

Legal Regulations to Protect Availability of Sustainable Food Farming Land

Jeany Anita Kermite^{1*}, Grace Mouren Febiola Karwur¹, Wulanmas A.P.G Frederik¹, Toar Kamang Ronald Palilingan¹

¹Faculty of Law, Sam Ratulangi University, North Sulawesi, Indonesia

DOI: [10.36348/sijlcrj.2023.v06i02.006](https://doi.org/10.36348/sijlcrj.2023.v06i02.006)

| Received: 02.01.2023 | Accepted: 05.02.2023 | Published: 12.02.2023

*Corresponding author: Jeany Anita Kermite

Faculty of Law, Sam Ratulangi University, North Sulawesi, Indonesia

Abstract

Protection of agricultural land, especially sustainable food agricultural land has become an obligation for the government to make various policies, both in the form of laws and other regulations. However, if the efforts to control food agricultural land do not receive adequate support or are not integrated into the integrated development of the agricultural sector, these efforts will not succeed. This research uses a descriptive method is a method that examines the status of human groups, an object and a condition, a system of thought or an event in the present. It was conducted in North Sulawesi Province as a research location based on the reality of the many spatial problems in this area. The results showed that the implementation of LP2B in North Sulawesi Province is only in planning and has not been implemented properly by the local government or the Land Office in the implementation of land conversion because there is no regional regulation that stipulates LP2B and there is no map available as a reference in controlling the conversion of agricultural land in North Sulawesi Province. Efforts that can be made in optimizing the implementation of control over land use change through LP2B are the effectiveness of communication, socialization, coordination between agencies, formation of the LP2B team, capacity building of resources that are implementing policies, and financial resources. The government of North Sulawesi Provincial needs to form a Regional Regulation on sustainable agricultural food land accompanied by a map attachment so that it does not create uncertainty in its implementation.

Keywords: Food, Land, Legal Regulations, Local Government, Sustainable.

Copyright © 2023 The Author(s): This is an open-access article distributed under the terms of the Creative Commons Attribution **4.0 International License (CC BY-NC 4.0)** which permits unrestricted use, distribution, and reproduction in any medium for non-commercial use provided the original author and source are credited.

1. INTRODUCTION

The wealth of agricultural land owned by the Indonesian state is an attraction, but the large volume of people with different mindsets makes land conversion very easy to happen. To support population growth, productive land is used as housing. Until now, there are still many people in agricultural areas in Indonesia who make the sales of rice fields as their permanent income. But over time, many paddy fields are degraded due to farmers who are no longer able to defend their land. The cause of the amount of agricultural land being degraded is due to rapid population growth, increasing food needs and massive development, so that the amount of agricultural production decreases. Food is one of the basic needs for society [1]. About 1 billion people in the world will experience hunger if food production is not

increased by 3 times in the period 2000-2050. The main problem of the threat of a food crisis in Indonesia is the decline in soil fertility and reduced land area due to the conversion of rice fields to non-rice fields.

Protection of agricultural land, especially sustainable food agricultural land has become an obligation for the government to make various policies, both in the form of laws and other regulations. However, if the efforts to control food agricultural land do not receive adequate support or are not integrated into the integrated development of the agricultural sector, these efforts will not succeed. Previous research revealed that the misuse of paddy fields will have a serious impact on the nation's food security because almost all Indonesians consume rice as a staple food. The government's juridical duties and responsibilities in protecting the conversion of sustainable food agricultural land to the community have not been carried out properly as expected by the community.

¹ Czarnecki, Jason J. "Food, law & the environment: Informational and structural changes for a sustainable food system." *Utah Envtl. L. Rev.* 31 (2011): 263.

The central government must pass the rules on to local governments to immediately implement the rules regarding the prohibition of the conversion of rice fields. The local government offers farmers their land to be used as sustainable rice fields. For farmers who are willing to make their land a sustainable area, they will be given allowances and must be active in producing food, maintaining the cleanliness of the rice field area, and increasing land fertility. Thus, people who work as farmers are increasingly enthusiastic about managing their land and the other positive side is that the farmers have a steady income plus the yields of rice fields which are traded to the community as daily staples. In the future, more and more people will think about environmental conditions, more will care about the balance of nature and the effect on tourism if they force the conversion of rice fields [2].

The current reality shows that the regulation of LP2B at the local government level has not been fully implemented and even to this day there has been no issuance of a regional regulation that provides clarity on the location of rice fields that cannot be converted.

2. METHOD OF RESEARCH

This research uses a descriptive method is a method that examines the status of human groups, an object and a condition, a system of thought or an event in the present. The purpose of descriptive research is to provide a systematic, factual and accurate description of the facts, nature and relationships between the phenomena studied. So, this type of research is socio-juridical. It was conducted in North Sulawesi Province as a research location based on the reality of the many spatial problems in this area. To analyze the data obtained in this research, it was further processed and analyzed through qualitative analysis.

3. AGRICULTURAL LAND REGULATIONS: REALIZING THE PROTECTION OF SUSTAINABLE FOOD AGRICULTURAL LAND

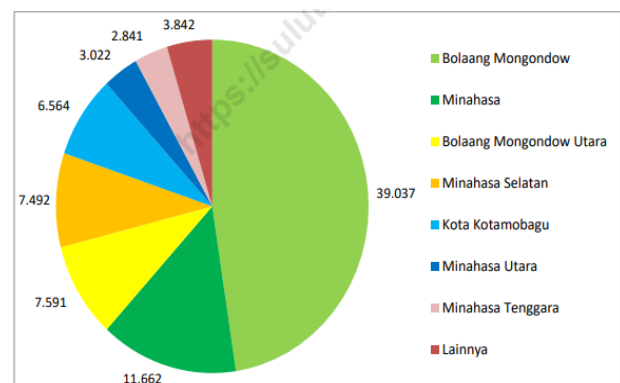
The ratification of the Job Creation Law and its derivative regulations further strengthens the importance of protecting food agricultural land in the midst of the government's efforts to increase economic growth [3]. The Presidential Regulation No. 59 of 2019 becomes a regulation to control the rate of conversion of paddy fields. Discussion and handling of the problem of conversion of agricultural land to non-agricultural

functions has been going on for a long time. However, in reality until now there is still no success in controlling the land use change. Therefore, it is necessary to deal with the problem of the phenomenon of land conversion, namely by maintaining sustainable rice fields or Sustainable Food Agricultural Land so that they remain sustainable rice fields. The concept of sustainable food agricultural land protection aims to realize food self-sufficiency, security and sovereignty which is equipped with coercive elements in the form of sanctions for anyone who dares to convert it into non-agricultural land. In addition, this policy talks about incentives and disincentives for farmers. However, this policy cannot stand alone because it relies heavily on regulatory support in the field of spatial planning.

The implementation of sustainable food agriculture land protection policies in Indonesia contained in regional regulations regarding spatial planning is still very low due to various factors that influence it, especially the political factors of regional authorities who are less concerned with this policy. Local governments have an important role in the implementation of controlling the conversion of agricultural land through the LP2B program through the issuance of Regional Regulations. The following is data on regions that have issued LP2B regional regulations in Indonesia.

The results of the research show that only 25 provinces have issued Regional Regulations on Regional Spatial Planning, but of those 25 provinces, there are only 4 provinces that have established LP2B in their Regional Spatial Planning. In addition, only 174 districts have established LP2B in their plans, while at the city level only 18 cities have determined them. This means that less than 50% of the provinces or districts/cities that have established LP2B in the Regional Spatial Planning. This shows that the response of the regions in determining the respective LP2B is very low.

North Sulawesi Province is one of the provinces that have a large area of agricultural land as can be seen below;



Source: <https://sulut.bps.go.id/publication>

² Linnekin, Baylen J., and Emily M. Leib. "Food law & policy: the fertile field's origins and first decade." *Wis. L. Rev.* (2014): 557.

³ Astiti, Yunita Fenditia, and Riesta Yogahastama. "Protection Of Sustainable Food Agricultural Land Against The Conversion Of Agricultural Land To Non-Agricultural (Study In Bangkalan)." *Trunojoyo Law Review* 4, no. 1 (2022): 19-35.

The extent of agricultural land in North Sulawesi Province requires government efforts to maintain the availability of agricultural land in the area and this has been followed up by the inclusion of LP2B in the Regional Regulation on Regional Spatial Planning but so far has not issued Regional Regulation LP2B. The implementation of LP2B based on the Job Creation Law is planning and stipulation, development, research, utilization, guidance, control, supervision, information system, protection and empowerment of farmers, financing, community participation, and added with administrative sanctions.

The policy for the protection of sustainable food agricultural land is carried out by the State to guarantee the right to food as a human right of every citizen and also wants to realize self-reliance and food sovereignty while at the same time prospering the farmers, especially the weak. However, since this policy was rolled out in 2009 many parties think that the government has not fully carried out the mandate mandated by Act No. 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land.

The constitutional basis of Act No. 41 of 2009 is based on Article 33 paragraph (3) of the 1945 Constitution which states that "*Earth and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.*" Furthermore, this law is also an implementation of Article 48 paragraph (2) of Act No. 26 of 2007 concerning Spatial Planning. Thus, when discussing the policy of protecting agricultural land for sustainable food, it must depart from a frame of mind that is intended for the greatest prosperity of the people and must also look at its comprehensive description in the legal dimension of spatial planning.

In addition, the element of coercion in the form of sanctions is seen in the regulation of Act No. 41 of 2009 to containing incentives and disincentive mechanisms for farmers who are willing to have their agricultural land designated as Sustainable Food Agricultural Land and also includes empowerment activities for farmers. These activities are a form of state attention for farmers so that it is hoped that they will always love and be proud of their profession in the agricultural development sector, which in the end the independence, food security and sovereignty as required by Act No. 41 of 2009 will actually be realized. The existing legal instruments prior to the enactment of this law were "ineffective" in preventing the conversion of agricultural land, which is increasingly worrying. The attitude of the legislators is natural considering that food is one of the basic needs for the Indonesian people to maintain their existence [4]. These regulations will

only become texts that are as ineffective as the old legal instruments if the location of sustainable agricultural food crops cannot be demonstrated.

It seems that there are difficulties in establishing sustainable food agricultural land by the government. Perhaps this problem is due to the spirit of Act No. 41 Year 2009 which adheres to a bottom-up approach so that the determination process depends on the local government. This approach is intended to be able to accommodate the aspirations of the local community. However, since the enactment of Act No. 41 of 2009, not many regions have established sustainable food agricultural land, although there are also some regions that have established sustainable food agricultural land through local regulations. However, the problem that then arises is that after the regional regulation is issued, it is necessary to know the location of the rice fields which are included in the sustainable agricultural food area. The regulation that was formed only contained the area of sustainable food agricultural land but the map is not described/ delineated further in the map attachment or even the regional regulation does not have a map attachment and then submits the map to the regional regulation on regional spatial planning.

Law is a political product. The law referred to here is state law or statutory regulations in written form [5]. This point of view is very important because, as already mentioned, the policy of protecting land for sustainable food and agriculture is within the scope of state administrative law. According to some parties, state administrative law does not give place to unwritten law.

In other words, State administrative law only gives place to written law. In this regard, the written law is determined by politics. If the written law does not fully describe the mechanism and procedure of a problem to be solved, it is predictable that the problem will not be solved. It must be admitted that the policy of protecting land for sustainable food agriculture is largely determined by the spatial plan. Spatial planning is like a driving force for the success of the agricultural sector as well as all natural resource sectors in Indonesia [6]. However, the issue that always arises is the difficulty of allocating limited space resources in a

sustainability." *Wm. & Mary Envtl. L. & Pol'y Rev.* 34 (2009): 935.

⁵ Wijaya, Andy Fefta, Apri Kuntariningsih, Sarwono Sarwono, and Agus Suryono. "Malnutrition mitigation and community empowerment through the sustainable food reserve programme in Indonesia." *Development in Practice* 31, no. 1 (2021): 37-48.

⁶ Rosdiana, Haula. "Evaluation of fiscal policy on agropolitan development to raise sustainable food security (A study case in Bangli Regency, Kuningan Regency and Batu Municipality, Indonesia)." *Procedia Environmental Sciences* 20 (2014): 563-572.

⁴ Schneider, Susan A. "A reconsideration of agricultural law: a call for the law of food, farming, and

balanced manner so that at this point conflicts of interest often occur. Several legal circles have expressed their views regarding the real goals expected from spatial planning. Regarding this, it is said that space needs to be managed sustainably for the greatest prosperity of the people. In other words, the Spatial Planning Act favors the protection of the interests of the people.

Spatial planning is expected to allocate space for the activities of all community groups for their welfare and leave some for the next generation. Observing this, it can be said that spatial planning is also included in the arena of discourse on justice. Other observers of spatial planning law argue that spatial planning is a blueprint that provides direction (as a guideline) on the activities of controlling, using and utilizing land for various interests by the subject of rights so as not to harm the interests of the community, preventing land quality degradation and ensuring legal certainty on the land parcel in question.

The existence of control over the conversion of agricultural land is basically part of the government's efforts to achieve development goals, however the reality shows that after a long time the regulation on LP2B has not shown significant results so efforts are needed to optimize the implementation of the goals and objectives of the program. Policies can be well socialized so as to avoid distortion of policies and programs. This is important because the higher the target group knowledge of the program, the lower the level of rejection and error in applying programs and policies in the real world.

4. CONCLUSION

Currently, the implementation of LP2B in North Sulawesi Province is only in planning and has not been implemented properly by the local government or the Land Office in the implementation of land conversion because there is no regional regulation that stipulates LP2B and there is no map available as a

reference in controlling the conversion of agricultural land in North Sulawesi Province. Efforts that can be made in optimizing the implementation of control over land use change through LP2B are the effectiveness of communication, socialization, coordination between agencies, formation of the LP2B team, capacity building of resources that are implementing policies, and financial resources. The government of North Sulawesi Provincial needs to form a Regional Regulation on sustainable agricultural food land accompanied by a map attachment; hence, it does not create uncertainty in its implementation.

REFERENCES

- Astiti, Y. F., & Riesta, Y. (2022). Protection of Sustainable Food Agricultural Land against the Conversion of Agricultural Land to Non-Agricultural (Study in Bangkalan). *Trunojoyo Law Review*, 4(1), 19-35.
- Czarnecki, J. J. (2011). Food, law & the environment: Informational and structural changes for a sustainable food system. *Utah Envtl. L. Rev.*, 31, 263.
- Linnekin, B. J., & Emily, M. L. (2014). Food law & policy: the fertile field's origins and first decade. *Wis. L. Rev.*, 557.
- Rosdiana, H. (2014). Evaluation of fiscal policy on agropolitan development to raise sustainable food security (A study case in Bangli Regency, Kuningan Regency and Batu Municipality, Indonesia). *Procedia Environmental Sciences*, 20, 563-572.
- Schneider, S. A. (2009). A reconsideration of agricultural law: a call for the law of food, farming, and sustainability. *Wm. & Mary Envtl. L. & Pol'y Rev.*, 34, 935.
- Wijaya, A. F., Apri, K., Sarwono, S., & Agus, S. (2021). Malnutrition mitigation and community empowerment through the sustainable food reserve programme in Indonesia. *Development in Practice*, 31(1), 37-48.