

Prohibition on Transforming Agricultural Land from a Benefit Perspective

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Abstract:

Purpose:

The differing interests of different parties regarding land often lead to land that should be used for agriculture being converted to other uses. This conversion of agricultural land poses a threat to achieving food security and sovereignty.

Methodology:

This paper aims to explain the legal rationale for the prohibition on the conversion of sustainable food agricultural land and the beneficial aspects of the prohibition. This research is a normative legal study using both legislative and conceptual approaches.

Findings:

The results indicate that the legal rationale for the prohibition on the conversion of sustainable food agricultural land aims to achieve food independence, resilience, and sovereignty while simultaneously improving the welfare of farmers, especially those who are vulnerable.

Implication:

The prohibition on the conversion of sustainable food agricultural land is beneficial in guaranteeing the right to food as a basic human right of every citizen. The government's policy to protect agricultural land sustainably also aims to ensure the fulfillment of all citizens' basic rights related to food needs.

INTRODUCTION

God Almighty has blessed our nation with various natural resources available in the land of the Republic of Indonesia, one of which is water and all its sources, which are essential for humanity throughout time, both directly and indirectly. Therefore, the land, water, and natural resources contained therein are fully controlled by the State and, in this case, will be used for the greatest prosperity of the people fairly and equitably. It can be found in the provisions of Article 33, paragraph (3) of the 1945 Constitution, and this is regulated again in Article 2 of the UUPA. While the definition of controlled in Article 2 is as follows: "The term controlled in this paragraph does not mean owned. The term controlled means that the State, as the organization of the power of the Indonesian nation, is given the authority to regulate things related to land."

For the welfare of the people in all areas, both social, economic, cultural and national defense and security, which simultaneously creates growth, social justice and the ability to stand alone in moving towards a just and prosperous society based on Pancasila and the 1945 Constitution, it is only natural that water and its sources must be preserved. For this reason, the Government needs to take steps and actions as necessary, and in accordance with the nature of the Republic of Indonesia as a state of law, these efforts and actions must be given a firm, clear, complete and comprehensive legal basis in order to guarantee legal certainty for the interests of the nation and state.

The decreasing availability of land has implications for the misuse of agricultural land. The differing interests of different parties sometimes lead to overlapping interests in pursuit of their own interests. However, more often, land used for agriculture can be converted to other uses. Agricultural land conversion can have impacts such as reduced agricultural land, decreased national food production, threats to ecosystem balance, the disuse of agricultural infrastructure, the loss of jobs for farm workers, rising food prices, and high rates of urbanization.

Agricultural land conversion poses a threat to achieving food security and sovereignty. Land conversion has serious implications for food production, the physical environment, and the well-being of agricultural and rural communities whose livelihoods depend on the land. The conversion of fertile agricultural land has not been balanced by integrated efforts to develop agricultural land through the creation of new, potential agricultural land.

To prevent the reduction of agricultural land, the government has enacted Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land (hereinafter referred to as Law No. 41 of 2009). Article 1, number 15 of Law No. 41 of 2009 states: "Conversion of Sustainable Food Agricultural Land is a change in the function of Sustainable Food Agricultural Land to non-Sustainable Food Agricultural Land, either permanently or temporarily." Furthermore, Article 44 paragraph (1) of Law No. 41 of 2009 states, "Land that has been designated as Sustainable Food Agricultural Land is protected and its conversion is prohibited."

Article 44, paragraph (1) of Law No. 41 of 2009 already mentions the prohibition on the conversion of sustainable food agricultural land, but Article 44, paragraph (2) of Law No. 41 of 2009 does not specifically regulate the conversion of sustainable food agricultural land. 2009 states: "In the case of public interest, Sustainable Food Agricultural Land as referred to in paragraph (1) may be converted, and implemented in accordance with the provisions of laws and regulations". The existence of this provision becomes a conflict of norms because in one paragraph it regulates the prohibition, but in another paragraph it opens up the opportunity for changes in the conversion of agricultural land. This inconsistency of norms has implications for the many abuses that occur in the field, so that the legal certainty of the prohibition on the conversion of sustainable food agricultural land is questionable. In this study, the problem is then raised, namely, the ratio legis prohibition on the conversion of sustainable food agricultural land and the aspect of utility in the prohibition on the conversion of sustainable food agricultural land.

METHODS

This research is a normative legal research, namely "legal research conducted by examining library materials or secondary legal materials" as supporting primary legal materials in the form of laws and court decisions. The approaches used in this legal research are the statute approach and the conceptual approach.

RESULTS AND DISCUSSION

Legal Ratio of the Prohibition on Conversion of Sustainable Agricultural Land. The relationship between humans and land can be viewed as a legal fact, a fact regulated and given consequences by law, and is therefore also referred to as *Rechtsfeiten*. *Rechtsfeiten* is defined as a legal event, an event occurring in society that is regulated and given consequences by law. In any country, every relationship involving humans and land is always framed by law.

Land has economic value, as it is an element that cannot be ignored in the era of national development or in supporting economic growth. Besides its economic value, land also has social value, meaning that land rights are not absolute. However, the state guarantees and respects land rights granted to its citizens. Therefore, legal certainty in land ownership, protected by law, is necessary.

Land ownership rights constitute a set of authorities, obligations, and even prohibitions that define various rights holders' rights to engage in various activities related to land rights. This right, related to the control of the land in question, can distinguish land ownership from other ownership rights. Ownership has both physical and legal meanings, relating to civil and public law. Land ownership is defined legally as the right to physically control land with various granted powers. Land law explains that some forms of legal land ownership do not confer physical authority. Land ownership rights are generally associated with specific legal entities. This right is intended as control based on a right or power that grants authority to carry out legal acts as befits a party holding the right.

The Basic Agrarian Law (UUPA) has introduced the State's Right to Control from its inception. Article 33 of the 1945 Constitution, which states, "The land, water, and natural resources contained therein shall be

controlled by the State and used for the greatest prosperity of the people," serves as the constitutional basis for the formulation and establishment of the UUPA. The two main ideas of Article 33 of the 1945 Constitution are that, from the beginning, it was agreed that the State would intervene in regulating natural resources and that this regulation was aimed at the greatest prosperity of the people. The interrelated relationship between the two is realized in an application that does not ignore one another.

The UUPA is a mandate from Article 33 paragraph (3) of the 1945 Constitution as stated in the provisions of Article 2 paragraph (1) of the UUPA, namely on the basis of the provisions in Article 33 paragraph (3) of the 1945 Constitution and matters as referred to in Article 1, the earth, water, and space including the natural resources contained therein are at the highest level controlled by the state, as the organization of power of all the people. Article 33, paragraph (3) of the 1945 Constitution is the constitutional basis for the formation of national agrarian politics and law, the contents of which order that the state, the earth, water, and natural resources contained therein be placed under the control of the state to be used to realize the greatest prosperity of all the people of Indonesia. The UUPA has two aspects of its validity, namely the no longer being implemented or revoked colonial agrarian law and the formation of national agrarian law. With the enactment of the UUPA, there has been a very fundamental change in agrarian law in Indonesia, especially in the field of land law. This fundamental change concerns the structure of the legal apparatus, basic concepts and content.

Land is owned and controlled for the purpose of being used, so that to fulfill all the needs of use, it is not limited only to the surface of the earth. The definition of space is expanded, including part of the air space above it and part of the Earth's body below it. The use of part of the earth's body, for example, in building a house requires a building foundation, or if the house is made multi-storey, the use of part of the air space. The use of land always goes hand in hand with the use of everything on the surface of the earth and above it. Therefore, land rights are not limited to giving authority to be able to use a certain part of the earth's surface called land, but also to the earth's body below it and also the water and airspace above it, as stated in Article 4 paragraph (2) UUPA.

The meaning of land rights is the land itself, meaning a specific portion of the earth's surface. However, the authority to use the land derived from these land rights extends to the portion of the earth's surface below ground, underwater, and the airspace above it. Land availability remains relatively constant, and this is certainly not commensurate with rapid population growth. Therefore, those with money will consider land as an investment, as land prices are certain to increase over time.

The strategic position of land, particularly in ensuring the fulfillment of basic human needs, requires protection. However, currently, rice paddies are being parcelled out in various regions without permits, with the conversion of land from rice paddies to non-rice paddy fields being traded by individuals or companies to the general public. The conversion of agricultural land also poses a threat to achieving food security and food sovereignty. Land conversion has serious implications for food production, the physical environment, and the well-being of agricultural and rural communities whose livelihoods depend on the land.

The need for a method to control the conversion of agricultural land led the President to issue Presidential Regulation No. 59 of 2019 concerning the Control of Rice Paddy Land Conversion. This regulation was enacted based on the awareness, as well as government considerations, that the area of land converted from agricultural land, particularly rice paddies, to non-rice paddy fields, is increasing rapidly year after year, potentially impacting national rice production and threatening national food security. The policy of protecting sustainable agricultural land is implemented by the state to guarantee the right to food as a fundamental right of every citizen and also to achieve food independence, resilience, and sovereignty, while simultaneously improving the welfare of farmers, especially vulnerable groups.

The government's policy of implementing sustainable green areas aims to reduce imports of staple foods, which have ballooned the national debt. This policy is in effect and will be updated annually in accordance with regulations and future developments. Therefore, the interests of those who prioritize their own egos are curbed by the implementation of government regulations on sustainable green areas, and anyone who violates these regulations will face sanctions.

Green rice fields registered as sustainable land can continue to produce food for sale to the surrounding community. Rice fields not designated as sustainable green areas can be converted with government permission, and the applicant must submit a conversion application. However, if the government does not approve, the conversion can be canceled. To support sustainable green areas and anticipate the mindset of people secretly converting their land, the government has created new regulations on the protection of sustainable green areas. The aim is to further discourage people from converting rice fields into buildings to preserve the ecosystem, and sanctions will be imposed on those who convert rice fields without the government's knowledge.

The Beneficial Aspect of the Ban on Land Conversion for Sustainable Food Crops. Indonesia's rich agricultural land is a unique attraction, but the large population with diverse mindsets and desires makes land conversion highly susceptible. To support population growth, productive land is converted into housing. Many people in Indonesia still rely on the sale of rice paddy harvests for their steady income. However, over time, the amount of rice paddy land is decreasing due to farmers' inability to maintain their land. The decreasing amount of agricultural land is due to rapid population growth, increasing food demand, and increased development, resulting in reduced agricultural production.

In agrarian societies, agricultural land is a key source of sustainable livelihoods, especially for farmers and rural communities. Agricultural land is dwindling, while human demand for agricultural land and natural resources from agriculture is increasing. Agricultural land conversion is increasing, and the creation of new rice paddies has not resulted in an increase in agricultural land.

Protecting agricultural land, especially sustainable agricultural land for food, is a government policy, enacted through various laws and regulations. However, if efforts to control agricultural land for food do not receive adequate support or are not integrated into integrated agricultural sector development, these efforts will be unsuccessful. If this practice of agricultural land conversion is uncontrolled, food security will be compromised. This land conversion will impact agricultural production, forcing Indonesians to import food to meet their food needs.

According to the theory of utility, or utilitarianism, law is based on ethical values, and on this ethical basis, law must embody the principles of utility, which later became the school of utilitarianism. Law also aims to provide economic benefits to society by providing pleasure, goodness, or happiness, or to prevent harm, suffering, or evil, as well as unhappiness for those whose interests are being considered.

Philosophically, Jeremy Bentham believed that humans are naturally the rulers of the earth, possessing full authority to regulate nature to achieve happiness. In the world, there are only two realities of human life: pain and pleasure. Humans have only one choice: if they desire pleasure or happiness, then that pleasure or happiness must be realized, and one way to do this is through the establishment of law. According to Jeremy Bentham, to free humanity from suffering, humans must make a decision: that is, humans must realize pleasure. Bentham's famous teaching is that law must achieve the greatest happiness for the greatest number of people (the greatest happiness of the greatest number).

Land is a vital resource for Indonesians. As population density increases, land availability, especially agricultural land, is increasingly threatened due to the increasing need for housing. Land conversion, commonly referred to as land conversion, is defined as the change in the function of part or all of a land area from its original (planned) function to another function, which has negative impacts (problems) on the environment and the land's potential.

Agricultural land, primarily for food production, tends to undergo conversion due to various infrastructure developments. It requires control through policies that prioritize the agricultural sector. The urgency of agricultural land protection stems from the fact that massive land conversion has resulted in a shrinking of land area, thus decreasing food production. It also threatens the balance of the environmental ecosystem, causing underutilization of established agricultural facilities and infrastructure, leading to job losses for farmers and farm laborers, and driving up food prices.

Policies for protecting sustainable agricultural land are crucially influenced by spatial planning. Spatial planning is the driving force behind the success of the agricultural sector and all natural resource sectors in

Indonesia. However, a persistent issue is the difficulty in allocating limited spatial resources equitably, which often leads to conflicts of interest. Spatial planning is necessary to anticipate the negative impacts of land conversion. In more detail, the negative impacts of agricultural land conversion include:

- 1) Reduced rice paddy fields, resulting in decreased rice production, which undermines food self-sufficiency;
- 2) Reduced rice paddy fields, resulting in a shift in employment from the agricultural to non-agricultural sectors. If the existing local workforce is not fully absorbed, it will actually increase unemployment. This social impact will compound with increased social jealousy among local communities toward immigrants, which in turn has the potential to escalate social conflict.
- 3) Government investment in irrigation infrastructure and facilities is not optimally utilized.
- 4) Failure of investors to carry out housing and industrial development as a result of the economic crisis or due to miscalculations results in the land that has been acquired not being utilized, thus increasing the area of idle land, which in turn will give rise to social conflict, such as land grabbing.

The government can take several steps to discourage people from converting their rice fields and to educate them about the importance of rice fields as a source of food production, thereby reducing the country's debt related to food imports. These efforts include:

- 1) The central government and its officials should forward regulations on sustainable rice fields to local governments and disseminate them to village communities with rice fields, encouraging them to reconsider their intention to convert their rice fields. The regulations on sustainable rice fields are binding and carry sanctions for violators.
- 2) A policy of providing incentives to farmers who maintain their productive land. Farmers who agree to use their land for sustainable rice fields will receive an allowance, provided they consistently produce a marketable harvest.

The government implemented a policy to protect sustainable agricultural land to guarantee the right to food as a fundamental right of every citizen and to achieve food independence, resilience, and sovereignty, while simultaneously improving the welfare of farmers, especially vulnerable groups. This policy was launched in 2009. The policy aims to protect agricultural areas and land sustainably; ensure the availability of sustainable agricultural land; achieve food independence, resilience, and sovereignty; protect agricultural land ownership owned by farmers; increase the prosperity and welfare of farmers and communities; enhance farmer protection and empowerment; increase employment opportunities for a decent standard of living; maintain ecological balance; and achieve agricultural revitalization.

Harmonizing policies between the central, provincial, and district governments is crucial for aligning and streamlining existing policies to control land conversion. Agricultural land itself is regulated by several stages within the hierarchy of laws and regulations. The Karanganyar district government's regulations should be implemented in accordance with the provisions and policies established by the provincial and central governments. It is an effort to create synchronization to maintain order and provide legal certainty in its implementation.

The policy of protecting sustainable agricultural land not only aims to achieve food security but also ensures more targeted and sustainable urban development, addressing the impacts of urbanization that are spreading to the outskirts of cities, while considering long-term development needs. The government's policy of protecting sustainable agricultural land also aims to ensure the fulfillment of the basic human rights of all citizens regarding food needs.

CONCLUSION

Food is a basic human need that must be met at all times, and the right to access food is a fundamental human right. The government's policy of protecting sustainable agricultural land guarantees the right to food as a fundamental right of every citizen. It also aims to achieve food independence, resilience, and sovereignty, while simultaneously improving the welfare of farmers, especially those in need. The government's policy of protecting

sustainable agricultural land also aims to ensure the fulfillment of the basic human rights of all citizens regarding food needs.

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