



Implementation of protected paddy land control in Indonesia

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Abstract

The government issued Presidential Regulation Number 59 of 2019 to suppress the conversion of rice fields. Then set the Map of Protected Rice Fields, which turned out in terms of implementation was not in line with the regional Spatial Plan. This leads to desynchronization and ineffectiveness of the regulation. In addition, the issuance of the regulation affects the entry of investment in the region and causes uncertainty among the community. This study aims to analyze the level of effectiveness of the District/City Government in implementing Presidential Regulation Number 59 of 2019. This research uses a statute approach and a conceptual approach. The results of this study explain that there is a lack of regional autonomy of district/city local governments to determine their own regional spatial planning and must continue to refer to the national regional spatial plan. Moreover, with the establishment of the Protected Rice Field map, it is more threatening to the Region, especially in terms of Regional Investment. Even though the region has set its own Detailed Spatial Plan. So that the implementation of Presidential Regulation Number 59 of 2019 can be said to be ineffective. In the formation of policies related to Protected Rice Fields can be related to the principle of "*aequum et bonum est lex legume*", where in the formation of a policy must implement justice, benefit, and legal certainty.

Keywords: Certainty, justice, move functions, and paddy land control

Introduction

Land is one aspect that can affect the life of the nation and state, so that problems that arise related to land will have implications for aspects in this country. Because land contains not only physical aspects, but also social, economic, cultural, political, security and legal aspects. When viewed from the economic side, land is a means of production that can bring prosperity both in terms of food and in terms of income. So discussing land means discussing the central issue of a unity that is integrated with various aspects of a country. The importance of handling issues regarding this land is required in order to achieve one of the objectives of the State of Indonesia contained in Paragraph 4 of the Preamble to the Constitution of the Republic of Indonesia 1945, namely to promote general welfare. This can be realized by ensuring the sustainable provision of agricultural land as a source of decent work and livelihood for humanity by prioritizing the principles of togetherness, efficiency, justice, sustainability, environmental insight, and independence, as well as by maintaining balance, progress and national economic unity. Land has an important function in human life. Land functions can be intended for agriculture or for the benefit of investing capital or business. It depends on the owner of the land, what will be used as later. Different land functions have equally important roles and benefits for local governments. Land as agriculture can increase the value of food security for the region. Land as a business investment can increase regional income and reduce unemployment. However, in reality, the use of land functions is more intended for investment or non-agricultural purposes because it has a higher impact on income.

This when viewed from the side of food security is very threatening to the national stability of national food availability. Where, if only focused on investment interests without caring about land for agriculture. Then the availability of food will be smaller than the needs. So that it

will cause national economic instability, various social and political turmoil can also occur if food security is disrupted. Generally, agricultural land is decreasing, due to the conversion of land into non-agricultural land. Land use change also has serious negative impacts on food production, the physical environment and community welfare.

Given the importance of procurement and protection for agricultural land, the Government considers that existing provisions need to be adjusted to current sociological conditions and to anticipate them. Therefore, the legal politics or interests of the government, issued Presidential Regulation Number 59 of 2019 concerning Control of Rice Field Conversion and through Decree number 1589 / SK-HK.02.02 / XII / 2021 concerning the Determination of Protected Rice Field Maps. The political interests of the law contained in the above regulation, namely the government seeks to inhibit the rate of conversion of productive land functions to non-productive while maintaining food security in the future and also to inhibit careless development. The result of the above regulation is to form a regional regulation on regional spatial planning that is adjusted to the latest map of protected rice fields.

However, the decision regarding the map of protected paddy fields caused concern for business actors and district/city local governments, because it was considered not in line with the Detailed Spatial Plan which became the initial entrance to investment licensing. If the map of protected paddy fields is not in line with the Detailed Spatial Plan, automatically the district / city government must update it in its entirety. The main problem here is the emergence of regulatory uncertainty and can lead to the cancellation of investment because the proposed land permit has become the scope of the protected paddy field map. In essence, if there is a cancellation of investment, entrepreneurs who will develop their companies in the area are canceled and cause a

cut off of job openings which ultimately increases unemployment in the area.

These arrangements and provisions which include the determination of maps of protected paddy fields are carried out by the Central Government through the Ministry of Agrarian and Spatial Planning or the Central National Land Agency. Even if there is a delegation of authority in its implementation, the delegation is carried out in the context of deconcentration to central government officials in the regions or to regional governments in the context of *medebewind*, not regional autonomy. Even though related to the sociological situation of the region, those who know better are the local governments of the districts / cities themselves. However, the authority of the district/city local government contained in Law Number 23 of 2014 concerning Regional Government related to the implementation of district/city spatial planning must adjust the national Spatial Plan.

For example, like research conducted by Suci Iriani Sinuraya, related to Policy Recommendations to Overcome the Impact of LP2B in Sleman A Case Study in Kapanewon Seyegan, Sleman, in the study found that the policy of establishing sustainable food agricultural land implemented in Sleman Regency exacerbates the problem of poverty in the region ^[1]. Then in the research conducted by I Gede A.B. Wiranata, it got results where it was necessary to anticipate through socialization about the consequences of the existence of investment related to land use change ^[2]. While in this study, the author will analyze from the point of view of government interests, food sovereignty and legal political orientation of the existence of a map of protected rice fields analyzing from Presidential Regulation Number 59 of 2019 then associated with the concept of theories put forward by several experts. Such as using the basic theory of expediency, the welfare state, realistic theory and concepts from dworkin and fuller's system.

Therefore, this study will carry out a problem formulation, namely analyzing the effectiveness of the Regency / City Regional Government in implementing Presidential Regulation Number 59 of 2019 in terms of political orientation, law and food sovereignty associated with several concepts.

Methodology

This type of research in this study uses doctrinal legal research commonly referred to as normative legal research. Normative legal research is research that systematically produces rules governing certain categories of law, analyzes the relationships between certain rules, explains difficult areas, and possibly predicts upcoming developments ^[3]. The approach method to be used in this study is the statute approach, conceptual approach. The type of legal material used in this study is secondary *data* consisting of Primary Legal Material, Secondary Legal Material. The technique of collecting legal material that will be used in this study is legal research, which means collecting as a whole legal material in accordance with the approach in legal research.

Results and Discussion

The government needs to regulate the relationship between man and land, human relationship with man about land and all legal acts regarding land with various regulations and policies on land. As contained in Pancasila and the Constitution, where the perspective of human relations with

the earth, water, space and natural resources contained therein has or contains fundamental values and methods, as well as noble ideals. Pancasila as a source of all sources of law that contain values as a reference in formulating methods of state administration, which are formulated in the constitution to other related laws and regulations.

In relation to the planning and formulation of laws and regulations in the land sector, it is necessary to study the objectives to be achieved in the formation of these regulations. The authority of the State to regulate the allocation, use and maintenance of land including regulating and determining legal relations and legal acts regarding land. So that land that has useful value seen in terms of the food security sector and economic value that brings income outside the agricultural sector. As well as a social function, which is intended for the public or common interest and can be obtained and utilized by everyone to support the necessary activities.

State control over land throughout the territory of the Republic of Indonesia also stems from the Rights of the Indonesian Nation which includes state authority in Article 2 Paragraph (2) of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles, namely:

1. Organize and maintain the provision, use, preparation, and preservation of earth, water and space;
2. Determine and regulate the legal relations between people and earth, water and space;
3. Determine and regulate legal relations between persons and legal acts concerning earth, water and space.

Controlled by the state means covering the meaning of control by the state in a broad sense that originates and is derived from the concept of sovereignty of the Indonesian people over all sources of earth, water and natural wealth contained therein. In the 1945 State Constitution of the Republic of Indonesia, the people's construction has given a mandate to the state to hold 5 matters related to land ^[4], namely:

1. Policy function (*beleid*).
2. The management function (*bestuursdaad*), is carried out by the Government with its authority to issue and revoke licensing facilities (*vergunning*), licenses (*licentie*), and concessions (*concessie*).
3. Regulatory function (*regelendaad*), Regulatory function by the state (*regelendaad*) is carried out through the authority of legislation by the DPR together with the Government, and regulation by the Government.
4. The management function (*beheersdaad*), carried out through *share-holding* mechanisms and/or as institutional instruments, through which the state, in this case the Government, utilizes its control over these resources to be used for the greatest prosperity of the people; and
5. The supervisory function (*toezichthoudensdaad*) for the purpose of the greatest prosperity of the people, is carried out by the State, in this case the Government, in order to supervise and control so that the exercise of control by the state over the resources of wealth is really carried out for the greatest prosperity of all the people.

The five forms of state control above have the same position, and must be carried out in tandem. If the Government only performs one of the four functions of state

control, there can be instability of objectives in realizing a regulation.

The Indonesian state in orienting legal politics, one of the main ways is through the creation of laws whose results are legal products or laws and regulations. Laws and regulations are very effective instruments in *law reform* because of their binding and coercive legal force. Laws and regulations also provide higher legal certainty than ordinary law, customary law, or jurisprudence. However, in the use of legal products, it is necessary to pay attention to the hierarchy of laws and regulations, so as not to conflict with each other between laws and regulations.

In this study, the author believes that legal products in Indonesia are political products. Where the process of creation is through the House of Representatives, which holds the power to form laws and each bill is discussed by the House of Representatives and the President for mutual approval. Similarly, the President has the right to submit draft laws to the House of Representatives and even has the right to form presidential regulations. Therefore, it is known that the ratification of a draft law into law is a form of mutual agreement between the President (Executive) and the House of Representatives (Legislature), which certainly in the formation of a regulation contains the ideologies and interests of its creators.

In addition, the mechanism for the formation of laws and regulations must be through legal politics, because the purpose of legal politics is to determine what the law was created for, what the purpose of its creation is and where the direction is aimed in the framework of national development. While legal policy, which has been or will be implemented nationally by the Indonesian government includes ^[5]

1. Legal development that is core in making and updating legal materials to be in accordance with needs;
2. The implementation of existing legal provisions includes affirmation of the functions of institutions and guidance of law enforcers.

Regarding the legal system in Indonesia that will be built in the future, it must be Dutch, as follows ^[6]

1. Based on Pancasila (philosophical) and the 1945 Constitution of the Republic of Indonesia (constitutional);
2. Serves to protect, create social order, support the implementation of development and secure the results of development.

Based on the description above, if you look at the direction of political orientation of land law in Indonesia, it looks so abstract. However, if we look closely, the district / city government is more oriented towards profit or regional income so that more agricultural land is converted into non-agricultural land. But with the increasing years, humans are increasing and the need for housing is increasing. This factor is one of the supporters of the increasing transfer of rice fields. If a Regional Spatial Plan, more emphasis is placed on investment in the form of the development of large business industries and housing industries without paying attention to the amount of land for the agricultural sector. This will cause a negative impact on national food security, in the long term in the future.

The government's interest in maintaining food security has actually been realized through the establishment of Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land. However, since this policy began to be realized in 2009, until now there have been no success stories achieved and even more stories related to the decreasing agricultural land and farmers' welfare. Because many food-related regulations are only oriented towards food security, not about food sovereignty. Because, the discourse on food sovereignty in Indonesia, is still very new. And there are no clear indicators of difference to realize food sovereignty with food security. So that the concept of food sovereignty is still very broad. If food security, it is only limited to the fulfillment of food for the country up to individuals, which is reflected in the availability of sufficient food, both in quantity and quality. If sovereignty, think of ways to meet food needs without harming the environment and farmers, so that the concept of food sovereignty farmers will remain prosperous.

So it needs to be questioned the seriousness (*political will*) of the rulers, namely local governments in carrying out the mandate ordered by Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land, where the constitutional basis of the Sustainable Food Agricultural Land Law is sourced from Article 33 paragraph (3) of the Constitution of the Republic of Indonesia 1945. In addition, it is known that regulations related to controlling the conversion of agricultural land, especially rice fields, have been made a lot. However, it is legally valid and recognized but its implementation is not perfect or effective because it is not supported by adequate data and proactive attitudes from stakeholders. In addition, the negative impact of rice field conversion is not considered an issue that needs to be addressed seriously and consistently and is also based on the interests and political orientation of their respective regional heads.

Therefore, the government has strengthened more regarding the protection of paddy fields by stipulating Presidential Regulation Number 59 of 2019 concerning Control of Rice Field Land Conversion. The central government through the Ministry of Agrarian and Spatial Planning, in realizing the regulation is only in 8 provinces. The eight provinces are West Sumatra, Banten, West Java, Central Java, Special Region of Yogyakarta, East Java, Bali, and West Nusa Tenggara ^[7]. Political interests in the stipulation of Presidential Regulation Number 59 of 2019, which are taken into consideration are as follows:

1. that the area of conversion of food land, especially rice fields into non-rice fields, is increasing rapidly from year to year so that it has the potential to affect national rice production and threaten national food security;
2. that controlling the conversion of paddy fields is one of the strategies to increase domestic rice production capacity, so it is necessary to accelerate the determination of protected rice field maps and control of rice field conversion as a national strategic program.

With the existence of Presidential Regulation Number 59 of 2019, it is expected to inhibit the rate of conversion of productive land functions to non-productive with the aim of maintaining food security. In addition, the main purpose of the regulation is to accelerate the determination of protected paddy field maps in order to meet and maintain the availability of paddy fields to support national food needs.

And the final result of Presidential Regulation Number 59 of 2019 is the formation of a Regional Regulation on Regional Spatial Planning which will definitely update the Detailed Spatial Plan in the Regency / City.

Implementation related to the Presidential Regulation on Protected Rice Fields can officially be implemented after the issuance of Decree Number 1589/SK-HK.02.02/XII/2021 concerning the Determination of Protected Rice Field Maps. The formation of the map of protected rice fields, the process starts from verifying the Raw Land of Rice Fields with satellite images, land and spatial planning data, irrigation data, printed rice field data and forest area data. As mentioned in Article 9 Paragraph (1) of Presidential Regulation Number 59 of 2019. It turned out that when the decree was issued, it caused an agrarian impact, which was based on field data together with the National Land Agency, based on the fact that the lands covered by the Protected Rice Field had become anointed land and had been built^[8]. Because related to the Detailed Spatial Plan, it has been determined in advance before the Protected Rice Field Map.

In addition, the Protected Rice Field Map causes concern for development and the district/city government, because it is considered not in line with the Detailed Spatial Plan which is the initial entrance to investment. If it is not in line, the Regency/City Government is automatically obliged to make readjustments. But the main problem is, the discrepancy between the Detailed Spatial Plan and the Protected Rice Field Map causes uncertainty and leads to the cancellation of investment because the land permit submitted for business development falls within the scope of Protected Rice Field^[8]. With the map of Protected Rice Fields, it is considered to add to the list of factors inhibiting investment in the district / city area. Here are some other factors that hinder investment, as follows^[9]

1. The lack of local governments that have local regulations on building approvals. As of April 12, 2022, there are only 123 out of 508 District/City Governments that Draft PGB Regional Regulations.
2. Regarding the Detailed Spatial Plan (RDTR), as of March 2022, only 70 RDTRs are available out of the total needs of 2000 RDTRs throughout Indonesia.
3. In the Online Single Submission (OSS), it turns out that there are still many business fields that have not been accommodated and there is no harmonization of permits between the Regional Government and Ministries/Institutions.

Lester and Stewart, meanwhile, say policy evaluation can be divided into two. First, to determine the consequences caused by a policy by describing its impact and causal factors, such as errors in formulating policies or other factors. Second, to assess the success or failure of a policy based on established standards or criteria^[1]. In this context, the evaluation is intended to measure the success rate of the program and community compliance with the Protected Rice Field program.

This paper also adopts the suggestion of Winarno, who proposes to use Anderson's boundaries to understand the policies taken by the government related to the designation of an area as Protected Rice Fields, namely policy is a direction of action that has a purpose set by an actor or a number of actors in overcoming a problem because of the following implications: first, public policy must have a

specific purpose or purpose and is not a Gratuitous behavior. Second, public policy has a direction or pattern of action and not a separate decision. Third, public policy is a policy about what is done and not what the government wants. Fourth, public policy can take a positive or negative form. Positively, public policy is the action of a government to influence a particular issue. Negatively, the policy is a decision by a government official not to take action or do anything about an issue that requires government involvement^[1].

Based on the description above, where every policy when formulated must have good intentions, namely to provide welfare for the community or increase welfare for the community. However, when the policy is implemented, only then do some polemics or impacts emerge. Political legal policies in land management by the government often draw criticism, because of the imperfection of the intervention activities themselves both caused by weaknesses in the policy-making process and because of the consequences that will cause market distortions / impacts on investment. So that in the formation of a rule of law, it is expected to contain the principle of *Aequum et bonum est lex legume*, which in a legal method must implement justice, expediency and legal certainty. Justice is a basic value, benefit is a practical value and certainty is an instrumental value^[10]. The political interests of the law implemented in the rules, must have a goal to be achieved. But a rule is not perfect, when a rule has a value of certainty but it turns out that the value of justice on the one hand is fair but causes injustice and unbenefit to the other side.

Furthermore, discussing the polemic of discrepancies between the Protected Rice Field Map and the Detailed District/City Spatial Plan. By looking at the role of the district/city Regional Government, related to the regional spatial plan stipulated in the annex to Law Number 23 of 2014 concerning Regional Government as has been amended several times recently by Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. Regional autonomy given to districts / cities in the form of implementing regional spatial planning of districts / cities, which will later be outlined in the Detailed Spatial Plan which becomes a guideline for the government to achieve development targets within a certain period and scope. This Detailed Spatial Plan is a detailed spatial plan from the District/City Regional Spatial Plan which must adjust or refer to the National Spatial Plan. As mandated in Article 18 paragraph (1) and Article 18 letter a paragraph (4) of Government Regulation of the Republic of Indonesia Number 21 of 2021 concerning Spatial Planning Implementation.

If you look at the description above, the effectiveness of the role of the Regency / City local government is very minimal in determining its own regional spatial zoning. Especially for local governments, which at the beginning of the draft Detailed Spatial Plan, the policy direction is to develop into an industrial center and can attract a lot of labor and reduce unemployment in the regions. But it is hampered by the existence of the Protected Rice Field map, which is a mandate from the central government to change the previous Detailed Spatial Plan. The problem is that this Protected Rice Field Map appears in the middle, where the Detailed Spatial Plan has been determined and implemented by the District/City, which already has or determines which

ones are zoning for industry, agriculture and housing. Because, the Detailed Spatial Plan refers to the Regional Spatial Plan set for a long term for 20 years and will be reviewed every 5 years. In the Regional Spatial Plan and Detailed Spatial Plan of districts / cities have determined the area intended for investment, settlement or for protected areas. For this reason, the Protected Rice Field Map should adjust the Detailed Spatial Plan not the other way around, because the Detailed Spatial Plan has been determined in advance.

The main problem is that the district/city government cannot set its own policies related to spatial management. In fact, the Regency / City local government is more aware of the sociological situation of its own area, not by determining regional zoning through satellite maps. Here, it becomes a question why the Central Government does not give trust to the Regency / City Regional Government to take care of its own spatial planning. In reality on the ground, the National Land Agency in Districts/Municipalities is not included in the preparation of maps of Protected Rice Fields. Of course, this creates chaos in the implementation of the Regency / City local government. The problem is, in the end, many districts / cities whose regional heads do not want to implement the mandate of Presidential Regulation Number 59 of 2019 to make Regional Regulations Related to Spatial Planning referring to the Protected Rice Field Map, because it is felt that the Protected Rice Field Map Decision burdens the Regency / City Areas that already have a policy direction in the Detailed Spatial Plan Design earlier than the emergence of this Protected Rice Field Map.

Then, will the stipulation of provisions related to Protected Rice Fields be able to further prosper farmers and can ensure general welfare according to the ideals of the Indonesian nation by maintaining food sovereignty? In this study, it is seen in Article 2 letter c of Presidential Regulation Number 59 of 2021 that one of the objectives of the Presidential Regulation is to "empower farmers not to convert rice fields". Then where is the goal to prosper the people, in this case farmers? Indeed, in Presidential Regulation Number 59 of 2021, it is stated that incentives will be provided by the Central Government to Regional Governments for Farmers whose land is within the scope of Protected Rice Fields contained in Article 18. Then in Article 20 Paragraph (2), it is clear the incentives that will be received for farmers whose land is included in the scope of Protected Rice Fields in the form of assistance: a. agricultural facilities and infrastructure; b. irrigation facilities and infrastructure; c. acceleration of soil certification; and/or d. other forms in accordance with the provisions of laws and regulations.

Related to this incentive itself has actually also become one of the projects in Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land. However, the implementation is not implemented perfectly, even the farmers still feel unprosperous. Seeing the condition of the area that is the implementation of this protected rice field, the community cannot be optimal in developing its economy. This is because the development of the agricultural sector (agribusiness) is slower than the development of other sectors which can be seen from the contribution of the agricultural sector to the formation of Gross Regional Domestic Product ^[11]. However, there is a growing need for land for housing or other commercial

needs whose results are more promising than those obtained from the agricultural sector.

The conflict, where farmers who cannot convert or convert their land into non-agricultural land. In the end, these farmers secretly converted their land for other business activities, which means that farmers prefer to look for other welfare opportunities. If we look deeper into the welfare of farmers, the reality is that farmers in Indonesia do not cultivate their own land. But it uses land of the Indonesian National Army or other vertical agencies and even privately owned land that shares profits through a profit-sharing system.

This description contradicts the concept of *the welfare state*, according to Bagir Manan is the state or government not solely as a guardian of public security or order, but the main bearer of responsibility for realizing social justice, general welfare and the greatest prosperity of the people. Especially in this study, it not only empowers farmers not to convert their land, but also needs to be regulated so that they can prosper farmers. Because in Presidential Regulation Number 59 of 2019, farmers are important subjects who carry out direct legal actions with rice fields. So the government not only thinks about the principle of certainty but also the principle of expediency of the rule when implemented. In the Welfare State Concept, the idea that the government is prohibited from intervening in the affairs of citizens gradually turns into the idea that the government should intervene and be responsible for the welfare of the people and therefore should proactively regulate economic and social life, which is implemented through making definite and fair regulations.

In the implementation of Presidential Regulation Number 59 of 2019, sociologically it must be able to have a positive influence on society in terms of improving the quality of public welfare both in the social, economic and health fields. In essence, when farmers are prosperous, they will not convert their land to non-agricultural land and as a result, food security is guaranteed, so health and economy will be stable. The concept of the welfare state is used to analyze the interference and role of the state, government and local governments in the formation of laws and regulations in order to realize a prosperous society through the formation of regional regulations. The basic idea of the welfare state, as proposed by Watts, Dalton and Smith, dates back to the 18th century when Jeremy Betham (1748-1832) explained the idea that government has a responsibility to ensure *the greatest happiness (welfare) of the greatest number of their citizens*, meaning that it is obligated to make as many of its citizens happy as possible.

The determination of public policies in this case related to the control of Protected Rice Fields should apply the general material principles of laws and regulations mentioned in Article 6 of Law No. 12 of 2011, namely: Principles of Protection, Principles of Humanity, Principles of Nationality, Principles of Family, Principles of Intermediary, Principles of Bhineka Tunggal Ika, Principles of Justice, Principles of Equality of Position in Law and Government, Principles of Order and Legal Certainty, Principles of Balance, Harmony, and Harmony. In this study, we will emphasize the principle of balance which is the most basic principle for realizing justice. The principle of balance, where the content material in the regulations must reflect balance, harmony, and harmony, between the interests of individuals, society and the interests of the

nation and state. Related to this research, there is a polemic in the implementation of the Protected Rice Field Map, which is considered to hinder regional investment. But on the other hand, it provides long-term benefits for national food sovereignty. In addition, in the formation of a policy, it is necessary to pay attention to the sociological conditions of each region, therefore regarding the determination of the Protected Rice Field map, it is better to give power to autonomous regions to determine their own. In various literature that discusses law and development (economics), law is basically expected to refer to 3 (three) main sectors, namely ^[2]

1. Law as a Tool of Order
2. Law as a means of maintaining balance
3. Law as a catalyst that essentially functions to maintain the balance / harmony of various existing interests

Therefore, legal politics plays an important role for the functioning or failure of a legal institution as a filter for the emergence of these various interests. In addition, if you look deeper into Presidential Regulation Number 59 of 2019, the regulation is only expected to realize food security. In fact, in the current generation and in the future, food sovereignty is needed. Where not only make regulations that only think about how to maintain food for years to come, but also have to think about the welfare of farmers even to the welfare of areas where most of the land in the area as rice fields is protected. Some solutions that the author can currently provide, the government can apply several systems from the latest legal theories and more developed in the process of forming laws and regulations related to the determination of protected paddy fields. Such as, the theory put forward by Ronald Dworkin and also Fuller.

According to Dworkin's legal theory of rule-making, legal interpretation can provide a solution to deadlocks that emphasize the importance of individual rights and freedoms and legal positivism. The constructive interpretation model developed by Dworkin represents a very serious challenge to analytical jurisprudence in general, and in particular to legal positivism. These challenges are substantive and methodological. It is substantive in the sense that Dworkin radically criticizes such a sharp separation between law and morality as is common in legal positivism. The challenge is also methodological in the sense that it seeks to reconcile analysis of legal concepts with interpretations of them, viewed from the perspective of particular legal cases. Through the concept of law as constructive interpretation, Dworkin wanted to formulate his understanding of law as a coherent system of legal principles. In addition, making policies based on dworkin where dworkin divides between principles and rules, which these principles will later be used to explain various kinds of norms or rules ^[12].

Meanwhile, if you make policies based on the system proposed by Lon Luis Fuller ^[13], saying there are good legal principles that must be fulfilled a law called External Morality and Internal Morality. External morality is an issue related to issues of justice, human rights, solidarity and empathy for the oppressed. What is meant in this case as Internal Morality is as follows:

1. A legal system must contain rules that are standard, must not contain or consist of decisions of a specific nature.

2. Rules that have been made must be announced so that people know these norms and can be used as a code of conduct.
3. No retroactive rule should be, because allowing a rule to apply retroactively would damage the integrity of the rule intended to apply in the future.
4. A rule should be structured in a formula that is understandable or easy to understand.
5. A legal system must not contain rules that contradict each other.
6. Rules must not contain demands that exceed what can be done. This means that rights and obligations must be equal, even though in the legal concept we prioritize obligations for the achievement of rights, and the fulfillment of rights, especially constitutional rights in this case is still not working as expected in our country, Indonesia.
7. There should be no habit of changing the rules frequently because it will cause people to lose orientation. This is in line with the opinion of K.C. Where which Belia mentioned in his book (translated version) held by the Author. K.C. Where argues that a country's Constitution should make the procedure for amendment as difficult as possible in order to maintain the consistency of a country's law enforcement, in Indonesia this has been implemented.
8. There must be a match between the regulations promulgated and the day-to-day implementation or enforcement in real cases. What is meant here is the compatibility between *Das Sollen* and *Das Sein*.

In addition, in the formation of a regulation or system must be guided by the principles of forming good and ideal regulations. It is intended to avoid errors and defects in the formation of norms. The principles of forming good legislation according to I.C. van der Vlies in his book entitled *Handboek Wetgeving* are divided into two groups, namely:

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- a. The basis of a clear purpose (*beginsel van duidelijke doelstelling*), that is, each formation of the rule of law should have a clear purpose and benefit for what is made;
- b. The basis of the right organ/board (*beginsel van het juiste orgaan*), that is, every type of rule of law must be made by the board or organ of the authority of the rule of law; the rule of law may be revoked (*vernietigbaar*) or void by law (*vanrechtswege nieteg*), if made by an unauthorized board or organ;
- c. The principle of insistence on making arrangements (*het noodzakelijkheidsbeginsel*);
- d. The principle of implementability (*het beginsel van uitvoerbaarheid*), namely that every formation of laws and regulations must be based on the calculation that the laws and regulations formed later can apply effectively in society because they have received support both philosophically, juridically, and sociologically since the stage of drafting;
- e. *Asas konsensus (the principle of consensus)*.

In Asus-Assassin Matter

- a. *Asas terminologi dan sistematika yang benar (the principle of clear terminology and clear systematics)*;

- b. Asas dapat dikenali (*the principle of knowability*);
- c. The basis of equal treatment in the law (*het rechtsgelijkheidsbeginsel*);
- d. Asas kepastian hukum (*the principle of legal certainty*);
- e. The basis for the implementation of the law corresponds to individual circumstances (*het beginsel van de individuele rechtsbedeling*).

According to Sugeng Istanto, in the framework of regulation formation, *legal drafting* pays attention to the principles of forming good Regional Regulations, including the following:

- a. The basis for clarity of purpose: each formation of the rule of law should have a clear purpose and be achieved.
- b. Appropriate institutional principles or forming organs: each type of regional regulation must be made by the authorized regional regulation forming institution/official. The local regulation may be canceled or null and void if it conflicts with the provisions made by the institution/official or higher regulations.
- c. The principle of conformity between the type and material of the cargo: in the formation of regional regulations must really pay attention to the content material that is appropriate to the type of regional regulation.
- d. The principle is enforceable: every establishment of local regulations must take into account the effectiveness of such local regulations in society, both philosophically, juridically and sociologically. This is already stated in this manuscript.
- e. The principle of usability and fruitfulness: every formation of regional regulations made is indeed because it is really needed and useful in regulating the life of society, nation, and state.
- f. The principle of clarity of formulation: each regional regulation must meet the technical requirements of drafting regional regulations, systematics and choice of words or terminology, and the legal language is clear and easy to understand so as not to cause various kinds of interpretations in its implementation.
- g. The principle of openness: in the process of forming regional regulations starting from planning, preparation, drafting, and discussion, all levels of society need to be given the widest possible opportunity to know and provide input in the process of making regional regulations so that the regulations formed become populist and effective.

Law No. 12 of 2011 on the Formation of Legal Regulations also reminds law framers to always pay attention to the fundamentals of the formation of good legal regulations and the basis of loading matter. The loading material of the Legal Regulations to be compiled should also reflect the basis:

- 1. The principle of protection, that every Material Content of Laws and Regulations must function to provide protection to create public peace;
- 2. Humanitarian principle, that every Material Content of Laws and Regulations must reflect the protection and respect of human rights and the dignity of every citizen and resident of Indonesia proportionately;

- 3. The national basis, that every Materi of the Legal Regulations should reflect the nature and character of the Indonesian nation by maintaining the principles of the State of the Union of the Republic of Indonesia;
- 4. The basis of kinship, that every Substance of the Legal Regulations must reflect the deliberation of achieving mufakat in every decision-making;
- 5. The principle of intermediary, that every Material Content of Laws and Regulations always takes into account the interests of all regions of Indonesia and the Material Content of Laws and Regulations made in the regions is part of the national legal system based on Pancasila and the Constitution of the Republic of Indonesia Year 1945;
- 6. The principle of unity in diversity, that the Material Content of Laws and Regulations must pay attention to the diversity of populations, religions, tribes and groups, special regional conditions and cultures in the life of society, nation and state;
- 7. The basis of justice, that every Substance of the Load of Legal Regulations shall reflect justice proportionally for every citizen;
- 8. The principle of equality of position in law and government, that each Material Content of Laws and Regulations must not contain things that are discriminating based on background, including religion, ethnicity, race, class, gender, or social status;
- 9. The principle of order and legal certainty, that every Material Content of Laws and Regulations must be able to realize order in society through guaranteed certainty;
- 10. The basis of balance, compatibility, and harmony, that each Substance of the Load of Legal Regulations should reflect the balance, compatibility, and harmony, between the interests of the individual, society and the interests of the nation and the nation;
- 11. Other fundamentals are in accordance with the legal areas of the relevant Legal Regulations", among others:
 - a. In the Law of Criminality, for example, the basis of legality, the basis of no punishment without offense, the foundation of the construction of prisoners, and the basis of innocent prejudice;
 - b. In Civil Law, for example, in treaty law, among others the principles of agreement, freedom of contract, and good faith.

These fundamentals are the basis for the formulation of legal regulations and the determinant of policies in shaping the rule of law. All of the above bases, should be soldered in the self-determination of the policy that will form the rules of law that are usually established in the forms of questions in each step that is pursued. Beyond the above fundamentals, in the science of law or legal science, it is recognized that there are several theories or foundations that always follow and control the formation of legal regulations and in general the theory and the basics are used as a mould in the form of legal regulation.

Conclusion

From the overall description above, we see the polemic that occurred from the implementation of Presidential Regulation Number 59 of 2019 concerning Control of Rice Field Land Conversion. The government in formulating public policies must have a direction or pattern of action and not be a decision made alone, meaning that it must involve

the community through representatives of the Regency / City Government and public policy is a policy about what should be done and not what the central government wants. In determining public policies related to Protected Rice Fields, they must pay attention to the orientation of the legal politics of each region. Where, the political orientation of each region is different, some want to develop as an industrial and service area because Human Resources related to land are very minimal. So more emphasis is placed on the transfer of land for industry, so that it will be able to absorb a lot of labor and the unemployment rate in the area can be reduced. In addition, regarding the determination of the Protected Rice Field map, it is necessary to involve local governments in making it. Because the regions know the sociological conditions thoroughly and know better which areas are suitable for zoning protected rice fields, zoning for industry and which zoning for housing.

The solution that can be offered by the author is that the government needs to make a public policy that is adapted to regional sociological conditions. Regarding the formation of the Protected Rice Field map, not only looking at the new satellite map discussed but reversed, local governments were invited to discuss whether it was right between what was seen on the satellite map and the condition of the land in the area. A public policy is made that prioritizes the principle of balance, because it is the most important basis for the realization of existence. And finally, a public policy was made related to the control of protected rice fields which is not only oriented to food security but also needs to be oriented to the welfare of farmers.

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