

## AGRARIAN LAW: PERSPECTIVE OF INDONESIAN AGRICULTURAL POLICIES

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### ABSTRACT

*Indonesia, as an agricultural country, makes most of its population work as farmers. However, the life of farmers is not better than other livelihoods. The state should pay more attention to the welfare of farmers through the policies made. The purpose of this study is to find out the policies that have been issued by the state on the welfare of farmers and their implications in the field. The research method used is normative juridical. The results show that the State has issued several policies for the welfare of farmers in the agrarian sector, starting from 1960 to the present. However, government policies have not been in favor of the interests of farmers*

Key words: Agricultural, Farmers, Policy

### 1. INTRODUCTION

Indonesia is known as an agrarian country, most of its inhabitants work as farmers. The area of paddy fields in provinces in Indonesia has changed in the last three years, calculated from 2012 to 2015. Based on statistical data in 2013, the area of paddy fields was 8,128,499 hectares, in 2014 the area of paddy fields had shrunk to 8,111,593 hectares, subsequently in 2015 it decreased again to 8,087,393 hectares (BPS-Statistics Indonesia).

Around 63.4% of this amount is in rural areas with the main livelihoods in the agricultural sector and 80% are on a micro-scale business that has an area of land less than 0.3 hectares. Poverty in rural areas is a major national problem whose response cannot be postponed and must be a top priority in the implementation of social welfare development. Therefore the national economic development based on agriculture and rural areas will directly or indirectly have an impact on reducing the poor population. The fundamental problem faced by farmers is the lack of access to capital resources, markets and technology, and farmer organizations that are still incapitate.

Since 1945, Indonesia is an independent country. Our Constitution Article 33 says that "The earth and water and the natural resources contained therein are controlled by the State and are used for the greatest prosperity of the people. This is supported in Law Number 5 of 1960, namely the Basic Agrarian Law Article 2 paragraph (1), which states "... the earth, water and space, including the natural resources contained therein are at the highest level controlled by the State, as an organization power of all people. The state's controlling rights include the authority to regulate and carry out the designation, use, supply and maintenance of the earth, water and space; determine and regulate legal relations between people and earth, water and space; determine and regulate legal relations between people and legal actions concerning earth, water and space (Article 2 paragraph (2) of the Basic Regulations on Agrarian Principles).

The government has the responsibility to protect the entire Indonesian people, promote public welfare, educate the nation's life, and realize social justice for all Indonesian people. The state is obliged to organize the protection and empowerment of the people, especially farmers in a planned, directed and sustainable manner. For this reason, this research intends to review the policies issued by the government for the welfare of farmers in Indonesia.

### 2. METHODOLOGY

The methodology used is normative juridical with a historical approach, this is considered relevant to reveal government policies in the past up to the present policies on the welfare of farmers.

### 3. PERSPECTIVE OF INDONESIAN AGRICULTURAL POLICY

The definition of a farmer according to Margono Slamet, A native farmer is a farmer who owns his own land, not a giver or tenant<sup>1</sup>. Original farmers, for example, yes, I own my own land, working on my own. Meanwhile, according to Soerjono Soekanto, a farmer is someone whose main job is farming for the consumption of himself or his family<sup>2</sup>. Farmers can be classified based on land ownership factors, namely first: farmers who own agricultural land and home plots, second: farmers who own plots of land but do not own agricultural land, third: Farmers who do not have agricultural land and house plots<sup>3</sup>.

Based on the mastery of agricultural land, farmers in Indonesia are classified into two parts, namely small farmers and non-small farmers. Smallholder farmers are farmers who only control less than 0.5 hectares of agricultural land, while non-smallholders are farmers who control more than 0.5 hectares of land. The condition in Indonesia of non-small farmers is 44.67% and the rest are small farmers based on the results of the 2013 inter-census agriculture survey.

<sup>1</sup> Slamet, Margono. (2000). *Penyuluhan Pembangunan*. Institut Pertanian Bogor. Not published

<sup>2</sup> Soekanto, Soerjono. (1993). *Kamus Sosiologi*. Jakarta: PT Raja Grafiando Persada

<sup>3</sup> Scott, James C., (1994). *Moral Ekonomi Petani; Pergolakan dan Subsistensi di Asia Tenggara*. (Hasan Bahari & Bur Rasuanto, Penerjemah). Jakarta: LP3ES

Agricultural development has a strategic role in the national economy. The strategic role of economic growth, reducing poverty, providing employment, and maintaining the balance of natural resources and the environment<sup>4</sup>. To realize this strategic role, good and appropriate policies are needed. In order to realize sustainable superior industrial agriculture based on local resources can be achieved effectively.

Agricultural policies are a series of actions that have been, are, and will be implemented by the government to achieve certain goals in the agricultural sector<sup>5</sup>. More specifically agricultural policy is defined as the government's efforts through various instruments and regulations to increase the production and consumption of agricultural commodities whose purpose is to advance agriculture and make it more productive so that in turn it can improve the welfare of farmers.

The State of Indonesia as an agrarian country contains the principle that development must begin from agricultural development, agrarian issues especially land must be addressed first, so there are several principles promoted by Bung Hatta, namely: (1) land must not be an instrument of power to oppress and squeeze life other people, (2) ownership of a very large area of land by someone contrary to the basis of a fair economy, (3) companies that use large tracts of land, should be regulated as cooperatives under government supervision, (4) according to Indonesian customary law, land belongs to the community. Someone has the right to use it as much as he needs and cannot be sold. If the land is not used again, the land is returned to the community who will distribute it back to the needy, (5) the land used by large plantations is basically the property of the community. If the plantation business is in the form of a cooperative, the cooperative can use the land for as long as it is needed by it and is prohibited from transferring the right of business, (6) Companies on land that are not very broad can be done alone and belong to someone, (7) Land outside of residential land, it should only be seen as a factor of production and not be the object of trade that is traded solely for profit, (8) There should be no conflict between indigenous peoples and the state, because the state is a community tool to perfect public safety. The state must strive to make the vacant land cultivated as a source of prosperity for the people. Private law as opposed to public law, should not exist in Indonesia<sup>6</sup>.

Since 1945, Indonesia has become an independent country. One year after independence, the Government implemented a small-scale land reform that is through Law No. 13 of 1946 the government abolished the special rights of the village elite in the "perdikan" villages in the Banyumas area. Their lands were cut in half (with compensation), to be distributed to landless farmers<sup>7</sup>. In 1948 through Emergency Law No. 13/1948, the government also abolished "conversion rights" from sugar cane companies located in the two sultanates of Yogya and Solo, and the land was distributed to tunakisma farmers.

In 1959 is known as a period of guided democracy (Indonesian: *Demokrasi Terpimpin*), the outline of government policy at that time was very clear, reflected in the motto: "Sovereign in politics, self-reliant in the economy and personality in culture". The problem of agriculture is prioritized, and agrarian reform is used as a starting point as a foundation for development. Landform reform campaign. To support its implementation, since 1961 and the following years, various regulations were issued, and various institutions were formed (Landreform Committee, Landreform Court, Complete Village Measurement Committee, etc.)<sup>8</sup>.

In 1960 came out Act Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA). Specifically for agricultural land in the UUPA mentioned in several articles, namely:

#### Article 7 Basic Regulations on Agrarian Principles

In order not to harm the public interest, excessive ownership and control of land are not permitted.

Article 10 UUPA consists of 4 verses stating as follows:

- (1) Every person and every corporate body having a certain right on agricultural land, is in principle obliged to cultivate or to exploit it actively by himself whole avoiding violation methods.
- (2) The implementation of the provision in paragraph (1) of this Article shall be further regulated by legislative regulation.
- (3) Exception to the principle mentioned in paragraph (1) of this Article shall be regulated by legislative regulation.

#### Article 17 Basic Regulation on Agrarian Principles

- (1) With due regard to the provision in article 7 and in other to achieve the aim meant in Article 2, paragraph (3) the maximum and/or minimum area of land which may be owned by a family or a corporation wider any right mentioned in Article 16, shall be regulated.
- (2) The fixing of the maximum limit meant in paragraph (1) of this Article shall be executed by legislative regulation within a short time.
- (3) The land in excess of the maximum limit meant in paragraph (2) of this Article, shall be taken by the Government against compensation and shall be further distributed among the people who need it according to provisions provided by Government Regulation.

<sup>4</sup> Todaro, M.P. and S.C. Smith. 2014. *Economic Development*. New York: Pearson Education Press.

<sup>5</sup> Ellis, F. 1992. *Agricultural Policies in Developing Countries*. Melbourne: Cambridge University Press.

<sup>6</sup> Sandy, I Made. (1991). Catatan Singkat tentang Hambatan-Hambatan Pelaksanaan UUPA. *Jurnal Analisis CSIS*, 2.

<sup>7</sup> Soemardjan, Selo. (1962). Landreform in Indonesia. *Asian Survey*, 1 (12).

<sup>8</sup> Wiradi, Gunawan. (2005). *Tantangan dan Masa Depan Pertanian*. Paper presented at the "Workshop Pertanian YLBHI, Hotel Seruni, Cisarua.

- (4). The attainment of the minimum limit meant in paragraph (1) of this Article to be regulated by legislative regulation, be done.

These three articles constitute the prohibition of land reform, so that it appears that the State in this case the government has made arrangements related to the ownership of agricultural land.

During The New Order (Indonesian: *Orde Baru or Orba*, 1966-1998), Indonesia under Soeharto's leadership, systematically the mindset of the people was formed to be pragmatic, without idealism, without political awareness. Coincidentally the green revolutionary movement was born in Asia. In the concept of "25-year Development Acceleration" which is divided into five year development plan (repelita), then agriculture takes precedence, but the idea of Agrarian Reform (RA) was abandoned and prioritizes the green revolution<sup>9</sup>. The Green Revolution in agriculture is a change in agricultural technology, aimed at making land resources as productive as possible, by optimizing the availability of nutrients and water in the soil, planting varieties of plants that have high production potential, and protecting plants from pest and disease disorders. The use of chemicals on a large scale and also the use of superior varieties as quality planting materials causes farmers to harvest 3 times a year where once harvested only once a year. As a result of the implementation of the green revolution, Indonesia succeeded in self-sufficiency in food, but only lasted for five years, from 1984 to 1989. The Green Revolution resulted in a revolution in attitudes and behavior in farming, namely: (a) from the aim of meeting the family's food needs, to obtain instant cash, (b) from using locally available production facilities to dependence on facilities from outside farming, (c) from active farming actors to farming managers, (d) from mutual cooperation farming to wage-based farming<sup>10</sup>.

During The New Order, there were several regulations issued by the government that were in conflict with the UUPA, namely Law No. 1 of 1967 namely the Law on Foreign Investment, Law No. 5 of 1967 concerning Forestry which was later amended by Law No. 41/1999, Law No. 7/1970 which contains the abolition of the land reform court which is the highest body and decision maker regarding land use and land reform objectives. Gradually, the government at that time systematically disarmed the agrarian reform program<sup>11</sup>. It could be said that there was a de-orientation of agrarian policy, which was originally populist in style now oriented towards liberal and capitalist<sup>12</sup>. The new order government at the end of its authority issued PP No. 36 of 1998 concerning the control and utilization of abandoned land, this is because the existence of abandoned land in rural areas would disrupt the sustainability of food self-sufficiency.

With the collapse of the new order in 1998, agricultural policy entered a new phase. Anarchist uprisings arose as a result of repressive actions in the long-running process of distributing agrarian resources. There are two regulations, namely the Regulation of the Minister of Agrarian Affairs / Head of BPN Number 5 of 1999 concerning Guidelines for Settlement of Customary Rights Rights of the Customary Law Community and Law Number 41 of 1999 concerning Forestry. Both of these regulations protect the rights of indigenous and tribal peoples. During the reform period, MPR Decree No. IX / MPR / 2001 where in Article 5 on Agrarian Reform and Natural Resource Management, sets the direction of agrarian reform policies as follows:

1. Reviewing various laws and regulations relating to agraria in the context of synchronizing policies between sectors for the sake of the realization of laws and regulations that are based on the principles of agrarian reform and natural resource management;
2. Resolving conflicts related to agrarian resources that have arisen so far as well as being able to anticipate potential conflicts in the future in order to ensure the implementation of law enforcement based on the principles of agrarian reform and management of natural resources;
3. Carry out the restructuring of ownership, ownership, use and utilization of land (landreform) with due regard to the ownership of land for the people;
4. Conducting land data collection through inventory and registration of land ownership, ownership, use and use in a comprehensive and systematic manner in the context of implementing land reforms;
5. strengthening institutional and authority in order to carry out the implementation of agrarian reform and resolve agrarian resource conflicts that occur;
6. Make serious efforts to finance the implementation of agrarian reform programs and resolution of agrarian resource conflicts that occur.

Through this MPR decree, the government has re-launched the land reform program. As the implementation applies Government Regulation in lieu of Law Number 56 of 1960 concerning Determination of Agricultural Land Area and further regulated by Regulation of the Minister of Agrarian Affairs and Spatial Planning / Head of National Land Agency Number 18 of 2016 concerning Control of Agricultural Land Control, which aims to obtain certainty the law, does not harm the public interest, reduces social inequality, guarantees food security and equal distribution of people's welfare so that land ownership that exceeds the limit is not allowed. Article 3 Regulation of the Minister of Agrarian and Spatial Planning / Head of the National Land Agency Number 18 of 2016 concerning Control of Agricultural Land Control provides limits on the ownership and possession of agricultural land for individuals with the following conditions:

<sup>9</sup> Ibid

<sup>10</sup> Sumarno, Sumarno. (2006). *Teknologi Revolusi Hijau Lestari untuk Ketahanan Pangan Masa Depan*. Paper presented at The national meeting of the Agricultural Land Resources, Bogor.

<sup>11</sup> Sukardi, Sukardi. (2004). Perspektif Kritis Kebijakan Pembaharuan Agraria Indonesia dari Rejim Orde BAru ke Rejim Reformasi. *Jurnal Administrasi Publik*, 3 (2), 198.

<sup>12</sup> Ibid

1. Not dense, with a total area of 20 (twenty) hectares.
2. Less dense, with a total area of 12 (twelve) hectares.
3. Quite dense, at most 9 (nine) hectares.
4. Very densely populated, covering an area of 6 (six) hectares.

Likewise, the implementation of the paddy field printing program, which actually has been regulated in Presidential Decree number 54 of 1980 concerning the policy of paddy printing, is just not visible. In 2006-2010 was the initial period in the effort of the existence of paddy fields with the issuance of Presidential Decree No. 10 of 2005 and followed up with Minister of Agriculture Regulation No. 299 / Kpts / OT.140 / 7/2005 with the formation of the Directorate General of Land and Water Processing (PLA) whose task and function is to manage the expansion of the planting area of several commodities, including rice in the Outer Java region. During the 2006-2010 period, the Directorate General of PLA was only able to print 69,102 hectares of rice fields due to limited budget allocations. Based on the Ministry of Agriculture's Strategic Plan Draft 2010-2014, paddy printing has increased in terms of quantity under the Directorate General of Agricultural Facilities and Infrastructure<sup>13</sup>. In 2011 successfully printed 62,100 hectares of new rice fields, and in subsequent years budgeted 100,000 hectares per year. It can be said that the rice printing program in the Jokowi era (2014-2019) was successful because it exceeded the target of 1.16 million hectares from 1 million hectares. However, this success must also be supported by increased welfare of farmers, and this has not yet been seen.

The government is trying to prevent the conversion of agricultural land by issuing a number of policies, namely Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land and Law Number 19 of 2013 concerning Protection and Empowerment of Farmers. The purpose of the two rules is to guarantee the availability of agricultural land and also the availability of food and improve the welfare of farmers. Although there are rules, but the change of agricultural land into non-agricultural land is still rife in Indonesia, so the Government issued Presidential Regulation No. 59 of 2019 concerning Control over Function of Rice Fields. The government provides incentives for farmers in the form of assistance which can indeed be given in several forms such as agricultural facilities and infrastructure, irrigation facilities and infrastructure, acceleration of land certification, and / or other forms. Blueprints are needed for agricultural land that goes into sustainable food agriculture land and needs to be socialized to farmers who own land.

#### 4. CONCLUSION

Agricultural land policy in Indonesia after the issuance of the UUPA has undergone several changes. These changes are influenced by internal and external politics in Indonesia. From internal, starting from guided democracy until the reform period. Externally, with the politics of the green revolution, which affected all countries in Asia. This policy change does not answer the needs of farmers to get protection from the state in meeting their daily needs.

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