

Village Community Agricultural Law Policy In The Era Globalization

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DOI: <https://doi.org/10.32528/issn.v1i2.198>

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Published: Juli, 2022



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Abstract: Efforts to meet food needs through food security policies must be a central issue in building community welfare in villages. The starting point for the development of agricultural law politics must be based on a plan to build a sustainable agricultural system. This effort begins with the development of a sustainable rural community farming system to improve the quality of life. Agricultural policy regulations in Indonesia still cause many problems, including the conversion of agricultural land to non-agricultural land, the low welfare of farmers and land reform policies. To uncover the causes of these problems, this study aims firstly to discuss the legal politics of rural agriculture in Indonesia from the Old Order to the Reformation era, and secondly to provide ideas for improving the development of agricultural law policies in order to meet global challenges and rural economic development. This study uses a normative legal research method which is analyzed with a statutory approach and a historical approach. The results of the study conclude that, during the Old Order, the direction of legal politics in the agricultural sector was more emphasized on the inventory of agricultural and plantation land. During the New Order era, the direction of legal policy in the agricultural sector was divided into two patterns, namely the pattern towards food sovereignty and the semi-industrial agricultural pattern. The Reformation period showed the dominance of the influence of foreign capitalism in legislation and the idea offered to respond to global challenges was to build agricultural law policies based on village economic democracy.

Keywords : Legal policy, agriculture, village in the era of globalization

INTRODUCTION

Indonesia is a fertile country. The fertility of Indonesia's soil makes Indonesia an agrarian country because it has great agricultural potential and extensive agricultural land. Excellence in agriculture certainly has the potential to improve the country's economy in addition to meeting domestic food needs.[1] The need for food is one of the crucial needs in everyday life. Food has a very important meaning and role for the survival of a nation. The availability of food that is smaller than the need can create economic instability. Various social and political upheavals can be disrupted if food security is disrupted. This critical condition can jeopardize national stability and undermine the ruling government.[2] Efforts to meet food needs through food security policies must be a central issue in building community welfare. The starting point for the development of agricultural legal policies must be based on a plan to build a sustainable agricultural system. This effort begins with the development of a sustainable agriculture of the system to improve the quality of life.[3]

Agricultural management in Indonesia to date is still problematic. The problems include: first, the conversion of agricultural land to non-agricultural land. The data shows that the narrowing of agricultural land is increasingly widespread except on land that is used for farming in fields. The majority of land conversion in the agricultural sector is used for the purpose of clearing residential land due to higher population growth.[4] One of the reasons for the decrease in agricultural land is none other than because there is a conflict with the Spatial Planning and Regional Spatial Planning.

The reduction in agricultural land above causes dependence on imports of food commodities. Even ironically, as an agricultural country, Indonesia imports 29 types of food commodities.[5] Moreover, since 2010 Indonesia has faced the ASEAN-China Free Trade Area which will facilitate the entry of foreign food products into the country and beat domestic products.

Second, the main problem that causes the high conversion of agricultural land to non-agricultural land is the welfare factor of farmers. Agricultural lands are sold by their owners on the grounds of making ends meet. This shows that armed with agricultural land that is owned does not indicate the welfare of the family as farmers. According to BPS data, 29 million people in Indonesia are still below the poverty line, 18 million people live in rural areas.[6] Farmer's Exchange Rate has been around 100-105 since 2010 compared to the lower target of the National Medium-Term Development Plan (RPJMN) of 115-120.[7] This figure shows that Indonesian farmers (fishermen, ranchers, plantations) are not yet prosperous. In addition to economic factors, limited land resources and population growth add to the reasons for the high conversion of land to the non-agricultural sector. The lack of welfare makes the farming profession abandoned by the younger generation. Teenagers of productive age also prefer to become factory workers rather than farmers who indirectly support the growth of modern industry.

Third, the problem of land reform that has not been completed. Whereas land reform is aimed at improving the structure of land inequality, returning land as a means of agricultural production which has an impact on increasing productivity and raising the standard of living of farmers. However, the Agricultural Census in 2013 actually showed that every minute Indonesia lost 0.25 Ha of agricultural land, because it was converted to non-agricultural land.[8] In addition, the imbalance between land ownership and control between farmers and other sectors causes the loss of the agricultural sector to the advanced industrial sector.[9]

The three problems that have been stated above show that the regulation of agricultural policy in Indonesia has resulted in many problems, both at the conceptual and practical levels. This condition certainly hinders Indonesia's vision to achieve food sovereignty. There has also been no strong onslaught of competition from foreign parties through free markets and food imports. This condition is certainly a threat for the people of Indonesia, especially for farmers.

Legal policy in the context of this research is understood as a goal to be achieved and a means to achieve that goal.[10] The agricultural law policy shows the direction to realize the legal regulation of the agricultural sector in Indonesia, especially in rural areas. The objectives to be achieved from the management of the agricultural sector are certainly related to efforts to protect and empower the agricultural sector from the threat of the free market vortex and international trade through the World Trade Organization (WTO). Free markets and international trade are forms of economic globalization that are thick with the spread of liberalism.[11] The legal issues in this study are: how is the legal policy for the agricultural sector of rural communities in Indonesia and how to build appropriate agricultural law policies in Indonesia in facing global challenges.

METHOD

This research is included in the typology of normative legal research which is analyzed using a statute approach and a historical approach. The statutory approach is carried out by examining the laws and regulations related to legal politics in agriculture, while the historical approach is used to

describe the development of the pattern of law formulation in the agricultural sector since the old order, new order, and reform eras.[12]

This study uses secondary data that includes primary legal materials consisting of legislation in the agricultural sector including Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA), Law Number 7 of 1994 concerning Ratification of Agreement Establishing the World Trade Organization (Approval for the Establishment of the World Trade Organization), Law Number 25 of 2007 concerning Investment, Law Number 41 of 2009 on Protection of Agricultural Land for Sustainable Food, Law Number 19 of 2013 concerning Protection and Empowerment of Farmers, Regulations President Number 44 of 2016 concerning List of Business Fields Closed and Business Fields Open with Requirements in the Investment Sector, as well as secondary legal materials in the form of laws and regulations which have now been declared revoked and invalid, books or references related to the issues discussed.[13]

Data collection was carried out by extensive or intensive literature study in order to study, research, and trace secondary data. The data obtained were analyzed descriptively-qualitatively by referring to theories, concepts, and laws and regulations.

RESULTS AND DISCUSSION

Mahfud MD emphasized that legal policy is actually an official direction or line that is used as the basis for making and implementing laws in order to achieve the goals of the nation and state.[14] Meanwhile, Hans Kelsen argues that legal policy is politics as ethics and politics as technique.[15] Ethical politics is an act of choosing and determining the goals of social life that must be fought for. While politics as a technique revolves around the act of choosing and determining the means and means to achieve the goals of social life that have been chosen.

This research intends to emphasize the discussion of legal policy as ethics, which is related to the direction/basic ideas chosen to determine the purpose of life, especially in the agricultural sector. Steps taken to review legal policies on ethical aspects in agriculture are carried out by outlining the history of the formation and enforcement of laws in agriculture from the old order era to the reform era.

a. Legal Policy in Agriculture in the Old Order Era

Agricultural law policies in the old order and new order era left a big burden for the government in the reform era. This is in view of the many problems in the agricultural sector which are the legacy of agricultural policies in the two eras. In the old order era (1945-1967), the main focus of agricultural law policy was directed at efforts to: a) nationalize Dutch plantations;[16] b) increasing food production by establishing programs and intensifying extension programs through the Village Community Education Center (BPMD);[17] and c) settlement of agricultural land disputes which are then programmed into land reform.[18]

The government in the old order era formulated the Standing on Your Own Feet program which was realized through: a) the people's welfare distribution program with land reform which was initiated through the issuance of Law Number 5 of 1960 concerning Basic Agrarian Regulations (UUPA) along with other regulations. implementation;[19] and b) implementing the Special Prosperity Plan (RKI) program aimed at developing the agricultural sector by developing new methods of farming techniques, building supporting institutions for production facilities, and others.[20] Unfortunately, the program is not running effectively.[21]

b. Legal Policy in Agriculture in the New Order Era

In the new order era (1968-1998) legal strategy in agriculture was directed to achieve three things, namely: a) strengthening national food security; b) spur economic growth and improve national economic stability; and c) increase farmers' income.[22] The agricultural policy direction is prioritized to spur the development of the national rice agribusiness and implement it consistently and sustainably. The implementation of the national rice agribusiness development strategy is carried out comprehensively and integratively involving analysis in the social and political economy sectors so as to achieve food security. Strengthening national food security is defined as an effort to ensure the population's rice needs so that food security policies focus on the supply of rice.

Programs run by the government in the new order era to achieve food security include: a) Green Revolution;[23] b) Mutual Cooperation Guidance Program;[24] and c) Rice Self-Sufficiency.[25] What is striking about the agricultural law strategy in the New Order era is the dominance of the involvement of foreign industries in food security programs, especially in the field of providing chemical fertilizers and pesticides. The existence of foreigners is supported by Law Number 78 of 1958 concerning Foreign Investment which was later updated to Law Number 1 of 1967 concerning Foreign Investment (UU PMA). Foreign capital is considered very important to help encourage the country's national development, even though the PMA Law is considered by some to be one of the legal products with a liberal-capitalist pattern.[26]

This condition was exacerbated by the existence of loan assistance from the International Monetary Fund (IMF) after the decline in the rupiah exchange rate.[27] In essence, the IMF's recommendations in the items of the Letter of Intent (LoI) agreement aim to permanently integrate the global economy into the national economy through the implementation of certain policy recommendations.[28] This policy recommendation is a liberal-capitalist policy and is known as the Washington Consensus.[29]

c. Legal Policy in Agriculture in the Reformation Era

After the issuance of the economic decentralization policy, agricultural development activities tended to decline. This is because agricultural development requires large costs while the return cannot be directly obtained by investors. Investors are more interested in investing in industry, mining, forest exploitation, and tourism.[30] In addition, political factors are an obstacle to not being optimal in the agricultural development program due to differences in perceptions between the executive and the legislature.[31] The differences in perception above certainly have an impact on the preparation of Regional Development Plans and the determination of budget allocations.

In addition to problems in the realm of granting authority and investment, land is the most essential issue in agricultural development activities. The issue of Land Protection for Sustainable Food Agriculture (PLP2B) is one of the many complex agricultural problems in the reform era. As a result, the main concepts and objectives of PLP2B have not been achieved as expected. The twelve aspects of PLP2B management include: 1) planning and determination; 2) development; 3) research; 4) utilization; 5) coaching; 6) control; 7) supervision; 8) information systems; 9) protection and empowerment of farmers; 10) financing; 11) community participation; and 12) administrative sanctions. The results of the study of PLP2B policy implementation based on the twelve indicators above show that there are programs that are not in sync with PLP2B so that the agenda is not on target. Of the twelve indicators, only research aspects have been routinely carried out in several re-

gions. Meanwhile, other aspects have not been synchronized with other agricultural policies related to PLP2B.

The basic thing that has not been implemented is the maturity of the preparation of the RTRW by the local government. Article 16 paragraph (1), Article 17, and Article 19 paragraph (1) of Law no. 41 of 2009 confirms that the determination of the area for Sustainable Food Agriculture (P2B) is part of the determination of the spatial plan for rural areas in the district in the district spatial plan in accordance with the provisions of the legislation. Based on the information above, it is known that the P2B area is defined in the RTRW. The RTRW study confirms that each region must map land developments that are a priority for the PLP2B program.

In addition to Law no. 41 of 2009, Law no. 19 of 2013 concerning the Protection and Empowerment of Farmers has also properly regulated efforts to protect farmers as stipulated in Article 12 paragraph (2). Farmer protection is intended to guarantee employment for farmers, both sharecroppers and farmers who own land, so that each farmer can optimize all his efforts and works to produce food products. Article 25 of Law no. 19 of 2013 has also regulated the government's obligation to produce favorable prices for agricultural commodities for farmers. The government's obligations can be carried out in the form of setting tariffs on agricultural commodities, entry points for agricultural commodities from abroad in the customs area, administrative requirements and quality standards, balanced agricultural product market structures, and food price stabilization policies. These provisions should be able to become a legal instrument to improve the standard of living of farmers.

However, Law no. 19 of 2013 still has various legal issues, such as: 1) the basic concept of protecting agricultural land is not in line with the spirit of Law no. 5 of 1960; 2) there are several norms that deviate from the concept of state property rights (HMN) which place farmers as tenants and not owners; 3) the existence of this law actually encourages the occurrence of feudalism in the agrarian field; 4) trigger speculation and commercialization of land tenure and management.[32] The four problems are based on the concept of land reform which has not been completed.

The existence of Article 55 paragraph (1) of Law no. 19 of 2013 confirms that the Government and Regional Governments in accordance with their respective authorities are obliged to guarantee the availability of agricultural land. One of these guarantees is carried out by guaranteeing the area of agricultural land (Article 55 paragraph (2) letter b of Law No. 19 of 2013). Steps that can be taken by the government and local governments to guarantee the area of agricultural land are to provide convenience for farmers to obtain free state land designated or designated as agricultural areas (Article 58 paragraph (2)). Unfortunately, the process of granting access to manage agricultural land is charged with a lease model, not property rights. So in addition to having to spend capital to use the land, farmers also need to spend capital to rent the agricultural land. Although the concept of land lease as regulated in Article 69 of Law no. 19 of 2013 has been canceled by the Constitutional Court through the Constitutional Court Decision No. 87/PUU-XI/2013, but until now there is no clarity regarding its implementation.

In addition, the regulation of agricultural insurance as regulated in Article 7 paragraph (2) letter g of Law no. 19 of 2013 is still reaping problems. The implementation of agricultural insurance is faced with several fundamental challenges, such as: a) institutional challenges related to institutions, legal and regulatory frameworks, and the role of insurance companies in the framework of financing partnerships for agricultural insurance development; b) financial challenges related to

cost efficiency of agricultural production risks; and c) technical challenges related to risks in agricultural production, provision of infrastructure and weather information services.[33]

Global challenges in the agricultural sector today are introduced through economic globalization which is manifested in the form of free markets and international trade in agricultural products.[34] Economic globalization is seen as providing benefits because it provides easy access to buying and selling goods freely through the free market. The existence of economic globalization has slowly shifted the realm of the country's economic policies from democratic to liberal. Economic globalization is intended to restructure the economic systems of developing countries in the form of liberalization of domestic trade and investment regulations as happened in the New Order era.[35]

The real implications of economic globalization can be seen in the practice of free markets. The free market, if analyzed according to international trade theory, is trade between countries that is unimpeded, thus providing opportunities for each country to highlight its superior products.[36] However, economic globalization has adversely affected the condition of farmers, especially small farmers. Farmers are required to compete with food distribution systems in global markets controlled by multinational companies. In addition, farmers must also be faced with increasing production costs due to the ineffectiveness of providing fertilizer subsidies. This condition is a threat to the survival of domestic agriculture.

One of the legal policies to face global challenges, especially free markets and international trade, is conceptualized with implementation based on economic democracy. Economic democracy is sovereignty in determining the direction of economic policy by the people. Economic democracy is the main characteristic of the alignment of the economic system prevailing in a country. The idea of economic democracy has been regulated in Article 33 of the Constitution of the Republic of Indonesia (UUD NRI 1945).

Based on the above concept, there are 2 (two) things that must be emphasized to restore legal policies in the agricultural sector so that they can compete in the free market, namely: a) formulating legal policies based on economic democracy and b) improving the mentality of policy makers, especially coordination between the Minister of Agriculture and the Ministry of Agriculture. Minister of Trade. Law is translated as a tool to achieve goals and achieve goals, so legal policy is defined as the direction that must be taken in law making and enforcement in order to achieve the ideals and goals of the nation. Legal policy is an effort to make law a process of achieving goals and objectives. Efforts to achieve goals and objectives with these foundations and guidelines require a national legal system that is built on Pancasila, namely a legal system that takes and combines various values and interests, social values, and the concept of justice into one prismatic legal bond by taking cultural elements into account.[37]

The essence of the procedure for developing legal policies above is used as a means to formulate the direction of agricultural strategic policies based on food sovereignty, containing a balance of individual and collective interests, and taking into account the values of Pancasila. The development of legal policies in the agricultural sector must maintain a balance of three triangulation points originating from values/norms, religion, and culture so as to form a balance in the objectives of the political development.

Specifically, the above legal policy development model must be accompanied by the development of strategic agricultural steps which include: a) increasing farmers' income and standard of

living; b) expanding employment and business opportunities; and c) meet demand and expand the market. Meanwhile, agricultural efficiency must be implemented with indicators of achieving the highest agricultural products in order to provide opportunities for farmers to be more independent. Therefore, in order to increase the yield of farming, it is necessary to increase and diversify the yield.[38]

CONCLUSION

Based on the description above, it can be concluded that: First, agricultural law policies in Indonesia in the Old Order era tended to be directed at agricultural land inventories and efforts to nationalize Dutch plantations. During the New Order era, the direction of legal policy in the agricultural sector was divided into two patterns, namely the pattern towards food sovereignty through the Green Revolution and Rice Self-Sufficiency and the second pattern was semi-industrialized agriculture which was marked by the cooperation of foreign companies as food crops providers. During the reformation period, legal policies in domestic agriculture tended to lead to foreign interests as a result of Indonesia joining the WTO. This can be seen from the dominance of foreign regulations, both in terms of the distribution of GMO products, land tenure that is prioritized by corporations, the concept of sustainable food land protection that is not integrated, and the condition of farmers who are not prosperous.

Second, the idea of developing legal policies in the agricultural sector in order to face future global challenges (*ius constituendum*) is pursued by implementing a legal policy development system based on the values of Pancasila. This legal policy based on Pancasila values can be implemented by internalizing economic values based on democracy as initiated by Moh. Hatta. Specifically, the agricultural law policy development model must also be accompanied by actions to develop agricultural strategic steps.

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