

Law No. 41/2009 on Protection of Sustainable Food Crops Farmland in Indonesia

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Introduction

It is believed that the protection and improvement of the general welfare of the nation are fundamental responsibilities of the state. One of the protection elements is the assurance of the rights of community to food. This is in line with the Constitution of Indonesia and also in accordance with the Universal Declaration of Human Rights and the Covenant on Economic, Social, and Cultural Rights. As a result, the state guarantees the rights to food as basic needs of every citizen in resilience, security, and sovereignty manners.

Amid the increasing growth of population and economic as well as industrial development which resulted in degradation, conversion, and fragmentation of agricultural lands, lies the threat of national territory in maintaining food resilience, security, and sovereignty. Therefore, it is necessary to implement the Law governing the protection of sustainable food crops farmland in Indonesia.

Rationale

Agricultural land has a strategic role and function in the agrarian nature of society since a lot of Indonesians depend on agriculture. Land is not only economic value, but also social, and even religious. In the framework of sustainable agricultural development, land is a basic resource in agriculture, particularly in the condition of which certain activities are still dependent on the pattern of land-based agriculture. Land can be categorized as a scarce natural resource in which it would not be increased in terms of quantity, but the demand for land is always increasing.

Currently, one of the problems faced by Indonesia is related to agricultural land conversion in which it possibly threatens the achievement of food security and sovereignty. This problem has serious implication towards food production. The physical environment, as well as the welfare of community, particularly in rural areas depend much on the existing agricultural land. The conversion of fertile agricultural lands has been less offset by the unified efforts to expand agricultural lands through developing the potential new farmlands. On the other hand, the conversion of agricultural lands has an effect on decreasing the cultivated land areas and the extent of livelihood of farmers. Therefore, the control through protecting agricultural land conversion is one of the efforts to achieve food security and sovereignty with the intention of improving the prosperity and welfare of farmers, particularly and the community in general.

The increasing number of farms households is not proportionally comparable with the existing cultivated land size. As a result, the number of landless farmers and farm laborers keeps increasing. This has an impact on the difficulty of the effort to improve the welfare of farmers and to alleviate the poverty in rural areas. On the other hand, uncontrolled urbanization has also an impact to the spread of urban activities pushing up the agricultural activities particularly in rural areas directly adjacent to urban areas (peri-urban). The conversion of agricultural land can diminish the accessibility of rural communities to primary resources. Consequently, the migration of rural population to urban areas would be raised.

The complexity of population growth and food production has raised concerns about food insecurity in the future. For that reason, it is necessary to manage food availability and food crops farmland. Hence, this Law is rationally set up to respond to the above-mentioned issues.

Objectives

Generally, the objective of this Law is to protect the sustainable food crops farmland. Specifically, it is aimed at: (1) protecting the food crops farmland in a sustainable manner; (2) ensuring the availability of food crops farmland; (3) achieving the resilience, security, and sovereignty of foods; (4) protecting the ownership of farmers on food crops farmland; (5) improving the welfare of farmers and communities; (6) enhancing the protection and empowerment of farmers; (7) increasing the employment opportunities for a better life; (8) maintaining the ecological balance; and (9) accomplishing the agricultural revitalization¹.

The substances and provisions of the Law

Characteristics

Essentially, the sustainable food crops farmland is the farm plots setting up to be protected and developed consistently to produce the national staple foods in resilience, security, and sovereignty manners. Meanwhile, the protection of sustainable food crops farmland is a system and process encompassing the stages of planning, determining, developing, utilizing, maintaining, controlling, and supervising agricultural lands in a sustainable scheme. Moreover, the sustainable food crops farmland can be: (1) irrigated lands; (2) reclamation of swampy lands; and/or (3) non-irrigated lands.

Principles

The protection of sustainable food crops farmland is administered according to certain principles. They are: (1) benefits; (2) sustainability and consistency; (3) integrated; (4)

¹ The agricultural revitalization can be defined as the awareness to put back the importance of agricultural sector proportionally and contextually by refreshing vitality, empowering ability, and improving the performance of agriculture in national development without neglecting other sectors. It is implemented through the strategy of: (1) reducing poverty; (2) increasing the competitiveness and agricultural production/productivity; and (3) preserving and utilizing the environment and natural resources in a sustainable manner.

transparency and accountability; (5) collective mutual help; (6) participatory; (7) justice; (8) harmony and balance; (9) environmental sustainability and local knowledge; (10) decentralization; (11) the responsibility of the state; (12) diversity; and (13) socio-cultural (Table 1).

Table 1

The general explanation of the principles on protection of sustainable food crops farmland in Indonesia

Principle	Explanation
Benefits	Providing benefits for the welfare and the quality of life of the people, both the current and future generations.
Sustainability and consistency	Maintaining the function, utilization, and productivity of the land sustainably and consistently to ensure the realization of the national food sovereignty and resilience by taking into account the present and future generations.
Integrated	Integrating a variety of interests across sectors, regions, and stakeholders.
Transparency and accountability	Providing the broadest possible access for community to obtain information regarding the protection of sustainable food crops farmland
Collective mutual help ¹⁾	Improving the welfare of farmers which is jointly organized by central government, local government, land owners, farmers, farmer's groups, and private sectors.
Participatory	Involving the community in the activities of planning, financing, and supervising.
Justice	Reflecting the proportional fairness for all citizens without exception.
Harmony and balance	Reflecting the harmony and balance among the interests of individual and society, environment, nation, and local ability.
Environmental sustainability and local knowledge	Paying attention to the environment and ecosystem as well as cultural characteristics in order to realize the sustainable development.
Decentralization	Carrying out by taking into account the local abilities.
Responsibility of the state	Implementing the strong role and responsibilities for all management aspects of the state.
Diversity	Taking into account the diversity of staple foods such as rice, corns, cassava, and sago.
Socio-cultural	Considering the social function of land and appropriate land use-based specific cultural and local wisdom such as corn and sago as the respective staple foods of communities in Madura and Maluku Islands.

Note: ¹⁾ it is derived from the term of "gotongroyong" as one of local wisdoms of Indonesian.

Scopes

The protection of sustainable food crops farmland includes several scopes. They are: (1) planning and determination; (2) development; (3) research; (4) utilization; (5) guidance; (6) control; (7) supervision; (8) information system; (9) farmer's protection and empowerment;

(10) financing; and (11) community participation. The general explanation of the scopes of the protection of sustainable food crops farmland is as follows:

1. The protection of sustainable food crops farmland planning is implemented in: (1) the sustainable food crops farmland region²; (2) the sustainable food crops farmland area³; and (3) the sustainable food crops farmland reserve⁴. It is determined in the Long-term and Medium-term Development Plans and the annual work plans of central, provincial, regency/city governments.
2. The development of the protection of sustainable food crops farmland includes intensification and extensification of lands.
3. Research on the protection of sustainable food crops farmland at least covers: (1) food diversification development; (2) land suitability identification and mapping; (3) food crops farmland zone mapping-based agro-climate and hydrology; (4) ecosystem functionality; and (5) socio-cultural and local wisdom.
4. The utilization of the protection of sustainable food crops farmland is carried out by ensuring the soil and water conservations through: (1) protecting and preserving the land and water resources; (2) managing the land and water qualities; and (3) controlling the pollution.
5. The guidance of the protection of sustainable food crops farmland consists of: (1) coordination of protection; (2) socialization/campaign(s) of laws and regulations; (3) education, training, and extension to the communities; (4) disseminations of the protection of sustainable food crops farmland area/region information; and (6) increased awareness and responsibility of communities.
6. The control of the protection of sustainable food crops farmland is conducted by the central and local governments through the provisions of: (1) incentives⁵; (2) disincentives⁶; (3) licensing mechanism; (4) protection; and (5) extension.
7. The supervision is carried out to ensure of the protection of sustainable food crops farmland through controlling of the performance of: (1) planning and determination; (2)

² The region is referred as farm plots which are set to be protected and developed consistently to produce staple food for the national food resilience, security, and sovereignty.

³ The area is defined as cultivated agricultural land particularly in rural areas which have a spread out or landscape pattern (*hamparan*) of the sustainable food crops farmland area and/or the sustainable food crops farmland reserve and other supporting elements with the primary function to sustain the national food resilience, security, and sovereignty.

⁴ The reserve is in line with the suitable and available protected potential land which is controlled to be utilized as the sustainable food crops farmland in the future.

⁵ Incentives are provided to farmers in the forms of: (1) exemptions of land and building tax; (2) development of agricultural infrastructure; (3) financing the development of high-yielding variety of seeds; (4) simplicities of information and technology accessibility; (5) provisions of infrastructure and facility of agricultural production; (6) guarantees of the issuance of food crops farmland certification through sporadic and systemic land registrations; and/or (7) appreciation (award) for the high achievement farmers.

⁶ Disincentive is referred as revocation incentives imposed to farmers who do not meet their obligations.

utilization; (3) guidance; and (4) control. Those are implemented through the span of appropriate authorities of the central, provincial, regency/city governments.

8. The information system of the protection of sustainable food crops farmland at least comprises data on land concerning: (1) the sustainable food crops farmland region; (2) the sustainable food crops farmland area; (3) the sustainable food crops farmland reserve; and (4) the rights of abandoned lands. It includes information about: (1) the natural and artificial physics; (2) the condition of human resources and social economy; (3) the status of ownership; (5) the size and location of lands; and/or (6) the types of commodity-based staple foods.
9. The protection of farmers is in the form of guarantee towards: (1) favorable price for staple food commodities; (2) acquiring agricultural inputs and infrastructure; (3) marketing of staple food crops; (4) prioritization of domestic food crops production to meet national food requirements; and/or (5) claim of damages due to harvesting crop failure. On the other hand, farmer empowerment includes: (1) strengthening the institutional farmers; (2) improving the quality of human resources through extension and training; (3) facilitating the financial sources; (4) providing the farm ownership loans; (5) establishing bank for farmers; (6) providing the education and health facilities for farm households; and/or (6) facilitating the knowledge, technology, and information accessibilities.
10. The financing of the protection of sustainable food crops farmland is imposed on the state, provincial, regency/city budgets. It can be obtained from the scheme of corporate social responsibility.
11. The community can be participated in the protection of sustainable food crops farmland region individually and/or group basis through the steps of: (1) planning; (2) development; (3) research; (4) control; (5) farmer empowerment; and/or (6) financing aspects.

Conclusion

The implementation of the Law concerning the protection of sustainable food crops farmland is in line with the agrarian reform specifically restructuring the acquisition, ownership, and utilization of lands. On the other hand, the protection of sustainable food crops farmland is also an integral part in spatial planning.

One of the important aspects related to the substance of this Law is the threats of agricultural land conversion to non-agricultural purposes. Currently, it is estimated that the average agricultural land conversion in Indonesia is about 100,000 hectares annually.

The land protected for a sustainable food crops farming cannot be converted into some other purposes. The conversion of the land would be allowed if the requirements are met, namely: (1) strategic feasibility study recommendations; (2) land conversion plan arrangements; (3) ownership rights of the owner exemption; and (4) land conversion

replacement availability. Operationally, the Regulation of Indonesian Minister of Agriculture Number 81/2013 governs the technical guidance procedures for the conversion of sustainable agricultural land.

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