

## **Development of Regulations and Problems in the Conversion of Agricultural/Paddy Land Functions and Their Resolving With Land Incompatibility in Indonesia**

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### ***Abstract***

*The spatial plans that have been made so far have not prioritized paddy or agricultural land; this is reflected in the fact that the regional governments have not issued any spatial plans related to paddy or agricultural land. Recently, real threats have occurred because the transfer of agricultural land or rice fields has been the subject of discussion at the level of environmental experts or by the central government through the relevant ministries. Whereas the conversion of agricultural land and rice fields in the last two to three years has become a priority of the Central Government with the issuance of legal products from presidential regulations to the relevant ministries, The determination of a map of paddy fields protected by the Ministry of Agrarian Affairs and Spatial Planning Head on December 16, 2021, is a positive thing for policy makers at the local government level and should be used as a basis for giving approval or rejection of requests for land conversion changes in the future. Regarding the discrepancy (overlapping) of protected paddy fields against the existing spatial plan (RTR).*

**Keywords:** *Function Transfer, Land.*

## **INTRODUCTION**

Whereas the phenomenon regarding agricultural land has shifted from before, the Government of the Republic of Indonesia since the agrarian reform (land reform) in 1960, also Regulation in Lieu of Law No. 56 of 1960 concerning Determination of Agricultural Land Area as mandated in Article 17 of Act No. 5 of 1960 concerning Basic Agrarian Principles Regulations, the other biggest ones do not have or do not have enough land, this is clearly contrary to the principles of Indonesian socialism, which requires an equitable distribution of the source of livelihood for the peasantry in the form of land, so that there is a fair and equitable distribution. In addition to setting the maximum limit for land ownership, the regulation also stipulates the determination of a minimum area with the aim that each farming family has sufficient land area to be able to achieve a decent standard of living and "in accordance with what is regulated under Regulation in Lieu of Law Article 8 of No. 56 of 1960, Article 9 found provisions aimed at

preventing the splitting of ownership of agricultural land into parts of less than 2 hectares, by placing restrictions on the transfer of ownership rights over agricultural lands. (Harsono, 2008).

However, nowadays there is a shift in the phenomenon, namely the conversion of agricultural land functions such as the development of industrial areas, new residential areas, and the conversion of other agricultural land functions, which causes a change in the function of the land from its original use for agriculture. These things are a threat to the government's plan to launch a program on food self-sufficiency and have an adverse impact on the environment. According to the law's explanation, the conversion of agricultural land functions is a threat to achieving food security and sovereignty. Land conversion has serious implications for food production, the physical environment, and the welfare of agricultural and rural communities whose livelihoods depend on their land. that the government is actually aware of the phenomenon of the conversion of agricultural land with the issuance of Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land and Government Regulation Number 1 of 2011 concerning the Stipulation and Transfer of Functions of Sustainable Food Agricultural Land. However, the issuance of a law in 2009 and its derivatives did not resolve the phenomenon of the conversion of agricultural land that occurred in 2016: "According to Arif Satria, who serves as Dean of the Faculty of Human Ecology at the Bogor Agricultural Institute (IPB), he noted there were at least 50,000 to 100,000 hectares of paddy fields that are lost every year, either due to functional specialists or those that are no longer cultivated by farmers due to stagnant regeneration of farmers" (Astuti, 2022). Whereas in 2022, "the conversion of paddy fields to non-paddy fields for residential and industrial areas will reach 150,000 hectares per year, while the capacity to produce new rice fields will only reach 60,000 hectares per year" (Abhe, 2022) this was conveyed by the Director of Land Rights Control, Land Function Transfer, Archipelago and Outermost Areas of the Ministry of Agrarian Affairs/BPN Asnawati.

The Jatinangor area, which has become an educational area, has increased the demand for housing and boarding houses (Purwanti, 2018). Data for the Singkawang area, from March to December 2015 the amount/area of land issued with a Land Use Change Permit was 1,202,751 m<sup>2</sup>, while in January to April 2016 (for 4 months) it was 296,250 m<sup>2</sup>, data source: Singkawang City National Land Office. It seems that from time to time there has always been a significant increase in applications for permits for changes in land use. Both are samples that the phenomenon of conversion of agricultural land occurs throughout Indonesia.

Another important thing is that if there is overlap with the determination of paddy fields protected by the Government for concessions, land rights or other forms of matters that have been issued permits by policy makers in a particular area, then this matter must also be considered by the central government. Based on the background mentioned above, the researcher determined the title of this journal "Development of Arrangements and Problems in the Transfer of Functions of Paddy Field/Agriculture Land and Their Settlement with Soil Incompatibility in Indonesia". The purpose of this study is to analyze the government's role in controlling the conversion of paddy/agricultural land to other functions which is very high every year, the analysis is the background of the occurrence of the conversion of paddy/agricultural land and analysis in terms of the establishment of protected paddy fields. discrepancy.

## **RESEARCH METHOD**

Research on "Development of Regulations, Problems in the Conversion of Paddy/Agricultural Land Functions and Incompatibility with Protected Paddy Fields in Indonesia"

is a form of normative legal research, namely legal research that aims to examine the principles of positive law, legal systematics, level of legal synchronization, legal history and comparative law (Soekanto, 2014). This is done by examining secondary data first, then proceed with conducting research on primary data in the field. As a normative research, this research is based on an analysis of legal norms, both law in the sense of laws as it is written in the books, and law in the sense of law as it is described by judge through judicial process (Dworkin, 1973). The form of the research report in this study was adapted to the research typology used, namely the form of an explanatory report.

## **ANALYSIS AND DISCUSSION**

### **Spatial Planning is the key to harmonization**

In environmental management (urban and rural), spatial planning is a strategic and practical control tool or means. Optimum spatial planning can control population density, traffic, flooding, and social conflict, as well as improve aesthetics as well as the quality and value of life. In spatial planning, both the government and community members, each has rights and obligations which are basically to ensure the realization of the spatial planning goals themselves and the maintenance of environmental functions on an ongoing basis. (Wahid, 2016). So that the determination of Spatial Planning (RTR) is the key to the formation of harmonization for living things with their living or artificial environment.

In Article 3 of Act No. 26 of 2007 concerning Spatial Planning, the implementation of spatial planning aims to create a safe, comfortable, productive and sustainable national territorial space based on the Archipelagic Outlook and National Defense by:

1. The realization of harmony between the natural environment and the built environment;
2. Realization of integration in the use of natural resources and artificial resources with due regard to human resources; and
3. The realization of the protection of space functions and the prevention of negative impacts on the environment due to space utilization.

Whereas the purpose of the spatial planning arrangement as referred to in Article 3 of Law Number 26 of 2007 concerning Spatial Planning, has previously been regulated in a previous law which has the same sound and meaning, namely in Article 3 of Law Number 24 of 1992 concerning Spatial Planning. So that the arrangement regarding this spatial layout in particular has existed for at least 30 years and no longer includes partial arrangements in other laws and regulations. Based on the foregoing, the spatial planning arrangements carried out by policy makers in this country have a mandatory basis to pay attention to the realization of the harmonization of the natural environment with the built environment, and the realization of the protection of spatial functions and the prevention of negative consequences of space use.

### **Problems in the implementation of the Law on the Protection of Sustainable Food Agricultural Land since 2009**

Weaknesses in the application of land management are actually also the cause of land conversion. Rising land prices encourage speculation, scarcity of urban land development for settlements. However, the most basic thing that causes land conversion to occur is because the local government itself has not issued a regional regulation regarding spatial planning that regulates agricultural areas. Whereas this is in line with the intention in Article 25 paragraph (1) of Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land, regarding the determination of Sustainable Food Agricultural Land for urban areas to be stipulated by Regional Regulations and there is involvement of other regional governments such as information

systems, development, research, funding and planning. As has been discussed in the background section above by the Researcher, the Government has issued Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land and Government Regulation Number 1 of 2011 concerning Determination and Transfer of Functions of Sustainable Food Agricultural Land but the loss of Agricultural Land / Paddy Fields remains occurs every year and even tends to increase every year based on the data presented as mentioned above in the background. In addition, the conversion of paddy fields also has negative impacts on the residents of the area in particular and the government in general. The impact of the conversion of paddy fields also involves various broad dimensions of interest, namely (1) threatening the sustainability of food self-sufficiency (2) reducing labor absorption (3) wasting government investment both central and regional (4) reducing environmental quality and (5) disturbing the stability of the social structure of society. The breakthrough of the central government's policy to deal with the high conversion of paddy fields is by issuing Presidential Regulation Number 59 of 2019 concerning Controlling the Conversion of Paddy Fields. The objectives of this Presidential Regulation are (a) to accelerate the designation of protected paddy fields in order to fulfill and maintain the availability of paddy fields to support national food needs, (b) to control the increasingly rapid conversion of paddy fields, (c) to empower farmers not to convert their land paddy fields, (d) provide data and information on paddy fields for materials for determining Sustainable Food Agriculture Land.

That the other most basic thing that caused this to happen was because the map of protected paddy fields had not been completed. Whereas acceleration has only occurred since the issuance of Presidential Regulation Number 59 of 2019 concerning Control of the Transfer of Functions of Paddy Fields, which in Article 4 of the Presidential Decree immediately forms an Integrated Team and is assisted by the Implementing Team.

The duties of the Integrated Team assisted by the Implementation Team are:

1. Coordinate the implementation of the verification of protected paddy fields
2. Carrying out the synchronization of Paddy Field verification results as referred to in letter a
3. Proposing a map of protected Paddy Fields; and
4. Carry out monitoring and evaluation of the implementation of the Control over the Function Transfer of Paddy Fields.

### **Determination of protected paddy field maps and resolution of non-compliance of protected paddy fields**

That the work results of the Integrated Team and Implementation Team since they were formed on September 6 2019 with Presidential Decree Number 59 of 2019 have yielded results with the establishment of Protected Paddy Field Maps in Regencies/Cities in West Sumatra Province, Banten Province, West Java Province, Java Province Central, Yogyakarta Special Region Province, East Java Province, Bali Province and West Nusa Tenggara Province with an area of 3,836,944.33 hectares. The Ministerial Regulation on Agrarian Affairs and Spatial Planning/Head of BPN provides very detailed total areas for each district/city in question and also maps of each regency/city so as to make it easier for policy makers to obtain guidelines for making decisions on an application regarding changes in land use change, whether it is permissible to change its designation or where there are restrictions so that the function of the land cannot be changed.

Furthermore, for protected paddy fields that are stipulated in the Minister of Agrarian and Spatial Planning/Head of BPN for discrepancies with Spatial Planning, Conformity of Spatial Utilization Activities, Permits, Concessions and/or Land Rights issued Technical Instructions for the Minister of Agrarian and Spatial Planning/Head of the Land Agency National No. 5/Juknis-

HK.02/VI/2022 Settlement of Incompatibility of Protected Paddy Field Land with Spatial Plans, Compatibility of Spatial Utilization Activities, Permits, Concessions and/or Land Rights. Incompatibility is a condition of overlapping protected paddy fields with Spatial Planning (RTR), Suitability of Space Utilization Activities (KKPR), Permits, Concessions and/or Land Rights. That the Juknis from the Ministry of ATR/Head of BPN is very important because there should be no breakthrough since 2019 with the issuance of Presidential Regulation Number 59 of 2019 Concerning Control of the Transfer of Function of Paddy Fields by the central government to accelerate the implementation of the protected Paddy Field program in order to achieve food self-sufficiency in Indonesia instead creates legal uncertainty for Spatial Plans, Land Rights holders, Compatibility of Spatial Holder Activities, Permits, Concessions and Spatial Plans where there are discrepancies with the stipulation of Protected Paddy Field Maps in Regencies/Cities in West Sumatra Province, Banten Province, Province West Java, Central Java Province, Yogyakarta Special Region Province, East Java Province, Bali Province and West Nusa Tenggara Province with an area of 3,836,944.33 hectares.

## **CLOSURE**

### **Conclusion**

The spatial plans that have been made so far have not prioritized paddy/agricultural land, this is reflected in the regional governments having not issued spatial plans related to paddy/agricultural land. Recently, real threats have occurred because the transfer of agricultural land/rice fields has been the subject of discussion at the level of environmental experts or by the central government through the relevant ministries. Whereas the conversion of agricultural land/rice fields in the last two to three years has become a priority scale of the Central Government with the issuance of legal products from presidential regulations to the relevant ministries. Determination of a Map of Paddy Fields Protected by the Ministry of Agrarian Affairs and Spatial Planning/Head of BPN on December 16, 2021 is a positive thing for policy makers at the local government level to be used as a basis for giving approval or rejection of requests for land conversion changes in the future . Regarding the discrepancy (overlapping) of determination of protected paddy fields against the existing Spatial Plans (RTR), the suitability of Spatial Utilization Activities (KKPR), Permits, Concessions and/or Land Rights has issued Technical Instructions (Juknis) from the Ministry of Agrarian Affairs and Spatial Planning (ATR)/Head of the National Land Agency (BPN) which is the basis for any settlement of discrepancies in the designation of protected paddy fields.

### **Suggestion**

In addition, the purpose of Presidential Regulation Number 59 of 2019 concerning Controlling the Conversion of Paddy Field Functions at point (c), namely empowering farmers not to convert their paddy fields/agriculture land to function, is also something that needs to be prioritized to be encouraged by the central and regional governments in the form of programs socialization programs, cooperating with State-Owned Enterprises (BUMN)/Regional-Owned Enterprises (BUMD) and the private sector to collaborate, and distributing low-interest loans to farmers including younger generations also need to be given socialization on the importance of agriculture /rice fields in participation for the development of a country and economically agriculture can also make them prosperous not only working or doing business in urban areas.

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