ABSTRACT

Plant Varieties Protection Act has not yet accommodated the protection of local varieties and has not provided benefit sharing for farmers and the local community as the owner of the local varieties. The legal issues of this research are the philosophical basis of the importance of protection of the local varieties, the regulation of local varieties in international conventions and national laws, and the utilization of local varieties based on the principle of justice. To answer the legal issues of this research, this research uses several approaches namely: statute approach, conceptual approach, and comparative approach. This research concludes that: 1) The results of study shows that Indonesia obliges to protect, conserve, manage, and promote the efficient system of utilization of local plant varieties. The principles of fairness is urgent to support the appropriate utilization in order to protect local plant varieties and the rights of local communities. The fairness shall be the basic value embodied in Article 7 of Plant Variety Protection law and Local Regulations. 2) The provision of international law are sufficient to regulate and accommodate the interests of the protection of the local communities and local varieties, but in the national law, the provision of the protection of the local varieties, local communities, and the interests of the farmers is very limited (not sufficient). 3) The instrument to deliver fairness and prosperity of local communities are benefit sharing mechanisms, Prior Informed Consent/PIC and Mutually Agreed Terms as specified in The Convention on Biological Diversity (CBD). Benefit Sharing as a form of protection local varieties is the act of providing part of profits/advantage derived from the utilization of local varieties to resources provider. While the implementation of the PIC as a form of protection of local varieties is manifested in the form of permits from the parties who provide local varieties with a way to inform in advance of the plan of the utilization of local varieties. Finally the implementation of the joint agreement as a form of protection local varieties namely Mutually Agreed Terms (MAT) becomes an instrument to proceed the distribution of benefit sharing derived from the utilization of local varieties by establishing clear rules and procedures for conditions and the formulation of joint agreement between the owner of the local varieties, local government, and local varieties users.

Keywords: The Principle of Justice, Protection of Local Varieties