



Policy to Limit the Transfer of Functions Agricultural Land

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Abstract. The function of land in magical religiosity began to shift due to the development of tourism development, population development, settlement development which had implications for the conversion of agricultural land. Whereas the agricultural sector plays an important role in the national economy and the survival of the community. Important agricultural land as a medium for farming activities to produce staple food does not function optimally because it is necessary to do research related to what factors cause the conversion of agricultural land and what policies to minimize the conversion of agricultural land. The results of the study indicate that the development of tourism is one of the factors causing the conversion of agricultural land, where to provide tourism facilities requires land. This also encourages the commoditization of land, where land is used as a commodity object that is vulnerable to being traded. Another thing that causes the conversion of agricultural land is population development which has implications for the development of settlements where agricultural land is often the target of investors to be used as settlements. To anticipate this, land does not need to be used as an object of commodity or commoditization. If land is needed for tourism development, it can be done with a cooperation agreement. Land use includes, among others, leasing, borrowing, building for delivery, etc.

Keywords: Policy · Transfer of Function · Agricultural Land

1 Introduction

Land is a fundamental human necessity. Humans live and do activities on the ground, therefore because humans are always in contact with the ground, it can be stated that practically all activities of human existence, either directly or indirectly, require land. Land is one of the most important sources of life for people, both as a source of income (supporting livelihoods) in many industries such as agriculture, plantations, animal husbandry, fisheries, and industry, and as a place to live with the construction of housing as a place to dwell home. [1] However, as time passed, many farmers lost their paddy fields owing to land change. The high rate of population expansion, as well as the rising need for food and housing, has resulted in a loss of agricultural area. The less agricultural land there is, the less agricultural productivity there is.

With the passage of time, the intensity of development has increased, and this, combined with a very high population growth, has caused the existence of agricultural land to

be disturbed. The occurrence of degradation, conversion of functions, and fragmentation of agricultural land for food has threatened the region's carrying capacity nationally in maintaining resilience and food sovereignty. Today's issue is the growing widespread conversion of agricultural land.

According to Adi Sasono, land conversion is the process of shifting the use of land from one activity to another. Changes in other applications are influenced by variables such as the need to fulfill the needs of an expanding population and the demands of living essentials. Seeing that agricultural land in Indonesia is fertile land, it is very unfortunate if the land is converted to non-agricultural activities. If the practice of conversion of agricultural land is not controlled, it will disrupt food security. With the conversion of land functions, agricultural production will decrease and to meet the basic needs of the people, they must fulfill it by importing. The conversion of land functions, especially in Bali, is very worrying [2]. This is based on empirical data from the Central Statistics Agency for Bali Province in 2016, the facts of land conversion in Bali show the following: The area of rice fields in Bali in 2016 was recorded to have decreased by 537 hectares or 0.67 percent. When compared to 2015, a decrease in the area of paddy fields was recorded in all districts/cities except Klungkung district. The decrease in paddy field area was recorded in Tabanan covering an area of 262 hectares, Buleleng 129 hectares, Gianyar 44 hectares, Denpasar 35 hectares, Badung 30 hectares, Jembrana 18 hectares, Bangli 10 hectares, and Karangasem decreased by 9 hectares and during 2002–2016 rice land conversion was recorded an area of 6,251 hectares, of which turned into agricultural land instead of rice fields or non-agricultural land. The average decline in paddy fields per year is recorded at around 466 hectares or 0.52 percent. The highest percentage of land use change over the last 15 years was recorded in Denpasar City, namely the average conversion of paddy fields to non-rice fields and non-agricultural lands of 1.60 percent per year [3].

Based on these data, it shows that the conversion of land in Bali is very concerning. An area that was originally a center for self-sufficiency in rice has now gradually narrowed into an industrial and residential area. Likewise, the subak institution which is famous in the eyes of the world, now its existence is almost without its territory. Indeed, the existence of land in Bali, has a different value from other areas. Land in Bali which is positioned as the motherland for Balinese Hindus. So that it gives meaning, that land always functions to give life to every human being. For the Balinese, under such conditions, land can be interpreted as having a religious function. Every inch of land in Bali has magical powers or many people say land of taksu.

The development of tourism development in Bali, which is famous throughout the world, will not be a challenge in the future in the form of land conversion. Productive lands in the form of rice fields have now shifted into supporting land for tourism activities. Even at the beginning, which was intended as a green line area, now hotels, bungalows and restaurants have been built. All of this will affect the narrower and reduce the availability of the world's lungs in the form of areas where trees grow. He explanation shows that the economic function of land is very dominant because of the commodification of land resources which causes the social and religious functions of the land to be increasingly marginalized. The amis reseach are to know hat factors cause the

conversion of agricultural land and what are the restrictions on maximizing the function of agricultural land.

2 Method

The law is examined in normative law study (normative law research). The focus of the study is the law, which is defined as a social standard or regulation that serves as a guideline for everyone's behavior. As a result, normative legal study focuses on positive law, legal principles and doctrines, legal discoveries in concrete situations, legal systems, synchronization levels, legal comparisons, and legal history.

In this study, the statutory approach was used as the approach technique. A statutory approach must, of course, be used in normative research because what will be investigated are numerous legal regulations that are the emphasis as well as the fundamental issue of a research.

Primary legal materials and secondary legal materials are employed; primary legal materials include laws and regulations relevant to the policy of managing the conversion of agricultural land functions. Secondary legal resources are literature about the subject of research. Legal materials are gathered through inventory methods, identification of laws and regulations, categorization and systematization of legal resources based on research difficulties. As a result, the approach of gathering legal materials employed in this research is literature review. Reading, studying, taking notes, and reviewing library resources relating to subak and cultural heritage are all part of the literature studies.

In normative legal research, legal resources are processed by mimicking textual legal documents. Systematization entails categorizing these legal materials in order to improve analysis and construction work. The received legal documents are then debated, evaluated, and divided into sections for processing into information. The findings of the legal materials analysis will be interpreted utilizing a systematic (a) interpretation technique; (b) grammatical; and (c) teleological approach. In this study, the choice of systematic interpretation is designed to identify the legal framework. Systematic interpretation (also known as dogmatic interpretation) involves interpreting in relation to other legal documents.

3 Result and Discussion

3.1 Factors Causing Land Conversion

3.1.1 Development of Tourism Facilities

Given the wide disparities in land tenure and ownership, it is strongly anticipated that the use of land in Regional Spatial Planning and Investment for Sustainable Tourism Development in Bali would be prudent. The correct interpretation of land use here is to not allow the land (residents/communities, villages, and local governments) to be transferred to other parties that seek to engage in tourism. It is believed that there would be a synergy between landowners and tourist investors. It is sufficient for the investor to synergize (form a land usage agreement) with the land owner without being the owner of the land (with the status of property rights or HGB). In this approach, land ownership

disparity may be addressed alongside the reduction in the number of impoverished people in Indonesia, particularly in Bali.

Given that foreign visitors account for more than 40% of all trips to Indonesia, the fall in agricultural land area is logical. In the previous five years, the number of international visitors visiting Bali has climbed dramatically, from 3.3 million in 2013 to 5.7 million in 2017. Foreign tourist visits grew by 15.62% in percentage terms between 2016 and 2017. The availability of infrastructure, such as hotels and restaurants, would be impacted by a rise in the number of international tourist arrivals. Without space/land, it is impossible to build hotels and restaurants. So it's reasonable if agricultural land's role shifts from agriculture to non-agriculture.

This means that the number of hotels and restaurants that use land will undoubtedly increase from year to year. As a result, the demand for land rises, as does the transfer of property rights and/or the shift of land use from agricultural to non-agriculture. Argotourism [4] might potentially see a growth in the utilization of agricultural land for tourism business operations.

The need for land for the construction of tourism facilities may have stalled during the Covid-19 outbreak, but future tourism developments will still require the construction of tourism facilities because traveling is a necessity and Bali is still a favorite for world tourism, so the transition to land conversion in Bali will continue.

It is not necessary to meet the demand for land for tourism firms by purchasing and selling or transferring rights. The facility, namely a land use agreement, has been given by the LoGA and its accompanying rules. So that people in need of land are not forced to buy it, and those with land rights are not forced to sell it. Especially if the parcel of land is the only property owned by the community as a means of survival.

Then, according to the provisions of Article 10 of the UUPA, every individual and legal entity with a claim to agricultural land is required to work on or actively cultivate it. Laws and regulations govern exceptions to this premise. This implies that agricultural land can be used in collaboration with third parties through land use agreements, such as sharing the proceeds, mortgaged, rented out (Article 53 of the LoGA), or burdened with usufructuary rights. Even back then, the Presidential Decree No. 23 of 1980 on the Use of Land Use Rights and Building Use Rights for Joint Ventures in the Context of Foreign Investment was in effect.

According to Article 11 of the UUPA, legal relations between people, including legal entities with the earth, water, and space, as well as the powers that arise from these legal relationships, will be regulated in order to maximize people's prosperity while preventing control over the lives and work of others. That exceeds the limit. Article 24 of the LoGA affirms that non-owners' use of land is limited and governed by laws and regulations.

According to LoGA articles 10 and 11, Presidential Decree No. 23 of 1980 concerning the use of Land Use Rights and Building Use Rights for Joint Ventures in the Framework of Foreign Investment, tourism development that requires land for the construction of tourism facilities can be carried out through an agreement to assign rights or an agreement land use cooperation.

3.1.2 Commodification in the Land Sector

Commodification can also have a negative impact, for example by having certified land, people tend to have a non-consumptive lifestyle. The land that became the inheritance of his ancestors which had been owned for decades was easily transferred to the owner of the capital. The island of Bali as a world tourist destination will certainly be a target for capital owners to invest in the tourism sector. So that commodification as well as the practice of capitalism is suspected because of its shrewdness in an effort to accommodate capital.

Commodification in the land sector can also be a predator for the sustainability of the land of the island of Bali. Balinese people tend to sell their land to fulfill their desires in the form of an excessive lifestyle, whereas in fulfilling their needs they do not have to sell their land. Empirical facts, this happened in the South Badung Regency area, giving rise to the term OKB, namely the New Rich. The owners of capital have bought community land at a certain price, on the other hand, the community is not ready for the capital (money) they suddenly hold. So that what he did was not well planned, and at a certain time the people who originally owned the land had to become workers in that place.

Thus, the existence of land in Bali, which initially had a religious social function, shifted to the owners of capital who no longer had a religious orientation but were always oriented towards economic interests.

3.1.3 Population Growth

Over time, many farmers began to lose their paddy fields due to land conversion. The rapid rate of population growth and also the increasing need for food and shelter have caused the number of agricultural land to decrease. The less agricultural land, the less agricultural production.

Protection of agricultural land, especially on agricultural land for sustainable food is already a government policy, for that various government policies have been made, both in the form of laws and other regulations. However, this step will be less successful if the efforts to control the use of food agricultural land do not receive adequate support or are not integrated into the integrated development of the agricultural sector..

Based on Law No. 41 of 2009, a Sustainable Food Agricultural Land was developed to achieve food security and food sovereignty, as well as to avoid any alteration of agricultural land functions. It is stated in Article 1 point 3 of Law Number 41 of 2009 concerning the Protection of Sustainable Food Agricultural Land that:

“Sustainable Food Agricultural Land is a field of agricultural land that is determined to be protected and developed consistently in order to produce staple food for national food self-reliance, security and sovereignty.”

Population growth is a critical concern in the national food security agenda, particularly in terms of food availability. Ensure national food availability by protecting food agricultural land against conversion to other purposes other than agriculture. Agricultural land conversion is primarily caused by rivalry for land usage between the agricultural and non-agricultural sectors.

3.2 Policies in Restricting Land Conversion

3.2.1 Designation of Sustainable Agricultural Land

Food Agricultural Land should be conserved for the sake of food self-sufficiency, security, and security, according to Law Number 41 of 1990. Food agricultural land is rescued from existing food land or reserves that are arranged according on factors such as land appropriateness, infrastructure availability, land usage, land potential, and the presence of area in units. The law's requirement must be followed by the identification of existing agricultural areas, both irrigated and non-irrigated. To limit the rate of land conversion, this Law demands the establishment of Sustainable Food Agriculture Land (LP2B), Sustainable Food Agricultural Reserve Land (LCP2B), and Sustainable Food Agriculture Areas (KP2B).

The developed national Sustainable Food Agricultural Land Protection Plan serves as a model for the development of Provincial and Regency/Municipal Sustainable Food Agricultural Land Protection plans. The chosen Provincial/City Sustainable Food Agricultural Land Protection Plan will serve as a model for the development of Regency/City Sustainable Food Agricultural Land Protection plans. Policies, strategies, program indications, and programs and financing plans related to the Sustainable Food Agricultural Land Protection Plan are included in the Long Term Development Plan (RPJP), Medium Term Development Plan (RPJM), and Annual Plan of both through the Government Work Plan (RKP), Province, and Regency/City. This clause is meant to ensure yearly budgeting and execution.

A function change can be carried out if a strategic feasibility analysis is carried out and a land conversion plan is produced and first disclosed in the public interest; however, it must first go through its rights from the owner and supply replacement land for LP2B that is converted. Any person or entity that violates the provisions on the transfer of the function of Sustainable Food Agricultural Land may face administrative sanctions such as written warnings, temporary suspension of activities, closure of locations, revocation of permits, fines, and imprisonment, according to Law No. 41 of 2009.

3.2.2 Protection and Empowerment of Farmers in Order to Limit Land Transfer

Farmers' protection and empowerment efforts have so far been hampered by a lack of comprehensive, systematic, and holistic rules and regulations, leaving farmers and business actors in the agriculture sector with less legal certainty and fairness. So far, current laws have been ineffective in regulating protection and empowerment activities in a clear, forceful, and comprehensive manner.

Policies that can be implemented to protect farmers' interests include, among other things, the regulation of agricultural commodity imports in accordance with the harvest season and/or domestic consumption needs; the provision of agricultural production facilities in a timely manner, with appropriate quality, and at affordable prices for farmers, as well as subsidies for production facilities; the stipulation of tariffs for agricultural commodity import duties, a quota system, and a quota system for agricultural commodity import duties.

Furthermore, the Farming Business area is determined based on the conditions and potential of natural resources, human resources, and artificial resources; agricultural

insurance facilities to protect Farmers from losses due to crop failure due to natural disasters, infectious animal disease outbreaks, climate change, and/or other types of risks determined by the Minister; and compensation for crop failure due to extraordinary events.

3.2.3 Giving Incentives to Farmers

Through the provision of incentives, the Government and Regional Governments execute Government Regulation Number 12 of 2012 concerning Incentives for Controlling Sustainable Food Agricultural Lands. Incentives are types of national and/or local government attention and acclaim bestowed upon farmers whose land is willing to be designated as Sustainable Food Agricultural Land. Agricultural human resources are necessary to increase agricultural yields and productivity.

In view of the fact that the extent of land undergoing conversion is growing year after year, posing a threat to national food security, the President issued Presidential Regulation (Perpres) Number 59 of 2019 concerning Control of Rice Fields. This Presidential Regulation is anticipated to slow the current rate of land use change.

Rice fields that are included in the protected rice field map but have not been determined as part of the determination of sustainable food agricultural land in the spatial plan, according to this Presidential Regulation, cannot be converted until the minister in charge of government affairs in the field of land use issues a recommendation for land use change. Planning for agriculture and military, as well as spatial planning.

This Presidential Regulation further indicates that the Central Government provides incentives for protected rice fields to Regional Governments and the community. According to this Presidential Regulation, the supply of incentives by the Central Government to the Regional Government is carried out if:

- a. in the territory of the Regional Government there are Rice Fields that are included in the protected Paddy Land map; and/or
- b. The local government stipulates that rice fields that are included in the map of protected rice fields are part of sustainable food agricultural land.

Meanwhile, the provision of incentives by the Central Government to the community is carried out if the community owns and/or manages the rice fields specified in the protected rice field map. Although Law Number 41 Year 2009 has been around for a long time, only a few have established LP2B with its spatial data, so it is hoped that the Determination of Protected Rice Fields Map will encourage local governments to accelerate the determination of LP2B. The local government's alignment with the protection of paddy fields is very much needed in determining the map of protected rice fields.

3.2.4 Giving Sanctions to Violators of Land Conversion

Land designated as LP2B is protected and cannot be converted, but in the case of public interest, a transfer of function can be carried out subject to a strategic feasibility study, a land conversion plan, the rights are released from the owner, and a replacement land is

provided for the LP2B that converted. In addition, Law No. 41 of 2009 expressly states that any person or entity who violates the provisions on the transfer of the function of Sustainable Food Agricultural Land may face sanctions, including administrative sanctions in the form of written relief ranging from temporary suspension of activities to closure of locations, revocation of permits, fines, and prison law.

As a result, one of the most strategic policies is the identification of sustainable food agricultural land and the management of food agricultural land conversion. Various policies connected to limiting the conversion of agricultural property, particularly irrigated rice fields, have been published in the form of laws and regulations, but their execution has been ineffective due to the absence of criminal repercussions. Apart from the federal and local governments, no one really wants to do it.

4 Conclusion

That the development of tourism is one of the factors causing the conversion of agricultural land, where to provide tourism facilities requires land. This also encourages the commoditization of land, where land is used as a commodity object that is vulnerable to being traded. Another thing that causes the conversion of agricultural land is Population Development which has implications for the development of settlements where agricultural land is often the target of investors to be used as settlements.

To anticipate this, land does not need to be used as an object of commodity or commoditization. If land is needed for tourism development, it can be done with a cooperation agreement. Land use includes, among others, leasing, borrowing, building for delivery, etc. This is based on the provisions of articles 10, 11, 53 of the UUPA and Presidential Decree No. 23 of 1980. In addition, the Government has made policies to limit the conversion of agricultural land, namely: Law No. 41 of 2009 concerning Protection of agricultural land, Law No. 19 of 2013 concerning protection and protection of agricultural land. Farmer Empowerment, Government Regulation No. 12 of 2012 concerning the Initiative for Control of Agricultural Land and Government Regulation No. 59 of 2019 concerning the Control of the Transfer of Rice Fields.

References

1. Arsyad, S, 1989, *Konversasi Tanah dan Air*, IPB Press, Bogor.
2. B. Irawan, 2005, "Konversi Lahan Sawah : Potensi Dampak, Pola Pemanfaatannya dan Faktor Determinan", *Jurnal Forum Penelitian Agro Ekonomi*.
3. Eka Fitrianiingsih, 2017, *Tijauan terhadap Alih Fungsi Tanah Pertanian ke non Pertanian (pemukiman) di Kecamatan Tomoni Kabupaten Luwut Timur*, Skripsi, Fakultas Hukum, Universitas Hasanudin Makassar.
4. Fx . Sumarja, optimalisasi Penempatan Tanah Dalam Pengembangan Pariwisata Berkelanjutan , Dalam Seminar Nasional: Pemanfaatan Tanah Dalam RT:RW Dan Investasi Pengembangan Pariwisata, 30 Oktober 2018
5. Lestari, Tri, 2009, *Dampak Konversi Lahan Pertanian Bagi Taraf Hidup Petani*, Laporan Penelitian Sains Komunikasi dan Pengembangan Masyarakat, Institut Pertanian Bogor.
6. Sasono, Adi dan Sofyan Husein Ali, 1995, *Ekonomi Politik Penguasaan Tanah*, Pustaka Sinar Harapan, Jakarta.

7. Seminar Nasional dengan Tema : Pemanfaatan tanah dalam rencana tata ruang wilayah dan investasi untuk pembangunan pariwisata di Bali, 30 Oktober 2018.
8. Seminar Nasional dengan tema: Pemanfaatan tanah Dalam Rencana tata ruang wilayah dan investasi untuk Pembangunan pariwisata di Bali, 30 oktober 2018.
9. Soedjono, 1998, Prosedur Pendaftaran Tanah Tentang Hak Milik Sewa Guna dan Hak Guna Bangunan, Rineka Cipta, Jakarta.
10. Utomo, M, 1992, “Alih Fungsi Lahan: Tinjauan Analitis dalam Makalah Seminar Pembangunan dan Pengendalian Alih Fungsi Lahan”, Universitas Lampung, Bandar Lampung.
11. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
12. Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria.
13. Undang-Undang Nomor 41 Tahun 2009 tentang Perlindungan Lahan Pertanian Pangan Berkelanjutan
14. Undang-Undang Nomor 23 Tahun 2014 tentang Pemerintahan Daerah.
15. Peraturan Pemerintah Nomor 1 Tahun 2011 tentang Penetapan dan Alih Fungsi Lahan Pertanian Pangan Berkelanjutan.
16. Peraturan Pemerintah Nomor 12 Tahun 2012 tentang Insentif Perlindungan Lahan Pertanian Pangan Berkelanjutan.
17. Peraturan Presiden Republik Indonesia Nomor 59 Tahun 2019 tentang Pengendalian Alih Fungsi Lahan Sawah.

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