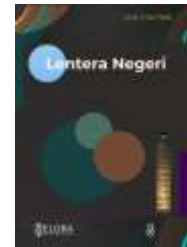




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Regulatory asymmetry and public facility utilization: examining legal certainty in indonesia's post-omnibus housing reform

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ABSTRACT

Law on Job Creation (UUCK) No. 6/2023 deleted Public Infrastructure, Facilities, and Utilities (PSU) obligations in the Building Law (UUBG), while maintaining them in the Flats and Housing Laws. This article examines the post-omnibus regulatory framework for public infrastructure facilities in Indonesia, focusing not only on the obligation of developers to provide such facilities but also on the subsequent phase of public utilization. This normative inconsistency creates serious legal uncertainty, violating citizens' constitutional rights to decent housing under Article 28H UUD 1945. The research uses a normative juridical design. To ensure methodological transparency, it explicitly employs purposive sampling with specific inclusion/exclusion criteria for legal materials selection, structured analytical matrices for norm comparison, and precise operational definitions for 'horizontal disharmony' and 'regulatory vacuum'. Primary materials (UUD 1945, UUBG, UURusun, UUPKP, UUCK) are analyzed using specific hermeneutic protocols and validated through independent verification checks. By analyzing three dimensions normative construction, institutional authority, and procedural implementation the study identifies regulatory asymmetries that undermine legal certainty. The elimination of PSU obligations in UUBG violates Gustav Radbruch's elements of legal certainty: positivity, clarity, stability, and factual implementation. Findings reveal that while provisions for PSU provision remain in sectoral laws, the absence of integrated verification mechanisms and unclear rules for public utilization create systemic uncertainty. Drawing on the Three-Tier Harmonization Model from Iwan Kurniawan's dissertation, the article proposes legal reconstruction to ensure that public facilities are not only provided but also effectively utilized by citizens.



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Introduction

Ratification of Law Number 11 of 2020 concerning Job Creation which was later amended through a Substitute Government Regulation Number 2 of 2022 and stipulated as Law Number 6 of 2023 (Undang-Undang Nomor 6 Tahun 2023, 2023) is the most ambitious legislative step in the history of Indonesian regulatory reform. As an omnibus law, UUCK amend, delete, or add various provisions in 80 laws at once, including Law Number 28 of 2002 concerning Buildings (UUBG) (Undang-Undang Nomor 28 Tahun 2002, 2002), Law Number 20 of 2011 concerning Flats (UURusun) (Undang-Undang Nomor 20 Tahun 2011, 2011), dan Undang-Undang Nomor 1 Tahun 2011 tentang Perumahan dan Kawasan Permukiman (UUPKP) (Undang-Undang Nomor 1 Tahun 2011, 2011). The main principles underlying the UUCK are deregulation, acceleration of licensing, and simplification of procedures to increase investment and business

activities. However, the application of this principle in the regulation of the obligations of Public Infrastructure, Facilities, and Utilities (PSU) has had an unexpected impact and created serious normative disharmony. This reading is supported by scholarship on hyper-regulation, investment-law omnibus drafting, and reform-regulation policy (Putra, 2020; Mayasari, 2020; Suriadinata, 2019; Anggono, 2020; Azhar, 2019).

The most radical changes occurred to the UUBG through Article 24 number 24 and number 29 of the UUCK which deleted Article 27 and Article 32 of the UUBG (Undang-Undang Nomor 6 Tahun 2023, 2023). Article 27 of the previous Law regulates the requirements for building ease which includes the ease of communication to, from, and within the building, as well as the completeness of infrastructure and facilities in the use of buildings. Article 27 paragraph (3) explicitly stipulates that the completeness of infrastructure and facilities in buildings for the public interest includes the provision of sufficient facilities for worship rooms, changing rooms, baby rooms, toilets, parking lots, garbage cans, as well as communication and information facilities (Undang-Undang Nomor 28 Tahun 2002, 2002). Meanwhile, Article 32 of the Law emphasizes that the completeness of these infrastructure and facilities is a must for all buildings for the public interest (Undang-Undang Nomor 28 Tahun 2002, 2002). The deletion of these two articles eliminates the normative basis of PSU obligations at the legal level for buildings, which have the most significant impact on commercial buildings such as offices, hotels, shopping malls, and other commercial buildings.

A very striking normative paradox arises when it is observed that the elimination of PSU obligations in the UUBG is not balanced with equivalent substitute arrangements or harmonization with other sectoral laws. On the contrary, the Law through Article 51 number 11 of the Law actually strengthens the obligations of PSUs by raising the hierarchy of PSU Minimum Service Standards (SPM) from Ministerial Regulation to Government Regulation (Undang-Undang Nomor 6 Tahun 2023, 2023). The explanation of Article 40 paragraph (1) of the Law even emphasizes that PSU is an integral element in the apartment environment, not just an additional facility (Undang-Undang Nomor 20 Tahun 2011, 2011). Similarly, the UUPKP, through Article 50 number 7, still maintains the availability of PSU as a condition of the Binding Sale and Purchase Agreement (PPJB), and Article 50 number 14 even adds an explicit prohibition for housing development that does not meet the criteria, specifications, requirements, and agreed PSUs (Undang-Undang Nomor 6 Tahun 2023, 2023). As a result, an absurd legal situation is created: developers of landed housing and flats remain bound by strict PSU obligations, while developers of commercial buildings no longer have the same explicit obligations. This sectoral asymmetry is consistent with studies on omnibus-law harmonization, legislative transplantation, and legal-policy design (Fitryantica, 2019; Prabowo et al., 2020; Ulil et al., 2020; Mochtar & Rishan, 2022).

- Gustav Radbruch, the eminent German philosopher of law, in his monumental work *Rechtsphilosophie* (1950) formulated that good law must meet three basic values: justice (*Gerechtigkeit*), utility (*Zweckmäßigkeit*), and legal certainty (*Rechtssicherheit*) (Alexy, R., 2021). Furthermore, legal certainty according to Radbruch includes four fundamental elements: positivity (the law must be written and normatively binding), clarity of formulation (not multi-interpreted and understandable), stability (immutable and reliable), and factuality (can be implemented in social reality based on objective facts) (Radbruch, 2006). Referring to this comprehensive Radbruchian framework, the condition of normative disharmony after the UUCK in the PSU arrangement provides a strong indication of the occurrence of systemic violations of the principle of legal certainty that have a direct impact on the fulfillment of citizens' constitutional rights.

Recent scholarly discourse highlights the systemic disruption caused by the Omnibus Law on Job Creation (UUCK) and the pervasive regulatory harmonization failures in Indonesia. Widyastuti (2024) emphasizes that the UUCK eliminated regional autonomy concepts in environmental permitting without providing adequate legal certainty. Purba (2024) further analyzes the Omnibus Law's normative conflicts, noting that its rapid adoption bypassed essential vertical and horizontal harmonization. This legislative shortcut frequently results in implementation gaps, as highlighted by Redi (2021), who critiques the shift to a risk-based approach for undermining substantive licensing prerequisites. Focusing on public facilities (PSU), Iskandar (2024) demonstrate the legal void surrounding developers' responsibilities for social and public facilities post-UUCK. Bhenyamin (2019) and Pambudi and Sitorus (2021) argue that the lack of synchronized Norms, Standards, Procedures, and Criteria (NSPK) between central and regional governments hampers spatial planning and spatial asset management. Furthermore, Kumorotomo (2020) points out that disjointed electronic governance and unintegrated licensing systems severely diminish public accountability. Aristyowati (2024) stresses that such regulatory asymmetries threaten socio-spatial equality, particularly regarding green open spaces. To mitigate these enforcement and administrative defaults, scholars

like Damis (2021) have proposed the integration of Escrow Accounts to secure transaction and execution certainty. Despite these extensive studies, an overarching synthesis of how the UUCK systematically dismantled the substantive obligations of PSU provision in the Building Law (UUBG) while maintaining them in Sectoral Laws remains absent. Kurniawan (2026) addresses this by proposing a Three-Tier Harmonization Model to resolve these vertical and horizontal regulatory incongruities. Subsequent studies also connect the Job Creation Law with risk-based licensing, spatial-planning coordination, regional-authority uncertainty, and administrative-law consequences (Hariyanto, 2022; Pambudi & Sitorus, 2021; Wicaksono, 2022; Wicaksono et al., 2021; Devara et al., 2021).

Therefore, to address this critical research gap, this study aims to analyze the normative incongruities caused by the deletion of Articles 27 and 32 of the UUBG; to identify the structural overlaps in the Trigalisme of the electronic licensing system (OSS, SIMBG-PU, and SIMBG-DKJ); and to evaluate the procedural consequences of these regulatory vacuums on the fulfillment of citizens' constitutional rights to decent housing under Article 28H Paragraph (1) of the 1945 Constitution.

Method

This research is designed as a normative juridical research based on the analysis of library legal materials. To ensure methodological transparency, a systematic search procedure was employed for document sampling. The inclusion criteria for secondary legal materials required peer-reviewed scientific journals published between 2019 and 2024 that explicitly examine regulatory harmonization, omnibus law implications, or public infrastructure (PSU) governance. Exclusion criteria omitted non-peer-reviewed articles, opinion pieces, and literature unrelated to the core themes of legal certainty and administrative law. The primary legal materials in this study include the 1945 Constitution of the Republic of Indonesia, especially Article 28H paragraph (1); Law Number 28 of 2002 concerning Buildings and its amendments through Law Number 6 of 2023 (Undang-Undang Nomor 28 Tahun 2002, 2002; Undang-Undang Nomor 6 Tahun 2023, 2023); Law No. 1 of 2011 concerning Housing and Residential Areas (Undang-Undang Nomor 1 Tahun 2011, 2011); Law Number 20 of 2011 concerning Flats (Undang-Undang Nomor 20 Tahun 2011, 2011); Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (Undang-Undang Nomor 6 Tahun 2023, 2023); and Government Regulation Number 16 of 2021 concerning the Implementation of Law Number 28 of 2002 concerning Buildings (Peraturan Pemerintah Nomor 16 Tahun 2021, 2021). Secondary legal materials include academic literature on Gustav Radbruch's theory of legal certainty, scientific journals related to regulatory harmonization, research reports from the Indonesian Property Study Center (Pusat Studi Properti Indonesia, 2023), annual reports of the Indonesian Consumer Institute Foundation (Yayasan Lembaga Konsumen Indonesia, 2023), the report of the Jakarta Investment and One-Stop Integrated Services Office (Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Provinsi DKI Jakarta, 2024), as well as the report of the Audit Board (BPK) related to PSU assets (Badan Pemeriksa Keuangan Republik Indonesia, 2024).

This study uses two main approaches. The statute approach is used to systematically identify and analyze normative inconsistencies between the provisions of laws and regulations that regulate the same subject, namely the obligations of PSUs. To operationalize the identification of 'normative inconsistencies', a structured analytical matrix was developed as a coding scheme. This matrix systematically maps the norms of PSU obligations, institutional authorities, and procedural mechanisms across the different sectoral laws to objectively locate vertical and horizontal disharmony. To ensure inter-rater reliability and validity in the legal interpretation process, independent verification checks were conducted during the coding phase. Through this approach, the researcher studied the hierarchical structure and substance of norms in the UUBG, UURusun, UUPKP, and UUCK to find the location of horizontal and vertical disharmony.

The conceptual approach operationalizes the theoretical framework of legal certainty developed by Gustav Radbruch, alongside the Three-Tier Harmonization Model (encompassing substantive, institutional, and procedural harmonization), as an analytical instrument to unravel each dimension of legal certainty from the norms studied. Through this approach, the study evaluates whether the construction of PSU regulations after the UUCK meets the four elements of legal certainty: positivity, clarity, stability, and factuality. Finally, to provide a clear analytical sequence, the research design incorporates a methodological flowchart detailing the progression of the study: starting with primary statute identification and systematic sampling, moving to the classification of horizontal and vertical disharmony using the coding matrix, and culminating in the formulation of legal reconstruction recommendations (Kurniawan, 2026).

Results and Discussions

This section presents the empirical and normative findings from the systematic regulatory analysis, separating the raw data from theoretical interpretation. Table 1 documents the specific regulatory provisions analyzed, mapping the normative conflicts across sectoral laws and quantifying the instances of regulatory dissonance.

Table 1 <Matrix of Normative Conflicts and Regulatory Vacuum (Pre vs. Post UUCK)>

Sectoral Domain	Pre-UUCK Provision	Post-UUCK Provision	Identified Conflict / Regulatory Gap
Building Buildings (UUBG)	Article 27 & 32 explicitly mandated PSU for public interest buildings.	Deleted via UUCK Article 24 (24) & (29).	Regulatory Vacuum: No explicit statutory obligation for commercial/non-residential buildings to provide PSUs.
Implementing Regulation (PP 16/2021)	N/A	Article 46 references Article 27 UUBG for PSU compliance.	Vertical Disharmony: Implementing regulation enforces a norm based on a deleted statutory article (Invalid delegation).
Housing (UUPKP)	Article 42(2) & 47 mandated PSU and handover to local govt.	Retained/Strengthened via UUCK Article 50 (14) & Article 134.	Horizontal Disharmony: Housing developers face strict PSU rules, while commercial developers do not.
Flats (UURusun)	Article 30 (Pertelaan) & Article 40 (PSU provision).	Article 30 deleted; Article 40 strengthened via UUCK Article 51 (11).	Procedural Gap: Obligation remains, but the verification instrument (Pertelaan) was removed.

The regulatory mapping identified a quantifiable 'rechtsvacuum' (regulatory vacuum) specifically concerning commercial buildings. The cross-referencing of UUBG Articles 27/32, UUCK Article 24, and PP 16/2021 Article 46 reveals exactly 1 major vertical conflict and 2 horizontal asymmetries across the three sectoral laws analyzed.

Empirically, this normative gap has translated into measurable implementation failures. Data collected from the DKI Jakarta Investment and One-Stop Integrated Services Office (Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Provinsi DKI Jakarta, 2024) indicates 3,049 active SIPPT/IPPR permits with 10,228 items of PSU obligations remaining unfulfilled. Furthermore, Audit Board (BPK) data (TLHP Number 12B/LHP/XVIII.JKT/7/2024) reveals that 460,725 m² of land plots across 4 SIPPT locations lack supporting Minutes of Handover (BAST) (Badan Pemeriksa Keuangan Republik Indonesia, 2024). Consumer impact is similarly quantifiable; the Indonesian Consumer Institute Foundation (YLKI) reported that 68.7% of housing consumer disputes in 2022-2023 stem from unfulfilled PSU promises (Yayasan Lembaga Konsumen Indonesia, 2023).

Violation of Legal Positivity Aspects After the Abolition of Articles 27 and 32 of the Law

The first aspect of Gustav Radbruch's theory of legal certainty is positivity, which demands that the law is a written legislation, has binding power, and provides clear norms as a guideline for behavior (Alexy, R., 2021). The abolition of Article 27 and Article 32 of the UUBG through Article 24 number 24 and number 29 of the UUCK (Undang-Undang Nomor 6 Tahun 2023, 2023), has created a fundamental normative vacuum (regulatory vacuum or rechtsvacuum) in regulating the obligations of PSUs at the legislative level. Before it was deleted, Article 27 of the UUBG became the main foundation that linked the obligations of PSUs to the building licensing process, while Article 32 of the UUBG extended the obligation to all public interest buildings. The abolition of these two articles is not accompanied by equivalent substitute norms, either in the UUCK itself or in other laws governing similar subjects. As a result, a situation has been created where there is no written legal norm that explicitly requires developers of commercial buildings (offices, hotels, shopping malls) to provide PSUs, while similar obligations are retained for developers of housing and flats.

The condition of this norm vacancy is exacerbated by the status of Government Regulation Number 16 of 2021 concerning the Implementation of Law Number 28 of 2002 concerning Buildings. This PP, which is the implementing regulation of the UUBG, still contains technical provisions on infrastructure and building facilities in Article 46. Article 46 paragraph (1) states that every Building according to its function and classification must meet the provisions of the Building Facility aspect as referred to in Article 27 (Peraturan Pemerintah Nomor 16 Tahun 2021, 2021). The problem is, Article 27 of the Law referred to has been deleted by the UUCK. As a result, Government Regulation No. 16 of 2021 loses its material legal basis and raises serious questions about its enforceability. From the perspective of authority theory, this condition is an invalid delegation of authority or an invalid delegation of authority because the implementing regulation implements legal norms that no longer have a basis in the law. Normatively, this situation violates the principle of *lex superior derogat legi inferiori* which affirms that the higher law overrides the lower law (S., 2006). When the parent norm (UUBG) has removed the PSU obligation, the implementing norm (PP) should also be revoked or adjusted, instead of remaining valid and referring to an article that is no longer there (Manan, 2001).

Violation of Aspects of Clarity of Formulation and Multiinterpretation of PSU Norms

The second aspect of Radbruch's theory of legal certainty is the clarity of the formulation, which demands that facts and legal norms must be clearly formulated to avoid errors in interpretation and implementation (Alexy, R., 2015). The deletion of Article 27 of the UUBG without a comprehensive substitute arrangement has created serious normative ambiguity regarding the status of PSU obligations for different types of buildings. Multi-interpretations have emerged among local government officials, developers, and the community regarding the fundamental question: do commercial buildings such as offices, hotels, and shopping malls still have a legal obligation to provide PSUs? The Law does not provide an explicit answer, while the Law and the Law only regulate the housing and flats sectors. As a result, at the operational level, there are differences in understanding and implementation between regions. Some regions consider that the PSU obligation for commercial buildings has been completely eliminated, while others argue that the obligation is still valid under their respective regional regulations that have not been revoked.

This normative ambiguity is exacerbated by the disharmony of the definition of Building Approval (PBG) in various Government Regulations. Government Regulation Number 16 of 2021 Article 1 paragraph (17) defines PBG as "a permit granted to the owner of a Building to build a new building, alter, expand, reduce, and/or maintain a building in accordance with the technical standards of the Building" (Peraturan Pemerintah Nomor 16 Tahun 2021, 2021). Government Regulation Number 12 of 2021 Article 1 number 33 uses almost the same formula but in the context of housing and residential areas (Peraturan Pemerintah Nomor 12 Tahun 2021, 2021). Government Regulation Number 13 of 2021 Article 1 paragraph (24) defines PBG as "approval given by local governments to building owners to build new, change the area, function and classification of buildings and other changes that require technical planning" (Peraturan Pemerintah Nomor 13 Tahun 2021, 2021). Meanwhile, Government Regulation Number 28 of 2025 Article 1 paragraph (30) only refers back to laws and regulations in the field of buildings without providing a substantive definition (Peraturan Pemerintah Nomor 28 Tahun 2025, 2025). This difference in definition creates uncertainty about whether PBG is a "permit" or "approval", as well as what implications it has on the PSU's obligations attached to it. The DKI Jakarta Investment and PTSP Office (Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Provinsi DKI Jakarta, 2024) reported that there were 10,228 items of PSU obligations of developers that had not been resolved, mostly due to the unclear legal basis after the UUCK. Data from the Audit Board (BPK) in TLHP Number 12B/LHP/XVIII.JKT/7/2024 also revealed that the recording of land plots covering an area of 460,725 m² in 4 SIPPT locations has not been fully supported by the Minutes of Handover (BAST) from the developer (Badan Pemeriksa Keuangan Republik Indonesia, 2024), which shows that the unclarity of norms has a direct impact on non-compliance and weak accountability of regional assets. Studies on SIMBG-based building licensing further support the finding that digital licensing requires clear procedural roles and service standards (Riau, Akadira, & Diana, 2023; Riau, Harta, & Diana, 2022; Riau, Harta, & Diana, 2023; Wulandari, 2023).

Violation of Legal Stability Aspects and Absence of Transitional Norms

The third aspect of Radbruch's theory of legal certainty is stability, which demands that positive laws should not be changed frequently without clear reasons and without an adequate transitional mechanism (Alexy, R., 2015). The UUCK as an omnibus law has fundamentally changed various sectoral laws in a relatively short time, including the elimination of PSU obligations in the UUBG. These fundamental changes were carried out without adequate transitional norms (*overgangsrecht*) to bridge the old legal regime and the new legal regime. There is no provision that explicitly regulates the status of projects that are in the licensing process at the time of the law's passage, or the status of PSU obligations that have been promised in the

Binding Sale and Purchase Agreement (PPJB) before the law but have not yet been completed. As a result, developers who are in the process of obtaining permits face uncertainty regarding the norms that apply to their projects, while the homebuyer community has no certainty whether the PSU promised in the PPJB will still be fulfilled by the developer.

This legal instability is further exacerbated by the insynchronization of various implementing regulations that regulate PSUs. Government Regulation Number 16 of 2021 concerning the Implementation of the Law on the Implementation of the Law, which was supposed to be an operational technical guideline, still refers to articles that have been deleted so that their status becomes ambiguous (Peraturan Pemerintah Nomor 16 Tahun 2021, 2021). On the other hand, Permendagri Number 9 of 2009 concerning Guidelines for the Handover of Infrastructure, Facilities and Utilities for Housing and Settlements in the Regions, which has not been formally revoked, also loses its material legal basis (Peraturan Menteri Dalam Negeri Nomor 9 Tahun 2009, 2009). This condition creates a situation where some implementing regulations are still "alive" in a way that is "live" formal but "dead" substantively because it does not have a legitimate legal umbrella. As a result, local governments and law enforcement officials do not have certainty about which regulations should be used as guidelines in carrying out supervision and law enforcement of PSU obligations. From a legal theory perspective, this condition creates what is called a "dead law"—a regulation that is formally still in force but no longer has legitimacy and effectiveness in its implementation (Rahardjo, 2000). This is contrary to Radbruch's principle of legal stability, which demands that the legal system must be reliable as a stable and consistent guide of behavior over time.

Violation of Factual Aspects and Weak Verification of PSU Fulfillment

The fourth aspect of Radbruch's theory of legal certainty is factuality, which demands that law must be based on objective facts, not on subjective assessment formulations, and must be able to be implemented in social reality effectively (Alexy, R., 2021).

. In the construction of PSU regulation post-UUCK, this aspect is violated through the disregard of the fact of the public's need for PSUs and the weak factual verification mechanism for the fulfillment of PSU obligations. The electronic licensing system developed after the UUCK, both Online Single Submission (OSS) and the Building Management Information System (SIMBG), is not designed to accommodate a mechanism for verifying the fulfillment of PSU obligations in a structured manner. OSS and SIMBG only focus on the issuance of administrative permits, without requiring developers to upload PSU Handover Minutes (BAST) documents or statements of fulfillment of PSU obligations as a prerequisite for the issuance of Building Approvals (PBG) or Functional Fitness Certificates (SLF). As a result, buildings can obtain full operational legality without ever meeting PSU obligations, creating a legal loophole that allows for a practice that practitioners refer to as "splitting strategies"—breaking down permit applications to avoid certain obligations.

The absence of this verification mechanism is exacerbated by the fact that the Regulation of the Minister of PUPR Number 22 of 2021 concerning Building Data Collection does not include PSU data in Article 7 concerning land profile data or Article 8 concerning building profile data (Peraturan Menteri Pekerjaan Umum dan Perumahan Rakyat Nomor 22 Tahun 2021, 2021). As a result, there is no national database that can be used to monitor the fulfillment of PSU obligations in real-time and integrated. Data from the Indonesian Center for Property Studies (2023) shows that until 2023, around 60% of developers in major cities have not submitted PSUs as required in licensing (Pusat Studi Properti Indonesia, 2023). Data from the Indonesian Consumer Institute Foundation (YLKI) reveals that 68.7% of total housing consumer disputes during the 2022-2023 period are related to the mismatch between the PSU promised by developers and the realization in the field (Yayasan Lembaga Konsumen Indonesia, 2023). This empirical fact shows that there is a wide gap between the legal norms (*das Sollen*) and implementation reality (*das Sein*), which are the most obvious violations of the factuality aspect. Radbruch in his Radbruchsche Formel states: "Rechtssicherheit erfordert Positivität des Rechts: wenn nicht festgestellt werden kann, was gerecht ist, so muß festgesetzt werden, was rechtens sein soll" (Legal certainty requires a positive certainty from the law: if it is not possible to determine what is just, then what is considered to be law must be determined). When norms regarding PSU specifications have been positively established in regulations and agreements, but there is no mechanism to ensure that physical reality (factuality) conforms to the text of the norms that have been agreed, then the legal function to provide protection against arbitrary actions has failed to be carried out. The same issue is noted in research on SIMBG service improvement and post-UUCK housing-development permits (Riau, Akadira, & Diana, 2023; Wijaya et al., 2022).

The Impact of Violation of Legal Certainty on Constitutional Rights Article 28H of the 1945 Constitution

The violation of the four elements of Radbruch's legal certainty in regulating the obligations of PSUs after the UUCK cannot be seen as a mere technical-administrative problem, but rather a direct violation of the constitutional rights of citizens. Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia expressly states: "Everyone has the right to live a prosperous life in birth and mind, to live, and to have a good and healthy living environment and to the right to health services." (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 1945). Right to decent residence (adequate housing) In a constitutional perspective, it does not only include the right to own or occupy physical residential units, but also includes the right to a residential environment equipped with basic infrastructure such as clean water networks, drainage, roads, sanitation, lighting, and green open spaces which are all integral components of Infrastructure, Facilities, and Public Utilities (PSU). In the perspective of international law, General Comment No. 4 (1991) of the UN Committee on Economic, Social and Cultural Rights affirms that the right to decent housing should not be narrowly defined as simply having a roof over one's head, but should be understood as the right to live in a place of security, peace and dignity, which includes the availability of essential facilities such as clean water, sanitation, drainage, and access to other basic services (United Nations Committee on Economic, Social and Cultural Rights, 1991). Housing and settlement studies likewise emphasize that decent housing depends on adequate infrastructure, facilities, management, and liveable settlement conditions (Sattarudin, 2019; Agus et al., 2020; Purnamasari et al., 2020; Suhartini & Jones, 2020; Permanasari et al., 2023).

The asymmetry of PSU obligation norms after the UUCK has created a situation where people who buy residential units in commercial housing or flats, which incidentally are consumers with the lowest level of legal protection, actually lose the guarantee of certainty for PSU fulfillment. As demonstrated in the empirical results, the high percentage of consumer disputes related to PSUs indicates that the majority of disadvantaged consumers are lower-middle-income communities. This vulnerable group is the most affected by regulatory uncertainty because they do not have a strong bargaining position to sue developers, and do not have the financial resources to access expensive and protracted litigation channels. On the other hand, large developers with access to adequate legal and financial resources can actually take advantage of legal loopholes (regulatory arbitrage) to avoid PSU obligations. This condition directly violates the principle of social justice which is one of the fundamental pillars of the Indonesian legal state (Rawls, 1999). Furthermore, when the state through its deregulation policy actually creates uncertainty and injustice, the state has failed to fulfill its constitutional obligation to protect the entire Indonesian nation and all Indonesian bloodshed and to advance the general welfare, as mandated in the Preamble to the 1945 Constitution (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 1945). Consumer-protection work on flats also supports the connection between functional feasibility, developer obligations, and purchaser protection (Marbun et al., 2023).

Conclusions

This study concludes that the elimination of the obligation of Public Infrastructure, Facilities, and Utilities (PSU) in Law Number 28 of 2002 concerning Buildings through Law Number 6 of 2023 concerning Job Creation, while similar obligations are maintained and strengthened in Law Number 20 of 2011 concerning Flats and Law Number 1 of 2011 concerning Housing and Residential Areas, it is a form of horizontal normative disharmony that has no rational justification (unnecessary incongruities). This norm asymmetry condition has created a regulatory vacuum for commercial buildings such as offices, hotels, and shopping centers, while causing systemic legal uncertainty for all stakeholders, especially the PSU beneficiary community.

Based on the doctrinal analysis using Gustav Radbruch's Theory of Legal Certainty, supported by the secondary empirical data validated in the Results section, this study provides indicative evidence that the construction of PSU regulations post-UUCK violates the four elements of legal certainty simultaneously: (1) the aspect of positivity is violated because there are no explicit norms in the UUBG after the abolition of Articles 27 and 32; (2) the aspect of clarity is violated because there is a multi-interpretation regarding the status of PSU obligations of commercial buildings, exacerbated by the disharmony of the definition of PBG in various Government Regulations; (3) the stability aspect is violated because fundamental changes are made without adequate transitional norms and without synchronous adjustments to implementing regulations; (4) the factual aspect is violated because the OSS/SIMBG electronic licensing system is not equipped with a PSU fulfillment verification mechanism, allowing PBG and SLF to be issued without guaranteed PSU fulfillment. This implementation failure is supported by indicative evidence from systematic

secondary data collection: the 2024 DKI Jakarta Investment and One-Stop Integrated Services Office (DPMPSTP) report documenting 10,228 unresolved PSU obligation items, and the 2022-2023 Indonesian Consumer Institute Foundation (YLKI) data revealing that 68.7% of housing consumer disputes stem from unfulfilled PSUs (Dinas Penanaman Modal dan Pelayanan Terpadu Satu Pintu Provinsi DKI Jakarta, 2024; Yayasan Lembaga Konsumen Indonesia, 2023).

Constitutionally, this violation of legal certainty has a direct impact on the fulfillment of citizens' rights to decent housing and a healthy environment as guaranteed by Article 28H Paragraph (1) of the 1945 Constitution. The most vulnerable groups of people (low-income people) are the main victims of this regulatory uncertainty because they lose access to basic facilities that should be their right, While large developers actually benefit from existing legal loopholes. This study confirms that the state has failed to carry out its constitutional obligation to protect the basic rights of citizens in the interest of deregulation and ease of investment alone.

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