrate customary law and national law at that time was through the discourse of forming a new Criminal Code which was predicted to be the "original Indonesian Criminal Code".

The idea of deliberating a new Criminal Code started in 1963 at a National Law Seminar held in Semarang, Central Java.[19] The idea of a new Criminal Code has increasingly surfaced; even become one of the concerns of all Presidents who have led Indonesia. That means that the discourse on establishing and ratifying a new Criminal Code is "cross-generational". That idea has even gone through all of the President's tenures in Indonesia from the first to the seventh. One of the main orientations of forming a new Criminal Code is to protect customary law as a living law in society. Customary law is also understood as "typical" law from various regions in Indonesia. Even an Indonesian identity must be realized as a manifestation of the ideals of the proclamation of independence on August 17, 1945.[20] In 2022, the discourse to provide space for customary law in the Indonesian legal system was a constructive discourse because the Dutch-era Criminal Code is considered to have no space and efforts to facilitate customary law as a "typical" law of Indonesian society.

At the end of 2022, the RKUHP is finally passed into law. That means that the RKUHP will replace the Dutch heritage Criminal Code as the substance of criminal law in the future.

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[17] Fradhana Putra Disantara et al., "Enigma Pemberantasan Korupsi Di Masa Pandemi COVID-19," *JURNAL USM LAW REVIEW* 5, no. 1 (2022): 61–79, https://doi.org/http://dx.doi.org/10.26623/julr.v5i1.4135.

[18] Mitendra Hario Mahar, "Fenomena Dalam Kekosongan Hukum," *RechtsVinding Online*, 2018, 2.

[19] Ajie Ramdan, "Kontroversi Delik Penghinaan Presiden/Wakil Presiden Dalam RKUHP," *Yudisial* 13, no. 2 (2020): 246.

[20] Ferry Hidayat, *Pancasila: Perspektif Pendiri RI Dan Problematikannya*, 1st ed. (STBA Pertiwi Bekasi, 2017).

Even so, in transitional provisions, because the RKUHP has a recodification character and has various "distinctive" substances which are the legal needs of the Indonesian people, the RKUHP provides a grace period of three years to enact the RKUHP and implement it in society. The three years functions to socialize and share perceptions. Especially for law enforcement officials, so that they can implement the RKUHP, which has the Pancasila ideals and has the spirit of decolonization, which means overhauling the colonial provisions that were previously listed in the Dutch-era Criminal Code. One of the exciting points in the RKUHP is Article 2, which emphasizes that the existence of living law in society, namely customary law, is recognized and even used as one of the reasons for sentencing

Article 2 of the RKUHP is a progressive provision with an orientation to integrate customary and national law arrangements. In the author's opinion, such arrangements have only occurred in the formulation of laws in Indonesia in the RKUHP so that the RKUHP has an orientation to integrate customary law and national law. Viewed in the context of a Pancasila law state, the provision of the RKUHP space for efforts to integrate customary law and national law is the right step, especially concerning the character of a Pancasila law state which emphasizes that between national law and customary law, duality and not dualism. The main difference between duality and dualism is that even if duality, even though the two things are different, the two things are a series or at least have a connection. That is different from dualism which views that two things are substantively different so that apart from emphasizing the difference, the difference between the two must also be emphasized..[21] The spirit of the RKUHP, especially in Article 2, emphasizes that the relationship between customary law and national law is dual, so customary law and national law are considered different but have a close relationship. As a law that equally applies to society, the state must have an orientation to maintain a harmonious relationship between customary law and national law. Based on the analysis above, the integration of customary and national law in a Pancasila law state must be encouraged and emphasized. The integration of customary law and national law has the character of duality, meaning that customary law and national law differ in substance and character. Customary and national laws must be integrated because they have essential relations concerning societal practices. In addition, from a historical perspective, efforts to strictly separate customary law from national law occurred during the Dutch colonial era, one of which was initiated by the colonizers to divide the unity of Indonesia.

3.2 The Pancasila Prismatic Legal State: Arranging Harmonious Relations between Customary Law and National Law

The ratification of the RKUHP as a law at the end of 2022 is a "fresh breeze" for implementing customary law. The existence of customary law before the ratification of the RKUHP as a law did not guarantee legal certainty for the existence of customary law.[22] In the opinion of the author, the weak existence of customary law prior to the enactment of the RKUHP as a law is caused by three aspects, namely: first, the existence of customary law is considered to be partial because arrangements regarding the existence of customary law are still scattered in various laws and regulations, such as Law on Regulations Basic Agrarian

[21] Reni Budi Setianingrum and M. Hawin, "Harmonization of Competition Law: Research on The Transplantability of Eu's Law into ASEAN," *Yuridika* 35, no. 3 (2020): 613, https://doi.org/10.20473/ydk.v35i3.21179.

[22] Dominikus Rato, "Realisme Hukum: Peradilan Adat Dalam Perspektif Keadilan Sosial," *Jurnal Kajian Pembaruan Hukum* 1, no. 2 (July 31, 2021): 285, https://doi.org/10.19184/jkph.v1i2.24998.

Principles, Forestry Law, as well as various other sectoral laws and regulations.[23] Provisions on legal norms expressive verbis, applying customary law norms, were inadequate before the RKUHP was enacted as a law. Second, the existence of customary law norms has received regulatory orientation discourse in the Customary Law Community Bill. Even so, even though the Indigenous Law Community Bill has been included in the National Legislation Program several times. Until the end of 2022, the Indigenous Law Community Bill has not been ratified as a law, so the existence of customary law has not yet received legal certainty, especially in its application..[24] *Third*, practices in society sometimes lead to disharmony of practices between customary law enforcement and national law enforcement. In several cases, particularly concerning natural resource management cases, there is often a conflict between national legal and customary law norms provisions..[25] The problem becomes more complicated when most conflicts between national legal and customary law norms always make national law "more superior" to customary law norms.

These three aspects of weak customary law have implications for the application and enforcement of customary law norms, which appear to be weaker than national legal norms. Article 18B of the 1945 Constitution of the Republic of Indonesia implicitly affirms the equality of position between national law and customary law. From the perspective of the constitution, national law and customary law are like "two faces" in one coin, which means separating and ignoring one of them is an action that reduces the legal substance in society. The provisions in Article 18B of the 1945 Constitution of the Republic of Indonesia regarding the relationship between customary law and national law are relevant to the idea of a Pancasila legal state. The idea of a Pancasila legal state is an idea that is increasingly surfacing, especially during the 1998 reform movement.[26] Thar is understandable because one of the orientations of the 1998 reform movement was to carry out legal reform or legal reform, including the reform of elitist and repressive legislation.[27]

The relationship between customary law and the national law idea of a Pancasila legal state places the relationship between customary law and national law in three aspects, namely: first, the Pancasila legal state has the character of affirming the dimensions of divinity, humanity, democracy, and justice. as a series which in Notonagoro's term is hierarchical-pyramidal.[28] That means the values of Pancasila are not mutually exclusive but interrelated. In the context of the relationship between customary law and national law, the

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[23] Natalia Lidya Pohwain, Jemmy Jefry Pietersz, and Revency Vania Rugebregt, "Perlindungan Hukum Bagi Masyarakat Hukum Adat Yang Lingkungan Hidupnya Tercemar," *TATOHI: Jurnal Ilmu Hukum* 1, no. 5 (2021): 508–16.

[24] Dewi Nurita, "Terusir Dari Kampung Sendiri: Perampasan Tanah Ulayat Dan Satu Dekade RUU Masyarakat Adat Mangkrak" (interaktif.tempo.co, 2022).

[25] Amirullah, "YLBHI: 51 Anggota Masyarakat Adat Dikriminalisasi Sepanjang 2019," tempo.co, 2019, https://nasional.tempo.co/read/1281756/ylbhi-51-anggota-masyarakat-adat-dikriminalisasi-sepanjang-2019/full&view=ok. Lihat juga dalam Verlia Kristiani, "Hukum Yang Berkeadilan Bagi Hak Ulayat Masyarakat Hukum Adat (Kajian Dan Implementasi)," *Adil* 11, no. 1 (2020): 144–63.

[26] Fradhana Putra Disantara, Bayu Dwi Anggono, and A'An Efendi, "Mendudukkan Norma Etika: Perspektif Teori Keadilan Bermartabat Terhadap Relasi Etika Dan Hukum," *Rechtsidee* 10, no. 2 (2022): 1–13, https://doi.org/10.21070/jihr.v10i0.773.

[27] Moh. MahfudMD, *Membangun Politik Hukum, Menegakkan Konstitusi*, 2nd ed. (Jakarta: Rajawali Pers, 2017). Bandingkan dengan Rr Rina Antasari, "Telaah Terhadap Perkembangan Tipe Tatanan Hukum Di Indonesia Perspektif Pemikiran Nonet-Selznick Menuju Hukum Yang Berkeadilan," *Nurani: Jurnal Kajian Syari'ah Dan Masyarakat* 19, no. 1 (2019): 103–18, https://doi.org/10.19109/nurani.v19i1.3344.

[28] Marzuki Mustamam, "The Position Of Pancasila In The Arrangement Of The Types And Hierarchy Of Laws," *International Journal of Business, Economics and Law* 23, no. 1 (2020): 453–54.

Pancasila legal state seeks harmony between customary law and national law. That means that the state must guarantee the implementation and enforcement of customary law norms and national legal norms. Efforts to guarantee the existence of the implementation and enforcement of customary law norms are a function of the state in providing "facilitation" for the Indigenous Peoples and customary law norms to be implemented and enforced following the times consistently. That indicates that the state must be active in maintaining and guaranteeing the existence of implementation and enforcement of customary law norms.

Second, one of the characteristics of a Pancasila legal state is the harmonious relationship between components in the legal system to embody Pancasila values. This harmonious relationship means that the components of the legal system are mutually complementary and facilitating. This characteristic should be linked to the relationship between customary and national law, which should be reciprocal or interrelated. It can be seen that before there were regulations regarding the enactment of customary law as a living law in the ratification of the RKUHP, the position of customary law norms was always ignored and set aside when compared to national legal norms. Therefore, Article 2 of the RKUHP, which has been passed into law, is a progressive step in maintaining a harmonious relationship between customary law norms and national legal norms. Third, from the perspective of the Pancasila legal state, the ideal relationship between customary law and national law is that both exist in their respective domains and spaces. That is in line with the concept of legal pluralism, which posits that in society, the law is not single. However, the law is complex in that the application of complex law must involve various systems and norms that apply in society. Legal pluralism is an idea put forward by Werner Menski, who argues that in the reality of judging society, there are three applicable laws: state law, religious law, and social living law.). In Werner Menski's view, these three types of law must be implemented together and side by side. When these three types of law have a harmonious relationship, they qualify as solid legal pluralism. The opposite also applies, namely, when the three types of law do not work harmoniously in their relations, the characteristic of legal pluralism is weak legal pluralism.

Referring to the reality prior to Article 2 of the RKUHP, which was passed into law, the relationship between customary and state law can be weak in legal pluralism. With the formulation of Article 2 of the RKUHP, passed into law, there is a glimmer of hope that a solid legal pluralism relationship between state law and customary law is expected to be implemented. As emphasized above, the conception of the Pancasila legal state is Indonesia's legal identity. As a national legal identity, the Pancasila legal state has main characteristics which have an Indonesian dimension, thus making the Indonesian legal system unique legal system. This uniqueness makes Indonesia's national legal system commonly categorized as the Pancasila prismatic legal system. The term prismatic illustrates that in concretizing the legal system in Indonesia, more than one social value applies as the primary basis for the operation of law in society. Essentially, the idea of a prismatic rule of law places the Indonesian legal system as the "culmination" point between good legal values from outside Indonesia (including civil law and common law legal systems). There are integrated with the laws that develop in society, commonly referred to as customary law. Therefore, the prismatic Pancasila state law is formulated as "Pancasila Prismatic Law State = Legal Values from Outside Indonesia + Customary Law Values + Contextualization".

The relevance of a prismatic Pancasila state law to organize harmonious relations between customary law and national law in the perspective of a Pancasila law state, especially after the ratification of the RKUHP, can be carried out by prioritizing the concept of a Pancasila state law state. That is, the relationship between customary and national law puts forward harmonious relations based on legal pluralism. Regarding legal pluralism, the regulatory formulation in Article 2 of the RKUHP, which has been passed into law, has the potential to create a harmonious relationship between customary law and national law while simultaneously realizing a strong legal pluralism orientation. That is urgent for the government and law enforcement officials to optimize the three-year transitional provisions in the RKUHP to socialize and determine steps and efforts to ensure harmonious relations between customary law and national law.

4. CONCLUSION

The integration of customary law and national law in a Pancasila law state is something that must be encouraged and emphasized. The integration of customary law and national law has a duality character, which means that even though customary law and national law are different in substance and character, customary law and national law must be integrated because it has an important relationship concerning practice in society. In addition, from a historical perspective, efforts to strictly separate customary law from national law occurred during the Dutch colonial era, one of which was initiated by the colonizers to divide the unity of Indonesia. Efforts to organize a harmonious relationship between customary and national law in the prismatic Pancasila state law perspective. Especially after the ratification of the RKUHP, it can be carried out by prioritizing the concept of a Pancasila rule of law state, which, in the relationship between customary law and national law, puts forward harmonious relations based on the concept of legal pluralism. Regarding legal pluralism, the regulatory formulation in Article 2 of the RKUHP, which has been passed into law, has the potential to create a harmonious relationship between customary law and national law while simultaneously realizing a strong legal pluralism orientation. It is urgent for the government and law enforcement officials to optimize the three-year transitional provisions in the RKUHP to socialize and determine steps and efforts that can ensure harmonious relations between customary law and national law.

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