

Local Government Policies Related To Transfer Of Agricultural Land Functions To Non Agricultural Governments

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Abstract

The purpose of this study was to determine and analyze the Batang Regency Government's Policy Regarding the Transfer of Agricultural Land Functions to Non-Agriculture. In this paper, the author uses a sociological juridical method. In the discussion that the uncontrolled transfer of agricultural land to non-agricultural functions can have an impact in the form of disturbances to the balance of the environment and a decrease in agricultural production, especially rice. Disturbances to the environment occur, for example, housing construction causes flooding in the area below. In general, the Batang Regency Government's policies related to the conversion of agricultural land to non-agriculture in the form of several regulations and their implementation have not fully protected food agricultural land as mandated by the Law on Protection of Sustainable Food Agricultural Land. The stipulation of the Regional Regulation on the Batang Regency Spatial Planning has not been followed by the stipulation of detailed regulations.

Keywords: Land conversion, food agriculture land, spatial planning

1. Introduction

The purpose of the state for the Indonesian nation as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia is to protect the entire Indonesian nation and all of Indonesia's bloodshed and to promote general welfare, educate the nation's life and participate in carrying out world order based on independence, eternal peace and justice. social.¹

One indicator of welfare is the fulfillment of basic human needs including food, clothing, housing, education and proper health. Among several basic human needs, food is the most important basic human need and its fulfillment is part of the human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component for realizing quality human resources.²

In Article 3 of Law Number 18 of 2012 concerning food, it is stated that Food Administration is carried out to fulfill basic human needs that provide benefits in a fair, equitable and sustainable manner based on Food Sovereignty, Food Independence, and Food Security. Food in Indonesia has a very important position, especially staple food, because it involves political, economic, social and cultural issues. Most of the population's staple food comes from cereals consisting of rice, corn and wheat and the

¹ Nur Dwi Edie W and Gunarto, "Analysis of Judicial Policy in Deciding Criminal Acts Based Alternative Indictment (Case Study Decision Number 82 / Pid.B / 2019 / PN.Blora)", *Jurnal Daulat Hukum* Volume 3 Issue 1, March 2020, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8429/4063>

² Noeng Muhadjir, 2000, *Ilmu pendidikan dan Perubahan Sosial*, Teori Pendidikan Pelaku Sosial Kreatif, Yogyakarta, Raka Sarasin, p. 15

largest staple food of the population is rice. Therefore, the issue of food security in Indonesia is important for political, economic, social and cultural stability.³

The total population of Indonesia currently reaches 216 million people with a growth rate of 1.7% per year. This figure indicates the amount of food that must be available. The great need, if not matched by an increase in food production, actually faces a latent hazard problem, namely the rate of increase in domestic production which continues to decline. It is certain that if there is no effort to increase food production, there will be a problem between demand and availability with the gap widening.

The most basic problem in dealing with food availability will depend on how the national policy in agriculture is. We must be able to calculate what is ripe for the short and long term, in meeting the availability of food to meet the needs of the entire population. The calculation must of course take into account population growth rates, land availability, and production capacity, as well as other calculations outside the technical aspects of agriculture.

We realize that from year to year, the population continues to increase, while the availability of fertile agricultural land does not increase. The available land continues to decrease every year due to land conversion for the development of sectors outside of agriculture. Along with the increase in population and the development of economic structure, the need for land for non-agricultural activities tends to increase. This tendency causes the conversion of agricultural land to non-agricultural purposes to be difficult to avoid, including housing development. In line with the increasing population growth in Indonesia, so does the need for housing. The total population in urban areas in Indonesia in 1985 was only 32% of the Indonesian population. In 2005 it increased to 48%, and 60% settled in Java. To meet the increasing demand for housing, always use agricultural land and productive land. In the last five years, nationally the average conversion of agricultural land for housing development has reached 8,000 hectares (ha) per year, with a tendency to increase every year. Therefore, it is necessary to organize its management comprehensively, not only for the short term, but also for the medium and long term. Do not overlap, do not just to meet the needs of one sector at the expense of other sectors. management needs to be arranged comprehensively, not only for the short term, but also for the medium and long term. Do not overlap, do not just to meet the needs of one sector at the expense of other sectors. management needs to be arranged comprehensively, not only for the short term, but also for the medium and long term. Do not overlap, do not just to meet the needs of one sector at the expense of other sectors.

The same condition also occurs in Batang Regency. Based on data from the Land Office of Batang Regency, during 2012-2014 there were applications for Land Technical Considerations for Location Permits, Location Determinations and Land Use Change Permits as many as 544 parcels with a total land area of 150.759 Ha. The uncontrolled transfer of agricultural land to non-agricultural functions can have an impact in the form of disturbances to the balance of the environment and a decrease in agricultural production, especially rice. Disturbances to the environment occur, for example,

³ Hossel Nogi S Tangkilisan, 2003, *Evaluasi Kebijakan Publik*, Jakarta: Geasindo, p.7

housing construction causes flooding in the area below. Previously, flooding had occurred every time it rained heavily, due to poor drainage. After the housing was built, the flooding got worse. This is because the location of housing development was formerly a catchment area.

Government policy is very decisive in preventing the occurrence of uncontrolled conversion of agricultural land.⁴ Efforts have been made by the Regional Government of Batang Regency, among others, through Permits for the Transfer of Functions of Agricultural Land to Non-Agriculture as an instrument of control and supervision. By enforcing the provisions of this permit, it is hoped that the conversion of agricultural land to non-agricultural land will actually be carried out selectively and as far as possible avoid the reduction of productive agricultural land.

Based on the above background, the purpose of this study is to determine and analyze the Batang Regency Government's Policy Regarding the Transfer of Agricultural Land Functions to Non-Agriculture

2. Research Method

To conduct an assessment in this study, the author uses a sociological juridical method (social legal research) to examine and discuss the problems raised. Juridical is an approach that uses legal principles and principles derived from written regulations, sociological is an approach that aims to clarify the actual situation that exists and appears in society towards the problem under study or gives importance to the observation steps.⁵

In socio-legal research, law is not only conceptualized as the whole of the principles and rules that govern human life in society but includes the institutions and processes that embody the application of these rules in society, as the embodiment of the symbolic meaning of social behavior as manifested and from their actions and interactions.⁶

3. Research Results and Discussion

In accordance with the principle of broadest autonomy in the sense that regions are given the authority to manage and regulate all government affairs outside those that are government affairs as stipulated in the law, regions have the authority to make regional policies to provide services, increase participation, initiatives and community empowerment aimed at on improving people's welfare.⁷

⁴ Noeng H, Muhadjir, 2003, *Metodologi Penelitian Kebijakan dan Evaluasi Reseach*, Yogyakarta : Rake Sarakin, p 9

⁵ Rony Hanitijo Soemitro, 1990, *Metodologi Penelitian Hukum dan Jurimetri*, Ghalia Indonesia, Jakarta, p 34

⁶ Soetandyo Wignjosebroto, 2011, *Silabus Metode Penelitian Hukum*, Program Pascasarjana Universitas Airlangga, Surabaya, p. 1.

⁷ Sriyono and Amin Purnawan, "Legal Protection of Participants Applications for Land Certificates through Complete Systematic Land Registration (PTSL) In Blora Regency", *Jurnal Daulat Hukum* Volume 3 Issue 1, March 2020, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8431/4066>

According to Winarno several aspects contained in the definition of policy, namely:

- a. Specific goals to be achieved. Certain objectives to be achieved are those that favor the interests of the community (public interest);
- b. A series of actions to achieve a goal. A series of actions to achieve goals is a strategy that is structured to achieve goals more easily which is often described in the form of programs and projects;
- c. Proposed actions can come from individuals or groups from within or outside the government. Individuals or groups from inside and outside the government in the science of public policy are referred to as policy actors;
- d. Provision of input to implement the strategy in the form of human and non-human resources.⁸

As described, the implementation policy includes the regulations in it and is closely related to the political process. Thus, several regulations related to the transfer of agricultural land functions that are enforced are policies taken as the implementation of the authority of the Regional Government.⁹

The conversion of agricultural land to non-agricultural land has an effect on aspects of food security, namely the quantity aspect of food availability, the stability aspect of food availability and the aspect of household accessibility to food.¹⁰ Several factors can trigger the loss of production opportunities, either due to a decrease in harvested area or due to a decrease in farm productivity such as pest attacks, decreased food prices, drought or flooding and conversion of agricultural land. In pest attacks, food price declines, droughts or floods, the food problems caused can be said to be temporary, meaning that food problems arise when these events occur, but in the case of conversion of agricultural land, the food problems caused are permanent, namely the food problem. will still be felt in the long term even though the conversion of agricultural land is no longer happening.

The state is obliged to realize the availability, affordability and fulfillment of food consumption that is sufficient, safe, quality and nutritionally balanced both at the national and regional levels to individuals evenly throughout the territory of the Unitary State of the Republic of Indonesia at all times by utilizing local resources, institutions and culture.¹¹

In accordance with its authority, the Batang Regency Government's policies related to the transfer of agricultural land to non-agricultural functions include:

- 1) Determination of the Batang Regency Spatial Plan

⁸ Sri Suwitri, 2009, *Konsep Dasar Kebijakan Publik*, Badan Penerbit Universitas Diponegoro, Semarang, p 6

⁹ Irfan Islamy, 2004, *Materi Pokok Kebijakan Publik*, Departemen Pendidikan dan Kebudayaan, Universitas Terbuka, Jakarta, p 13

¹⁰ B Irawan, "Konversi Lahan sawah: Potensi Dampak, Pola Pemanfaatannya, dan Faktor Determinan", *Forum Penelitian Agroekonomi*, Volume 23 No.1, Juli 2005, p. 6

¹¹ Ahmad Ridwan and Widayati, "Implementation Of Village Funds In Implementation Of Development As An Effort To Improve Community Welfare In Kadiwono Village, Bulu District, Rembang Regency", *Jurnal Daulat Hukum* Volume 3 Issue 1, March 2020, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8778/4073>

Article 78 paragraph (4) letter c of Law Number 26 of 2007 concerning Spatial Planning mandates that all district/city regional regulations concerning regency/city spatial planning plans are drawn up or adjusted no later than 3 (three) years from the enactment of this Law. . To fulfill this mandate, Batang Regency has established a Regional Spatial Plan with Batang Regency Regulation Number 18 of 2011 concerning Batang Regency's Spatial Plan for 2011-2031.

Regional spatial planning aims to realize regional spatial planning as a balanced and sustainable agro-industrial and agro-forestry area in the utilization of natural resources and artificial resources.

2) Batang Regency Medium Term Development Plan

In accordance with the provisions of Article 19 paragraph (1) of Law Number 25 of 2004 concerning the National Development Planning System, the Batang Regency Regional Regulation Number 8 of 2011 concerning the Batang Regency Medium-Term Development Plan is drawn up and stipulated.

According to Article 2, the Batang Regency Medium Term Development Plan is a regional development planning document as a basis and guideline for the Regional Government in carrying out 5 (five) years of development and further implementation is stated in the Regional Government Work Plan (RKPD).

In the General Policy and Regional Development Program, the Spatial Planning Sector policy is formulated, in which there are programs related to controlling the conversion of agricultural land to non-agricultural uses, namely Spatial Planning and Spatial Utilization Control Programs. While in the Land Sector there is a program for structuring the control, ownership, use and utilization of land. Meanwhile, in the agricultural sector, there are no programs directly related to controlling the conversion of agricultural land to non-agricultural functions.¹²

According to the researcher, these programs are the implementation of Article 17 of Law Number 41 of 2009 concerning Sustainable Food Agricultural Land, which reads:

The determination of the Sustainable Food Agricultural Land Protection Plan is contained in the Long-Term Development Plan (RPJP), Medium-Term Development Plan (RPJM), and Annual Plans both nationally through Government Work Plans (RKP), provinces, and districts/cities.

In the implementation of the above programs, it can be stated that the implementation of programs that are directly related to the control of the conversion of agricultural land to non-agriculture, namely the preparation of a Detailed Spatial Plan whose implementation is carried out by the Public Works Department for Spatial Planning. In the 2020 and 2021 fiscal years, a Detailed Spatial Plan has been prepared. And this year it is planned to prepare the RDTR Draft.

3) Permit for Transfer of Agricultural Land to Non-Agriculture

One of the policies implemented to slow down and control the conversion of agricultural land to non-agricultural land is the application of a permit for the

¹²Muhammad Iqbal dan Sumaryanto, "Strategi Pengendalian alih Fungsi Lahan Pertanian Bertumpu Pada Partisipasi Masyarakat", *Jurnal analisa Kebijakan Pertanian* Volume 5 No.2, Juni 2007, p. 167

conversion of agricultural land to non-agricultural land. Permit is an instrument of regulation, supervision and control.¹³

In general, a permit (*vergunning*) is defined as an agreement from the authorities based on laws or government regulations to deviate from the provisions of the prohibition laws and regulations in certain circumstances. Permission can also be interpreted as a dispensation or release / release from a prohibition.¹⁴

The permit for the conversion of agricultural land to non-agriculture in Batang Regency is regulated in several regulations, namely:

- a) Regional Regulation of Batang Regency Number 18 of 2011 concerning Spatial Planning of Batang Regency of 2011-2031;
- b) Regulation of the Regent of Batang concerning Space Utilization Permits; and
- c) Regulation of the Regent of Batang Number 3A of 2014 concerning the Transfer of Functions of Agricultural Land to Non-Agriculture in Batang Regency.

Permits for the conversion of agricultural land to non-agricultural functions in Batang Regency, both in the form of Location Permits, Permits for Land Utilization and Permits to Change Land Use Status, are signed by the Regent. This is in accordance with Article 2 paragraph (3) of the Regulation of the Regent of Batang regarding Space Utilization Permits and Article 6 paragraph (2) of the Regulation of the Regent of Batang Number 3A of 2014 concerning the Transfer of Functions of Agricultural land to Non-Agriculture in Batang Regency. However, it is possible to delegate it to the Head of the SKPD in charge of licensing as specified in the next paragraph in the same article.

The Regulation of the Regent of Batang Number 3A of 2014 concerning the Transfer of Functions of Agricultural Land to Non-Agriculture in Batang Regency is a guideline for the Technical Team in deciding whether or not to approve the application for a Permit for Transfer of Agricultural Land to Non-Agriculture. This is due to the absence of a Detailed Spatial Plan which stipulates Sustainable Food Agricultural Land, so the Team is of the opinion that it has not been able to enforce the provisions of Article 44 paragraph (1) of Law Number 41 of 2009 concerning the Protection of Sustainable Agricultural Land which states that the land that has been designated as Agricultural Land for Sustainable Food Crops is protected and prohibited from being converted.

Empirically, policies in the form of laws, instructions, and programs, in a country, policies are considered as a series of actions developed by a government agency or government that has a specific purpose, followed and implemented by a person or group of actors to solve certain problems.¹⁵

4. Closing

¹³ Nuryanto and Umar Ma'ruf, "Dynamics of the Community in the Implementation of Complete Systematic Land Registration Program in the Land Office of Blora Regency", *Jurnal Daulat Hukum* Volume 3 Issue 1, March 2020, url: <http://jurnal.unissula.ac.id/index.php/RH/article/view/8430/4065>

¹⁴ Adrian Sutedi, 2011, *Hukum Perizinan Dalam Sektor Pelayanan Publik*, Sinar Grafika, Jakarta, p. 167.

¹⁵ Riant Nugroho, 2008, *Public Policy*, Jakarta: Alex Media Komputindo, p.84

The Batang Regency Government's policy related to the Transfer of Agricultural Land Functions to Non-Agriculture is the determination of the Batang Regency Spatial Plan for 2011-2031, which includes the determination of sustainable food agricultural land. However, the determination of sustainable food agricultural land is only in the form of numbers and there is no designation of locations with detailed spatial plans and or detailed spatial plans, so that the material has not been able to fulfill the mandate of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, the stipulation of Regulations Batang Regency Region Number 8 of 2011 concerning the Medium Term Development Plan of the Batang Regency, in the field of Spatial Planning, the Spatial Planning and Spatial Utilization Control Program is stipulated.

It is necessary to make a legal instrument in the form of a Regional Regulation (Perda) that protects farmers' food crop agricultural land as a legal and binding legal rule so that food crop agricultural land is not converted to other uses. Of course the Perda that will be made must be able to benefit all parties involved and therefore needs to involve all stakeholders. This regional regulation is a derivative of implementing regulations from Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land, namely the determination of the RTRW and its detailed plan (RDTR) which includes the stipulation of LPPB protection.

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