



Legal politics of sustainable food agricultural land conversion for public interests in a just legal perspective

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Abstract

This research aims to find out and analyse how the legal politics of changing the function of agricultural land are sustainable for the public interest from the perspective of just legal certainty and to find out and analyse how the reconstruction of legal politics is related to the transfer of the function of agricultural land with legal certainty. The problem of this research is why the legal politics of transferring the function of sustainable agricultural land in Indonesia have not provided fair legal certainty. The method used is normative juridical, namely legal research carried out by examining library materials or secondary legal materials regarding legal politics and land law as basic material for research by conducting searches on regulations and literature relating to the legal politics of the transfer of functions. sustainable food farming land for the public interest. The results of this research show that Article Paragraph 2 of Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land is also strengthened by special regulations, namely Law Number 2 of 2012, which is the main factor in the transition of agricultural land functions for the public interest in Indonesia. Apart from that, there are other factors, such as the existence of land control rights by the state and other supporting factors, that cause the shift in the function of agricultural land to be inevitable. Apart from that, in this case, the government has attempted to provide protection for sustainable agricultural land so that it is not converted; however, there are regulations for holding land for public purposes, and in this article, there are also exceptions to this. So these regulations are unable to provide full protection for the existence of sustainable food farming land in Indonesia.

Keywords: Legal politics, control of land transfers, public interest, and justice

Introduction

The introduction should The Republic of Indonesia is an agricultural country, where the majority of the population earns their livelihood in the agricultural sector (agrarian) either as land-owning farmers, land cultivators, or farm laborers. Therefore, land is important for human survival. Everyone needs land because, for agricultural countries, land has a very important position. So land must be considered for its allocation and used as much as possible for the prosperity of the people. This idea has been mandated in Article 33 Paragraph 3 of the 1945 Constitution: Earth, water, and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

Land for the Indonesian people has a special position. Therefore, the provisions and regulations on land as an object are separated from the provisions on non-land objects. The special position of land in the lives of customary law communities and in the world of thought of Indonesian society today is accommodated in the UUPA, which states that there is an eternal relationship between the Indonesian nation and land. The position of land for the Indonesian people can be seen from cultural, ideological, and social aspects ^[1].

Land is also a medium that binds social unity between communities for life and existence. For one group of people, land has different meanings. In its development, land tends to be viewed more from an economic perspective. Land has grown as a very important economic object as well as a material for commerce and an object of speculation ^[2].

When the UUPA was implemented, the principles contained in customary law were enhanced in a national setting so that the regulation of object law regarding land was also

separated between land law and non-land object law. Article 5 of the UUPA states that agrarian law that applies to earth, water, and space is customary law, as long as it does not conflict with national and state interests. Apart from that, the legal principles are formulated from a combination of modern and traditional social values, which are intended to ensure that the regulation of land control and use leads to the creation of equal prosperity for all people and community groups ^[3].

Indonesia is an agricultural country where many of its residents make their living as farmers, so agricultural land is the main thing that must be available. The limited amount of land and the increasing need for the state to carry out development are the forerunners to the transfer of land functions. Whether the land is forest areas, residential areas, or agricultural land. Government policies regarding the making of regulations cannot be separated from the objective conditions that occur. On the one hand, the government makes regulations to provide protection for agricultural land to ensure food security, and on the other hand, the government makes policies to build infrastructure for the welfare of the people. Where development launched by the government requires land that can be used for development, With the increasing population, the greater the people's need for food, the greater the available agricultural land. However, with plans to increase development, which definitely requires land, agricultural land has often been sacrificed and has been converted to non-agricultural use for development under the pretext of public interest.

The decline in agricultural land area in Indonesia is largely due to land conversion or change of function. Changing the land function of part or all of a land area from its original function to another function, which has a negative impact on

the environment and land potential ^[4]. The imbalance between the amount and area of available land, which does not increase with the increasing need for community use, makes land vulnerable to problems, so state intervention through its institutions in the land legal order is an absolute must. The amount and area of land that is not balanced with the needs of society will give rise to competition between people to obtain land. Apart from that, because of the many functions, benefits, and limited availability of land to support human life, this can result in many land cases, which have long been a reality. social in every society, even though in different forms and identities ^[5].

Politics and law depart from the assumption that law is a political product, so that law is seen as a juridical formality of interacting and competing political wills ^[6]. Departing from this assumption, the legal and political study of land law is also a form of certain political configuration that will give birth to legal products with certain characteristics. After the proclamation of independence in 1945, the Indonesian government received many demands to reform the agrarian law left over from the Dutch colonial era by issuing new legislation. In facing these demands, the newly independent Indonesian government took two very responsive steps, namely by issuing various partial laws and regulations and preparing a draft of the new National Agrarian Law ^[7].

The Basic Agrarian Law is the main elaboration and legal principle of Article 33, paragraph (3), of the 1945 Constitution and is also a source for the development of national land policies and regulations. Furthermore, the principles stated in the UUPA are directed at ensuring the realization of prosperity for all Indonesian people, especially for community groups who were marginalized by previous land law policies.

Dengan pilihan prinsip-prinsip yang dimaksudkan menjamin terwujudnya tujuan tersebut, UUPA dapat ditempatkan sebagai hukum progresif ^[8]. It is intended that the UUPA is an instrument to create a change in society that is advanced in the economic field by structuring the structure of land ownership, which on the one hand encourages changes in increasingly advanced agriculture and industry but does not ignore justice in creating equal distribution of land.

On the one hand, the UUPA wants to encourage the progress of the agricultural and industrial economies by giving individual land rights to each person or company on a large scale and requiring them to produce optimally. However, on the other hand, UUPA tries to prevent negative socio-economic-political impacts from the process of achieving progress by imposing social functions on land rights, land conservation obligations, special treatment for weak groups, accommodation in cooperatives for large-scale businesses, and prohibitions on monopolies.

Furthermore, the limited amount of land for development can give rise to various problems. The conflict that occurs in terms of development really requires land as the main means, and on the other hand, some community members also need land as a place to live and as a place for their livelihood. This situation cannot be avoided. When the land is simply taken and used for development, it is clear that the human rights of the affected community members are sacrificed ^[9].

The conflict over the transfer of agricultural land to non-agricultural land for development is also part of the typology of land conflicts in Indonesia. The existence of

land acquisition for the public interest has indeed been legitimised through statutory regulations. However, land issues in Indonesia, which are influenced by the political economy, are also inseparable from the dynamics of the political economy. Political and state policies in the land sector are also influenced by economic ideology. Where the economic value of land is more emphasised, so that the shift in land value is unstoppable. In Indonesian agrarian history, it can be said that political economy has always influenced agrarian legal politics, from the colonial era to the reform era ^[10].

Protection of agricultural land has actually become the government's concern, as the government issued Law Number 41 of 2009 concerning the protection of sustainable agricultural land. Article 44, paragraph 1, of Law Number 41 of 2009 states that land that has been designated as sustainable food farming land is protected and prohibited from being converted. However, the same article in paragraph (2) states an exception related to this protection, namely when the transfer of function occurs because it is in the public interest. The conversion of agricultural land for public purposes is regulated in Article 44, Paragraph 3, of Law Number 41 of 2009. In this article, it can be seen that to be able to convert agricultural land, it must go through a strategic feasibility study process, land conversion is arranged, ownership rights are released, and replacement land is provided. Even though there are regulations governing the transfer of agricultural land, the area of agricultural land is still decreasing every year.

Refers to regulations related to the protection of sustainable agricultural land, which aim to prevent land use from occurring, but there are exceptions if pressured by the public interest. This happens because, on the one hand, the government implements a food security policy by protecting and prohibiting the transfer of agricultural land to other uses, but on the other hand, the government makes exceptions, which causes the government to be inconsistent in implementing the policy. In terms of maintaining domestic food stability, the government also makes regulations governing it, namely Law Number 18 of 2012 concerning food.

The transfer of agricultural to non-agricultural land for public purposes cannot be separated from existing regulations. The creation of regulations is also inseparable from the existing political configuration. However, with the existence of these regulations, they should be in synergy with one another until the goal of making these regulations is achieved and justice is created for all levels of society. These regulations should also be based on the legal ideas or ideals expected from the law, and of course, these regulations will realise what has been mandated by the 1945 Constitution. Based on this description, the central theme that is relevant to research is "Legal Politics of Conversion of Sustainable Food Agricultural Land for Public Interest in a Justice Perspective".

Discussion

1. History of Regulations for Controlling the Conversion of Agricultural Land Public Interest

a. Land Law Products

At the time of the proclamation of Indonesian independence on August 17, 1945, it was read by Soekarno and Hatta in the name of the Indonesian nation, becoming a historical milestone as a symbol of the formation of the Unitary State

of the Republic of Indonesia. Juridically, the proclamation means the termination or invalidation of colonial law and the entry into force of national law. Apart from that, the proclamation also has an important meaning in efforts to formulate national agrarian law.

In Article 2 of the Transitional Rules of the 1945 Constitution, all bodies and regulations that were established and are colonial products are declared to still be valid as long as they have not been revoked, have not been changed, or have not been replaced with new ones. There are several government efforts to adapt colonial agrarian law to the conditions and needs of Indonesia after independence, as follows: using new policies and interpretations, abolition of parcels of land, changes to public land rental regulations, additional regulations to supervise the transfer of land rights, regulations and actions regarding plantation lands, increases in Canon and Cijn, regulations on production sharing agreements, and the transfer of agrarian duties and authority.

One manifestation of Article 33, Paragraph 3, of the 1945 Constitution was the publication of the Basic Agrarian Law, which, from its inception, had populist characteristics. As the first national laws produced 15 years after the Republic of Indonesia's independence, the provisions contained in the UUPA articles are the embodiment of the principles of Pancasila.

UUPA is the basis for land law in Indonesia, including Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land and Law Number 12 of 2012 concerning Land Acquisition for Public Interest. The UUPA contains several principles from the National Agrarian Law. These principles, because they are basic, must automatically animate the implementation of the UUPA and all its implementing regulations. These principles include ^[11]:

1. Principles of Nationality.
2. The principle of the highest level, earth, water and space, and the natural resources contained therein are controlled by the State.
3. The principle of prioritising national and state interests based on national unity rather than individual and group interests.
4. The principle that only Indonesian citizens can have ownership rights to land.
5. The principle of equality for every Indonesian citizen.
6. The principle of agricultural land is that it must be worked or cultivated wisely by the owner himself, preventing methods that constitute extortion.
7. Principles of land use/planned use of land.

During the Dutch colonial period, Indonesia implemented regulations regarding controlling the conversion of agricultural land. One of the colonial legal products that was implemented in 1870 was *Agrarische Wet*, which was equipped with the implementing regulations *Agrarische Besluit*. AW is issued with two objectives, namely primary objectives and secondary objectives. The primary objective is to provide foreign (private) parties with the opportunity to obtain large plots of land from the government for a long time and at low rental prices. The secondary objective is to protect the rights of *Bumi Putera* residents to their land ^[12].

The most important thing about AB regulations is the legal politics of state domain land law, better known as *Domein Verklaring*. All land to which *eigendom* rights cannot be

proven is *domein* (state property). Based on article 1 of the *Agrarisch Besluit*, it is known that there are two forms of state land, namely: first, state land, which is called free state land; that is, this land does not yet exist or has never been attached to any rights. As long as it is not registered only by voluntarily submitting to western law, the land controlled by the people is part of or has the status of state land, which is termed state land occupied by the people. Second, non-free state land is state land on which there are people's rights to land or lands controlled or occupied by the people based on their customary law.

However, its development and overall colonial agrarian politics produced an agrarian structure that did not have legal unity; there was no equality of subject status, seen from those who controlled or owned the land; there was no balance in land control and use; and there was no legal order. The agrarian law that existed during colonial rule was certainly more profitable for foreign parties, both in terms of ownership and power over land rights. This can also be seen in the imbalance in land control of a large number of farmers who only have very little land or even no land at all ^[13].

b. Basic Agrarian Law

The birth of UUPA overhauled the entire system adopted in AW.

and all implementing regulations simultaneously eliminate fundamental problems in the old agrarian law. However, before 1960, there were several legislative regulations in the agrarian sector issued by the government in order to eliminate colonial legacy laws. Like Law Number 19 of 1956 concerning Determination of Dutch-Owned Agricultural/Plantation Companies Subject to Nationalisation; Law Number 28 of 1956 concerning Supervision of the Transfer of Rights to Plantation Land; Law Number 29 of 1956 concerning Government Regulations and Measures Concerning Plantation Land; and other provisions relating to the use of land belonging to Dutch citizens returning to their country.

Apart from that, there is a main agenda for the UUPA to establish a comprehensive agrarian structure. Then several other landform regulations include Law 2 of 1960 concerning production sharing agreements, Law No. 56 of 1961 concerning the determination of agricultural land area, and PP No. 24 of 1961 concerning the implementation of land distribution and the provision of compensation.

Judging from the development of land law in Indonesia, which started with regulations made by the colonials and entered the UUPA, which was born after Indonesia's independence from foreign colonies, So it is hoped that the current land regulations will be able to provide justice to the Indonesian people by realising the legal ideas contained in the 1945 Constitution and UUPA.

2. Problems of Changing the Use of Sustainable Food Agricultural Land

a. Shifting Land Values

Shifts in land values can be seen when there is a change in economic ideology from political to capitalistic. Besides that, there is a change in the view of the land. When land is considered a commodity, changes in the social function of land are also inevitable. The position of land is influenced by the socio-economic characteristics of a society. There are four types of socio-economic patterns in the history of

societal development that influence the position of land: 1) pre-capitalist society; 2) capitalistic society; 3) socialistic society; and 4) populist society^[14].

There is no concept of ownership of land, and land is also seen as a means of production that is controlled communally. This applies to the pre-capitalist style of society. Every individual can also use and manage land without having to own it. Then it developed in a capitalist society, where land was seen as a means of production that was owned individually. The use and management of land are the full rights of the landowner. The state cannot remove or eliminate the land ownership status of its citizens except through established statutory mechanisms. This can be seen when sustainable agricultural land is transferred, which is registered as the property of citizens but can be taken and repurposed according to regulations set by the government.

In a socialistic society, land is seen as a means of production that is not controlled by certain individuals or groups but is controlled and managed jointly or collectively. Land is seen as a means of production that has a social function and is not used as a commodity; this can be seen in the populist style of society. In this system, people can own land individually, but not absolutely. This means that the state can intervene if ownership or control of land develops into a source of exploitation for other parties.

Looking at the development of society in Indonesia, there are differences with countries in Europe in particular. The Indonesian nation went through three phases of change in the development of society. Starting with the pre-capitalist period, where land was controlled communally. Then the next phase is that land is seen as a commodity; this happened during colonial rule over Indonesia. In this phase, the Dutch colonialists referred to it as *tana eigendom*, *erpacht land*, and *opstal land* (land with western rights)^[15].

Finally, there is the populist phase, where land is seen as a means of production that has a social function and is not used as a commodity. This phase occurred after independence and until the end of the Old Order. UUPA's spirit and philosophical foundation adhere to a populist system. The UUPA emphasises the need to implement land reform as a condition for the development of a just and equitable agrarian structure.

The transfer of agricultural land functions is a form of state legitimacy that upholds the concept of the state's right to control. Land is part of the commodity as a basis for development, and the state has full power to regulate everything. Currently, it can be seen that land as an economic commodity has become very important. This is influenced by the decreasing amount of available land while population growth continues to increase. In addition, as the population increases, the country's need to increase infrastructure increases. The transition of land functions from non-agricultural land to sustainable food-farming land is inevitable. Supported by regulations made by the government, the transition to the function of sustainable food farming becomes legal.

Besides that, the factors of free trade and globalisation have resulted in fertile areas, dense populations, and relatively safe countries becoming appropriate objects for investment by large capitalists. Indonesia's economy is also getting better, and it is a country rich in natural resources, which is an attraction for foreign investors. This investment process results in the need for adequate land and infrastructure, so providing land becomes a priority. This condition is also a

factor in the shift in the function of agricultural land and the impact of the increasingly limited agricultural land available. The pretext of public interest is something that cannot be avoided anymore, and, supported by existing regulations, maintaining agricultural land has become impossible.

b. Norma Norm Conflict

The law also has a function as a social engineering tool. This includes the use of law as a means to overcome a situation that threatens food security in order to realise the availability of sustainable food farming land. To carry out this social engineering function, the law is considered to have the ability to change situations. The situation that you want to change must start from an unfavourable condition towards a better one^[16].

The increasing process of land conversion has become the government's concern. With the passing of Law Number 41 of 2009 concerning the protection of sustainable food and agricultural land, The consideration in the ratification of this law is that agricultural land is a gift from God Almighty and is used for the prosperity and welfare of society. Indonesia is an agricultural country, so it must be able to guarantee the provision of agricultural land in a sustainable manner. The state has an important role in fulfilling people's right to food, so it is obliged to ensure food independence, security, and sovereignty. This rule is also in line with Law Number 18 of 2012 concerning food^[17]. To achieve stability in food availability and food independence in Indonesia, the rules for protecting sustainable agricultural land are interrelated and synergistic. This is also an effort that has been made by the government to control the widespread conversion of agricultural land^[18].

Article 44, paragraph 1, of Law 41/2009 states that land that has been designated as sustainable agricultural land is protected and prohibited from being converted. However, in the same article, Article 44, paragraph (2), it is stated that there are exceptions regarding this protection if the land is needed for public purposes. Article 44 paragraph (3) of Law Number 41 Number 2009 concerning Protection of Sustainable Food Agricultural Land states that "the conversion of land that has been designated as sustainable food agricultural land for the public interest as intended in paragraph (2) can only be carried out on condition that: 1) A strategic feasibility study is carried out, 2) A land conversion plan is prepared, 3) Ownership rights are released from the owner, and 4) Replacement land will be provided for sustainable food farming land that is being converted.

Sustainable food farming land is protected and cannot be transferred except for public purposes. This exception means that the protection of sustainable agricultural land is not fully protected. Indecisiveness and exceptions in regulations cause a loss of the strength of the main objective of the reason the regulations were born. Article 6 of the UUPA explains that every land has a social function, so land use, including changes to social functions, cannot be applied to some land. The principle that every land has a social function does not apply to agricultural land. Because agricultural land has the function of providing food for the entire community.

Weak regulations control land conversion in the form of unclear regulations made by the government or related officials. The indecisiveness of these regulations includes

the strength of the law and the firmness of law enforcement, which can take the form of sanctions for violations. As in Law 41/2009, the government hopes that the formation of this law can prevent the transition of sustainable food farming land functions, but there are exceptions that weaken the rule. This has resulted in an increasingly high level of conversion of agricultural land functions in Indonesia. The Central Statistics Agency states that the area of raw rice fields continues to decline, and in 2018, the area of land was only 7.1 million. This figure has decreased compared to 2017, namely 7.75 million hectares.

c. Other Factors

Apart from the concept of a nation's rights, the right to control by the state, and shifts in land values, there are other factors that cause massive conversions of land to sustainable food agriculture. Besides the main factor, namely the lack of clarity in the regulations in Law 41/2009, which do not have full force to provide protection for sustainable agricultural land, the conversion of agricultural land to other functions, either in part or in whole, is also supported by the existence of driving factors, namely:

1. Rapid population growth. With a fixed amount of land, but the population continues to increase, this can certainly cause various impacts on the environment where they live. One of them is the conversion of agricultural land into non-agricultural land to meet various living needs, which are also increasing.
2. An increase in the community's housing needs. Of course, demographic growth also demands basic needs, including housing. When the land in the breeding area is no longer sufficient for the required needs, the conversion of agricultural land becomes the solution to this problem. However, the conversion of agricultural land is not comparable to the opening of new agricultural land. So it is inevitable that a rice field crisis will occur, especially in urban areas or towns on the outskirts of big cities.
3. The high costs of running agriculture. The increase in the price of fertiliser, agricultural seeds, irrigation costs, and even the rental price of farmers' labour has made them divert the function of their land.

These driving factors are the driving factors for the sustainable conversion of agricultural land for food. Regulations that are not strong in providing protection for agricultural land are also supported due to political, economic, demographic, and cultural aspects.

The political aspect is the existence of policies taken by decision-makers that influence changes in land use. In his book *An Environmental History of the Twentieth Century World: Something New Under the Sun*, McNeill wrote: The politics of a policy in which environmental considerations formed a conscious element had modest effects^[19]. Politics and policies for environmental considerations are elements that are recognised as having the greatest effect. This quote explains that politics has quite a big influence on actions taken, including for the environment. Then, in land transfer, politics also plays quite a big role. The economic aspect occurs when there are changes in income and consumption, which cause changes in land use. When the need for space increases while land is minimal, this results in a shift in the function of agricultural land.

Demographic aspects: demographic components include birth, marriage, migration, and social mobility. Patterns of land use change are also caused by population growth. The increasing population naturally increases the need for housing. However, apart from that, as the population increases, human needs for food will increase. So policymakers and those making decisions must be able to consider the main needs and other supporting needs so that no main interests are neglected.

Cultural aspects are also inseparable as factors influencing land use changes. The development of the times has also changed human thought patterns to become more developed. Cultural aspects cannot be separated from social aspects and are called socio-cultural aspects. Environmental impact analysis (Amdal) also examines socio-cultural aspects related to changes in land use.

3. Political Legal Reconstruction of Sustainable Food Agricultural Land Protection for The Public Interest.

The conversion of agricultural land, especially food agricultural land, has direct and indirect impacts and has serious implications in the form of negative impacts on food production, the environment and society. The conversion of agricultural land can reduce food production capacity. So there is a need for government policies that strive to fully maintain and protect the existence of food agricultural land in Indonesia.

In the preamble to the 1945 Constitution, it is stated that the goal of the state is "to protect the entire Indonesian nation and all of Indonesia's blood and to promote general welfare, educate the life of the nation, and participate in implementing a world order based on freedom, eternal peace, and social justice." Improving general welfare is the state's duty; this is also reflected in maintaining sustainable food farming land so that it cannot be converted to meet food needs, especially for citizens. Having guaranteed food needs is a very fundamental human right, so it is the state's responsibility to fulfil it^[20].

The constitution guarantees that everyone has the right to land. This guarantee was confirmed by the issuance of Law Number 11 of 2005 concerning Ratification of the International Covenant on Economic, Social, and Cultural Rights (International Covenant on Economic, Social, and Cultural Rights).

Even now, the need for land continues to increase, and land being interpreted as a capital asset is increasing due to increasing development activities. The need for land has also increased, but the amount of land has not increased. This has resulted in land being converted for various purposes. To support these development goals, where there is minimal state land available, private lands, whether owned by individuals, legal entities, or indigenous communities, will be repurposed so that sustainable food farming land can also be repurposed.

Problems began to emerge regarding the availability of land for development. Conflicts of various interests occur when development requires land as the main means, while on the other hand, the government has made policies to protect sustainable agricultural land in particular from being converted. This is supported by Law Number 41 of 2009.

However, in the same regulation, protection for sustainable food farming land can be removed if land or land intended for public use is needed. Regulations regarding land for public purposes are strengthened by Law Number 2 of 2012

concerning land acquisition for development in the public interest. The formation of this law is also an implementing regulation of Article 18 of the UUPA. The preamble to the law states that to achieve or realise the prosperity of a just, prosperous, and prosperous society, the government needs to carry out development. To guarantee the implementation of development in the public interest, land acquisition is needed, which is carried out by prioritising humanitarian, democratic, and fair principles.

In the process of land acquisition for public purposes, especially as a result of the transfer of agricultural land to non-agricultural functions, it is very vulnerable to the emergence of problems. Problems arise when, on the one hand, the community whose land is the object of conversion and the government must require land for development.

Procurement of land for public purposes will require compensation. Compensation is regulated in Article 33 of the Land Acquisition Law, which is given to each parcel of land. The value can vary based on: 1) land; 2) above-ground and underground space; 3) buildings; 4) plants; 5) objects related to the land; and/or 5) other losses that can be assessed. Criteria according to experts for determining the amount of compensation include: 1) Any losses resulting directly from revocation of rights must be fully compensated; 2) Losses are caused by the remainder of those whose rights have not been revoked being reduced; 3) Losses due to not being able to use the object or due to loss of income; and 4) Losses due to having to look for another place of business as a replacement^[21].

Public interest in Law Number 2 of 2012 concerning land acquisition means the interests of the nation, state, and society, which must be realised by the government and used as much as possible for the prosperity of the people. The process of acquiring land for public purposes often requires sacrificing other community interests. Thus, land procurement for public purposes aims to provide land for the implementation of development in order to improve the welfare and prosperity of the nation, state, and society while still guaranteeing the legal interests of the entitled parties.

Based on the existing regulations, sustainable food agricultural land has the power to be protected and maintain its existence under Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land. However, this power is meaningless if the government transfers the function of agricultural land to non-agriculture under the pretext of being in the public interest. So, by going through all the processes, land procurement is required, which has also been strengthened by Law Number 2 of 2012 concerning land acquisition for development in the public interest.

In the process of achieving the objectives of each regulation that has been made by the government and in order to maintain food stability and food security in the country and support the food independence program, the government should make greater efforts to control land transfers for sustainable food farming.

4. Synchronisation of legal certainty regarding the conversion of land for sustainable food farming

According to Kusnu Goesniadhie S, synchronisation of statutory regulations is the harmonisation and harmonisation of various statutory regulations related to existing and currently drafted statutory regulations that regulate a particular field^[22].

Synchronisation of legal regulations can be done in two ways, namely vertical and horizontal synchronization. In this vertical synchronisation, what is seen is in terms of the legal sequence or hierarchy. However, this study cannot be carried out vertically because the object of study in this thesis is in a parallel position in the order of Indonesian legislation. Meanwhile, the purpose of vertical synchronisation is to examine the synchronisation between two laws and regulations between the higher and the lower in terms of hierarchy.

However, according to the author, the vertical synchronisation stage can still be carried out. However, it is not between the Sustainable Food Farming Land Protection Law and the Basic Agrarian Law. However, between the Law on the Protection of Sustainable Food Farming Land and the Constitution of the Republic of Indonesia of 1945, In the Constitution of the Republic of Indonesia of 1945, the regulations related to agricultural land are indirectly contained in Article 33, Paragraph 3, of the Constitution of the Republic of Indonesia, which states that "*bumi, air dan kekayaan alam yang terkandung didalamnya dikuasai oleh Negara dan dipergunakan untuk sebesar-besarnya kemakmuran rakyat*".

The aim of the Law on the Protection of Sustainable Food Agricultural Land itself is to provide protection for sustainable food agricultural land in order to ensure the availability of sufficient food for all Indonesian people. So there is no conflict between the Law on the Protection of Sustainable Food Agricultural Land and the 1945 Constitution of the Republic of Indonesia.

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Horizontal synchronisation is carried out with the same laws and regulations that regulate the same field. Apart from being contained in the 1945 Constitution of the Republic of Indonesia, the form of legal protection for property rights holders is also contained in the provisions of Article 36 of the Human Rights Law, which reads as follows: (1) Every person has the right to own property, both individually and collectively together with other people for the sake of developing themselves, the nation, and society in a way that does not violate the law; (2) No one may have their property confiscated arbitrarily and unlawfully; and (3) Property rights have a social function.

In the provisions of the Basic Agrarian Law, the 1945 Constitution of the Republic of Indonesia, and the Human Rights Law, property rights are regarded as absolute rights, namely every absolute power that is given by law to a legal subject to do something or to act in his interests. This is also supported by the existence of the strongest and fullest property rights, as explained previously^[23].

However, this does not make property rights absolute rights but rather relative absolute rights. This is because even though the rights are the strongest and fullest, property rights are still limited by social functions, as contained in Article 6 of the Basic Agrarian Law and Article 36 paragraph (3) of the Human Rights Law. So it can be said that property rights are only limited by social functions or public interests. According to Article 1 Number 6 of the

Land Acquisition Law, the public interest itself is “*kepentingan bangsa, negara dan masyarakat yang harus diwujudkan oleh pemerintah dan digunakan sebesar-besarnya untuk kemakmuran rakyat*”.

Meanwhile, land for public purposes, as stated in Article 10 of the Land Acquisition Law, can only be used for the development of national defence and security; Public roads, toll roads, tunnels, railway lines, railway stations, and railway operating facilities; Reservoirs, dams, weirs, irrigation, drinking water channels, water drainage and sanitation channels, and other water structures; Ports, airports, and terminals; Oil, gas, and geothermal infrastructure Electric power generation, transmission, substations, networks, and distribution Government telecommunications and information networks; waste disposal and processing places; government and local government hospitals; Public safety facilities; government or regional government public burial places; social facilities, public facilities, and public green open spaces; Natural and cultural reserves; Government/Regional/Village Government Offices; Arrangement of urban slum settlements and/or land consolidation, as well as housing for low-income people with rental status; government or regional government educational or school infrastructure; government or local government sports infrastructure; and public markets and public parking lots.

So, property rights are the strongest and fullest rights that people can have over land; however, the nature of full ownership rights does not make property rights absolutely absolute but absolutely relative. This is because, even though property rights holders are given the freedom to do or not do something with their property rights, they are obliged to pay attention to social functions. Or, in other words, the freedom of property rights holders regarding their land can be limited by the social function of land rights. In the Sustainable Food Agricultural Land Protection Law, there are restrictions on the conversion of sustainable food agricultural land, even though the land has proprietary status.

In the Basic Agrarian Law, property rights are hereditary, strongest, and fullest and can only be limited by the social function of land rights. In fact, sustainable food farming land is not included in the social functions intended by the Basic Agrarian Law. However, at a later date, the government revised the contents of the articles in the Land Acquisition Law and included sustainable food farming land as a public interest. A more in-depth study needs to be carried out as to whether sustainable food farming automatically falls within the definition of social function as intended by the Basic Agrarian Law.

This is because the social function itself is to accommodate the interests of the nation, state, and society. However, ownership of the agricultural land still rests with the holder of the land rights, which in this case are property rights. Although the protection of agricultural land is aimed at the interests of the nation, state, and society in terms of realising local and national food security, However, because ownership of the rights is still in the hands of the rights holder, a more in-depth study needs to be carried out.

Conclusion

The change in function of sustainable food farming land for the public interest still frequently occurs even though regulations have been issued which aim to provide

protection so that there is no change in the function of sustainable food farming land in Indonesia through Law Number 41 of 2009 concerning Protection of Sustainable Food Farming Land. This regulation is also supported by the realization of Law Number 18 of 2012 concerning Food. However, land function transfer can be carried out if the aim is for the public interest. Land procurement for public purposes, apart from being contained in Article 44 paragraph (2) of Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, is also strengthened by special regulations, namely Law Number 2 of 2012. Apart from that, there are other factors such as Land control rights by the state and other supporting factors make the shift in the function of agricultural land inevitable. In the process of land acquisition for public purposes, especially as a result of the transfer of agricultural land to non-agricultural functions, it is very vulnerable to the emergence of problems. Problems arise when, on the one hand, the community whose land is the object of conversion and the government must require land for development. In this case, the government has attempted to provide protection for sustainable agricultural land so that it is not converted into use; however, there are regulations for holding land for public purposes, and in the article, there are also exceptions to this. So these regulations are unable to provide full protection for the existence of sustainable food farming land. If these regulations are maintained, then the area of agricultural land in Indonesia will decrease, and of course, the productivity of agricultural products will drastically decrease, which will threaten food security in Indonesia. The objectives of the enactment of Law 41 of 2009 concerning the protection of sustainable agricultural land will not be properly implemented.

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