

Food agricultural land legal protection to improve food security in Indonesia

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Abstract; The availability of sustainable agricultural land is an important thing that ensures the sustainability of food supply for a country. But, to protecting agricultural land have some problem such us the conversion of agricultural land for non-agricultural activities. Therefore, legal protection is needed efforts to provide sustainable food and sustainable agricultural land. it becomes the government's obligation to make land arrangements in order to provide the greatest benefit to the people's prosperity. Legal protection to sustainable agricultural land will not work optimally if it is not supported by law enforcement. It is the main problem to protecting sustainable food agricultural land and the government needs commitment for law enforcement. then this ideal future law protection can be implemented in the form of preventive legal protection and repressive legal protection.

1. Introduction

Food agricultural land is one of the media's potential cultivation and production of agriculture that maintain the availability of foodstuff needs for the community. One hope that can be given of the process of agricultural development is the availability of adequate national food needs as the population increase. The availability of land for agriculture is a necessary condition to realize the role of the agricultural sector carried out in a sustainable manner. Therefore, the availability of sustainable agricultural land is an important thing that ensures the continuity of food supply for a country.

Food Right as a fundamental Human Right so that it becomes the responsibility of the state to meet the continuous availability. Continuity of food supply depend on the results produced from agricultural land. Indonesia, with a population of 205 million, rice requires at least 30 million tonnes per year, an unusually large amount, but it is not impossible fulfilled itself [1].As a benchmark in Indonesia, the population size based on the BPS Statistics Indonesia survey in Year 2015 has reached more than 255 million people [2], this is of course a problem of food security in the future. The level of prosperity and income of the community is influenced by the economic activity in which the community is located. In fact, Indonesian people mostly work as farmers. Data shown that the number of workers in the agricultural sector in 2014 reached thirty-four percent of the population, but at the same time, the share of the agricultural sector to Gross Domestic Product in 2014 was only 12.1 per cent,It's the lowest levels sectoral prosperity of national per capita productivity.



BPS Statistics Indonesia data indicate that between the years 2009–2014 shown of wetland area in Indonesia increased, amount to 46 502 ha. However, in some provinces in Indonesia However, in some provinces in Indonesia still depreciation, such as in Aceh decreased by 65,622 ha; North Sumatra decreased by 31,213 ha; Riau decreased by 35,142 ha; Jambi decreased by 16,141 ha; Bengkulu decreased by 858 ha; Jakarta decreased by 437 Ha; West Java decreased by 13,066 ha; Yogyakarta decreased by 908 ha; Bali decreased by 2,530 ha, and South Kalimantan decreased 33,144 Ha[3].

Protection of food agricultural land important to guarantee quality and productivity land use from degradation or destruction. But one of the classic problems in in the conservation of agricultural land is the massive conversion to non-agricultural activities. Competition land use in the same field between agricultural and non agricultural purposes practically unavoidable. The problem then, is the process that goes on behind the land-use change and possible impacts that may occur. In fact, the availability of land in the agricultural business is a *conditio sine-qua-non* (prerequisite) to realize the role of the agricultural sector, especially in the realization of national food security. Farming land productive with technical irrigation facilities should be neglected in order to meet the needs of land to housing, social facilities and other public facilities. Although the available land to do paddy fields but at a cost of infestation are costly to provision of adequate facilities and infrastructures for agriculture. Even we forgot that the negative environment impact on ecosystem changes due to the making of new paddy fields.

On the other hand, uncontrolled agricultural land conversion can threaten food supply capacity and for the long term can lead the new social problems. If the agricultural land conversion is not controlled feared, the farmers would lose their jobs and so that it potentially cause economic and political problems because of the depreciation of the land could create food shortages [4]. So it becomes the government's obligation to undertake land use planning in order to give benefit as much as possible for the prosperity of the people. As the formulation of the problem in this research are as follows: "What is the legal protection of food agricultural land to achieve food security in Indonesia?"

2. Material methods

The method used in this research is a normative legal research. Normative legal research method is a procedure of scientific research to find out the truth based on scientific logic of normative law study. The starting point of this research analysis on the rule of law that specifically regulate the protection of food agricultural land. The accumulation legal materials process in this research, primary and secondary legal materials collected with literature materials based on the suitability of the research problems topic, the researchers collected legal materials of various laws and regulations, books, articles, journals, papers, and research the legal adviser, and as browsing on internet all related matter with the problems concerned.

The analytical method used is descriptive qualitative analysis provides that presents the study on the data obtained from the object of research. A descriptive study was intended to provide the data as thoroughly as possible about the people, the state and other symptoms.

3. Results

3.1. Food agricultural land legal protection perspective welfare state

Food agricultural land is an important asset that ensures the continuity of the national food supply and the venue for other economic activities related to agricultural process in an agrarian state. The Food agricultural land is where the growth of foodstuffs, as well as supporting the prosperity and welfare. For that a country seeking to realize a welfare state, At least three components of things that must be met by a welfare state, namely: (i) Economic Development (ii) Basic Security, and (iii) The Legal Structure [5].

Titmuss (1958) introduced two models of the welfare state typology approach, namely the Institutional Residual Welfare State and Welfare State.¹ Residual Welfare State types focus on individualistic explanation, social responsibility which is fully in the hands of individuals (and their families). While the types of Institutional Welfare State provides the platforms more universal services

that cover the entire population. this is reflected in the state institutionalized commitment to finance and provide welfare. The key point in the welfare state is the issue of the welfare of the people by the state. In this regard, [6] argues that the welfare is the most important thing for the modern state. The welfare for all the people is realized and fulfilled through the provisions of the welfare state the risk of unemployment, accident, illness, old age, and death of the breadwinner must be covered largely through welfare provisions of the state [6].

Agricultural land is a major factor of the current agricultural issues, including the developing and supplying agricultural products. This is very reasonable because it is a potential food production of agricultural products that maintain the availability of the foodstuff needs and employment for farmers. Food agricultural land protection aims to achieve intergenerational justice for its importance to integrating the economic development of food agricultural land without neglecting environmental sustainability.

Justice in the management of agricultural land resources implemented to ensure the fulfillment of basic rights on food agricultural land needs and food production for community members sustainably from nowadays and to the next generations. To realizing general welfare, the state seeks to ensure a sense of security, peace, and prosperity. One of the important aspect of the general welfare is the agricultural sector as the capital of the domestic food supply. With the availability of food agricultural land, the government can fulfill the human rights of citizens to food needs and to improve the income and welfare of the people especially for farmers. Food security is a fundamental human right to be fulfilled by the state in accordance with Article 25 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

On legal arrangement, the law context basically motivated by the view that the rule of law must be understood as the norm reflection and the empirical conditions. Radbruch said the law's goal of realizing justice, benefit, and legal certainty as "the three basic ideas of law" or "the three basic legal values" [7]. Bentham in his teachings "utilities" argued that the purpose of the law was to realize "the greatest happiness of the greatest number". From a variety of perspectives on legal goal by Collins basically comes down to four things: the goal of promoting morality; the goal of reflecting custom; goal of social welfare; and the goal of serving power [8].

The legal protection relating to "The Government Action" as a central policy. The legal protection dividing the form of "Preventive Legal Protection" and "Repressive Legal Protection" [8]. In addition, the law can be used to realize the protection of nature is not only adaptive and flexible, but also predictive and anticipative [9]. The focus of the study in of legal protection concept is given to the peoples who are sometimes in a weak position from the legal and economic aspects.

Guarantee the Food Right for all the peoples also in accordance with Article 25 of the Universal Declaration of Human Rights that: *"Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, Including food, clothing, housing and medical care and Necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control."* From the contents of the above article clearly states that every human being is entitled to get an adequate living standard and fit for themselves and their families such as food.

The Sustainable Development concept as a unified system development popularized by the World Commission on Environment and Development (WCED), which implies that economic development and natural resource development must be harmonized with the concept of environmental protection. Thus, the sustainable development policy requires an economic development that is not only strong, but also socially and environmentally minded.

The Sustainable Development paradigm is environmentally conscious and planned effort that combines the environment, including its resources, to the development process that ensures the ability, well-being and quality of life of the present generation and the to the next generations [9]. Saleng [10] confirms that the obligation referred intergenerational justice is to keep the next generation can choose the quantity of the diversity of natural resources (conservation of option); maintaining environmental

quality to be sustainable (conservation of quality); and maintain a minimum future generations have the same access to natural resources (conservation of access).

The sustainable development concept as a unified system development, always linked on three major aspects of sustainable development is about environment, economy and community. Rabie explains that: Sustainable development, therefore, involves the simultaneous pursuit of environmental quality, economic prosperity, human development, social equity, freedom, human values, and cultural diversity. If pursued as such, sustainable development would be able to protect the environment, enable all people to meet their basic needs, achieve social justice and peace, and liberate women and men from political and cultural chains that undermine their potential. It should also undermine the capacity of corporations to use the sustainability issue to protect their interests while preventing poor nations from developing their economies. Therefore, the way to achieve sustainability is to integrate economic, cultural, environmental, and social policies, including the development of human resources and the issue of population growth [11].

Thus, the Sustainable Agriculture is an implementation of the concept of sustainable development in the agricultural sector. The concept of sustainable development began to be formulated in the late 1980s as a response to the previous development strategy focused on the goal of high economic growth are evident in its development turned out to cause degradation of the production capacity and the quality of the environment. The one very important aspect of economic development and social welfare are the agricultural sector as the capital of the domestic food supply. With the guarantee of the provision of food agricultural land, the government can fulfill the human rights of citizens to self-sufficiency, food security and sovereignty and to improve the income and welfare of the people especially for farmers.

3.2 The legal protection urgency to food agricultural land

The food agricultural land is important think, including in terms development and supply of agricultural products. This is so reasonable because, agricultural land is one of food production potential where grow crops and food agricultural production that maintain foodstuff for the community. Data showed an increasing acreage of rice fields, but is still considered less when compared with the population growth rate of Indonesia reached 0.62% per year. Indonesia can capable of food self-sufficiency for the last few years because government because the government has been working hard. The government formulation the program with use of more advanced technology, extension of irrigated areas, new paddy fields making, mechanization and the use of fertilizers and pesticides artificial chemicals. The government also provides subsidies, superior rice seedlings, credit Farming and Agricultural Insurance to supporting the success of food self-sufficiency. The price of grain dried milled more for good income may to motivation the farmers to return to try to cultivate their agricultural land better.

In general, the various provinces in Indonesia increased in food agricultural land, but in some provinces has decreased. It is enough to indicate that there has been a conversion of agricultural land but on the other side of the new paddy fields making has been done, conducted by the government and the community itself. The cases examples in Province of Riau, the results of research by Riza [12], The area of wetland in Riau province in 2004 reached 276,533 Ha, in 2013 to 139,816 Ha, in other words the area of wetland usage for the last 10 years has decreased every year by 7.23 percent.

The decrease of wetland land use in Riau Province was caused by the change of rice field function for plantation area, such as palm oil business (56.6%), coconut plant (36.7%), for building and others (6.7%). Some reasons given by farmers, why the change of functioning of paddy fields that they have, namely a) the price of land that continues to rise become the main factor conversion of paddy field fields owned; b) no irrigation or irrigation does not work anymore; c) farmers prefer other agricultural commodities; and d) declining land quality/ land productivity decreasing.

The efforts to transfer functions has: (1) Closure of irrigation canal that can irrigate their agricultural land; (2) Rice fields are left untreated without food agriculture activities before they are converted; (3) Conducting landfill on his irrigated agricultural land; (4) Drying up his own technical

irrigated rice fields and then replacing them with dryland farming activities; and (5) Changes in agricultural land that has been attempted steps above changes are then sold as dry land, or used for building construction.

The low interest of farmers to maintain their farms is evident from the declining spirit and motivation of farmers to cultivate their farms. Paddy acreage of agricultural land most vulnerable to conversion, especially in areas located strategically. And if the conversion is allowed, it can decrease the production of foodstuff and for the long term would threaten food security.

If the conversion of agricultural land is controlled, there will be a guarantee of sustainable availability of agricultural land. Thus, legal protection is necessary to maintain the availability of sustainable food farms. land conversion will reduce agricultural production capacity including facilities and infrastructure that have been built in agricultural production areas. Infrastructure investment capital becomes a loss, so the government needs to be firm action so that losses due to the transfer function does not occur.

Legal protection will not work optimally if not supported by law enforcement, It is also a major constraint to protect agricultural land sustainable food. Various problems whack them are; the lack of political will of the leaders of the state apparatus; incomplete laws that became the basis for law enforcement; lack of integrity, credibility and professionalism of law enforcement officers; lack of facilities and infrastructure; and the low legal culture of society in support of law enforcement.

Legal protection will not work optimally if it is not supported by law enforcement, It is also a major obstacle to protecting sustainable food crops. Various problems occur among others; there is no political will of the government leaders; lack of complete legal products that become the basis of law enforcement; low integrity, credibility and professionalism of law enforcement officers; lack of facilities and infrastructure; as well as the low legal culture of the community in supporting law enforcement. Law enforcement is an effort made for the law, both in the formal sense and the material sense, as a code of conduct in every legal act, either by the legal subjects concerned or by law enforcement officers who are duly authorized by law to ensure the proper functioning of legal norms in public and state life.

From the broad definition, law protection is needed in the optimization of law enforcement so that it becomes the determinant of the direction in optimizing law enforcement in the field of agriculture especially on the protection of the agricultural land through the improvement of efforts to solve and the problems mentioned above. In order to optimize law enforcement policy in agriculture especially on agriculture land transfer can be applied, then it is formulated in more specific strategies using the resources, funds, facilities, and infrastructure to be achieved.

3.3 The agricultural land protection form to supporting sustainable food security

Land resource management activities are an adjustment between existing land conditions with requirements for agricultural commodities. The physical condition of the land is an obstacle that limits the ability and suitability of land resources to land use. The correlation between the condition of the land and the response of crops in the management of agricultural land will determine the level of productivity of agricultural land. Various techniques have been developed to estimate the level of productivity of the land through land evaluation process, where the results of this evaluation are important in the planning and management of land resources [13].

The growth of urban population and economic activities require land for housing, industry, infrastructure and other supporting infrastructure. Competition in the same plane between the need for agricultural land for non-agricultural land with practically unavoidable. For the case in Indonesia based on the data mentioned earlier, there are strong indications that the land use change is progressing faster. The convention of agricultural land is basically due to competition of land use between agriculture and non-agricultural sectors due to economic and social phenomena, namely natural resources, population growth and economic growth.th.

Available land is limited but population growth and economic growth will reduce agricultural land as it has to be allocated for non-agricultural activities. Land Demand for non-agricultural

activities higher than the land demand for agricultural activities because the demand for non-agricultural products is more income elastic. The increasing scarcity of land (due to population growth), increased land scarcity (due to population growth), followed by increased demand for relatively high land for non-agricultural activities led to the conversion of agricultural land. Forms of land protection for agriculture in Indonesia in order to guarantee sustainable food availability are mandated by law in *Undang-Undang No. 41 Tahun 2009 tentang Perlindungan Lahan Pertanian Pangan Berkelanjutan* (PLP2B Act). In addition, the problem of protection of agricultural land is an integral part of spatial planning as regulated in *Undang-Undang No. 26 Tahun 2007 tentang Penataan Ruang* (PR Act).

To that end, the protection of agricultural land is done by establishing protected areas of food agriculture land. in order to realize food security needs to be held sustainable agriculture development. To control the conversion of agricultural land, through the PLP2B Act, is expected to encourage the availability of agricultural land in maintaining self-sufficiency, food security and sovereignty. To control the conversion of agricultural land, through the PLP2B Act aims to: (1) to protect sustainable food agricultural land and sustainable food agricultural land areas ; (2) to ensure the availability of sustainable agricultural land; (3) to realize food security, food sustainability and food sovereignty; (4) to protect the ownership of agricultural land owned by farmers; (5) to increase the prosperity and well-being of farmers and communities; (6) to improve the protection and empowerment of farmers; (7) to increase the employment of a decent life; (8) to maintain the ecological balance; and (9) to realize the agriculture revitalization.

3.4 *The preventive legal protection to food agricultural land*

The Preventive Legal Protection is a legal protection provided by the government with to preventing violations of legal norms significantly. Legal norms can be said to be preventive if the regulation contains guidelines preventive legal protection is a legal protection provided by the government with a view to preventing violations of legal norms significantly. Legal norms set forth in the legislation can be said to be preventive if the regulation contains the guidelines of preventive behavior and provide restrictions on what should and should not be done in society.

In this context, the legal protection of agricultural land food is an effort to protect human interests on food agricultural land and ensure food security. With preventive legal protection, the rules governing food agricultural land serves as a tool for maintaining public order and regularity of the community in the use of food agricultural land. The Preventive Legal Protection of food agricultural land becomes a tool for realizing social justice. Regarding the preventive protection of food agricultural land in the Indonesian food is regulated in various regulations especially in the PR Law and the PL2PB. Preventive legal protection strategy that can can generally be done with two efforts:

3.4.1 *Controlling the food agricultural land conversion.* Preventive legal protection efforts in the control of agricultural land conversion and protection of productive farmland area and should be supported by a legal instrument that clearly and firmly. Therefore, to protect the sustainability food agricultural land, various regulations that strictly regulate to control land conversion. However, the existing issue problem is the law enforcement against the actors of conversion. The existing rules on conversion need law enforcement to be supported by the Government and Local Government such as arrangement food agricultural land areas in the Spatial Plan, Location Permission, Land Condition Restoration and Spatial Control.

3.4.2 *Establishing sustainable food agriculture land livestock.* Preventive law protection mechanisms for food agricultural Land are generally regulated in the PLP2B Act. the establishment The Sustainable food Agricultural Land Area (*Kawasan Pertanian Pangan Berkelanjutan/KP2B*), The Sustainable food Agricultural Land (*Lahan Pertanian Berkelanjutan/LP2B*) and The Sustainable Food Agricultural Land Reserves (*Lahan Cadangan Pertanian pangan Berkelanjutan/LCP2B*). In the Law PLP2B is also declared The Sustainable food Agricultural Land and The Sustainable Food

Agricultural Land Reserves that will be protected can be part of the inside or outside Sustainable food Agricultural Land. the establishment sustainable food agricultural land, only the first step process and the next mechanisms need: incentives and disincentives; permit arrangements; coaching and supervision.

3.5 The repressive legal protection to food agricultural land

The Repressive Law Protection is the last law enforcement done by the government against violation of legal norms by applying sanctions that have been determined. Repressive efforts focus more on the offenders, which giving a punishment for their deeds. However, if examined more deeply then repressive efforts can also be seen as a preventive effort with providing a deterrent effect for the offender so as not to break again and also the other people can afraid to the same lawlessness. With the sanction, law enforcement becomes authoritative, it means the power of obedience becomes greater. The punishment to violations is important in law, because it is a tool of government to maintain the order societies.

The punishment focuses in the form of such as administrative sanctions, fines, imprisonment and additional penalties if lawlessness occurred. The administrative sanctions may be: written warning; temporary suspension of activities; temporary suspension of public services; closing location; revocation of permits; cancellation of permits; demolition of buildings; restoration of land functions; revocation of incentives; and administrative amercement. If administrative sanctions is not enough, physical punishment may be executed in accordance with applicable law.

4. Conclusion and suggestions

4.1 Conclusion

From the discussion that has been put forward before, the authors conclude that the legal protection of the food agricultural land is an important thing to be implemented. Because the availability of food and the availability of employment for farmers will be realized if food agricultural land is also available. With legal protection of the food agricultural land is an effort to obtain welfare by granting to food rights and well-being livelihood right. The legal protection in the future can be implemented in the form of: (a) the preventive legal protection with controlling the food agricultural land conversion and the establishment of sustainable agricultural land; and, (b) the protection of repressive law in the form of administrative sanctions and physical punishment. Therefore, it requires consistency, commitment and political will of government to implement law enforcement.

4.2 Suggestions

Based on the above conclusions then, the authors provide the following suggestions: (1) To control the conversion of food agricultural land, the development policy should be in favor of the agricultural business actors. It will be improving the welfare and interest for agricultural business actors, because considered the agricultural sector contribute to increase the income of business actors. The positive impact of it, then naturally agricultural business actors will try to prevent the conversion of agricultural land to non-agricultural land. (2) To protecting agricultural land, law enforcement is a must and urgent to be implemented consistently. Legal protection efforts of food agricultural land will not run optimally without law enforcement. If law enforcement efforts run optimally based on existing legal provisions then the significant conversion to food agricultural land that is still going in Indonesia will decline. But in the future the efforts to protect food agricultural land will be better implemented with economic and social approach.

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