

**Legal Protection: Converting Agricultural Land To Residential Land  
(Legal Analysis of Agricultural Land Conversion)**

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**Abstract**

*Indonesian population growth has increased rapidly. Therefore, it needs residential land to build schools, markets, and various public places. This condition makes land conversion increase as agricultural land in Indonesia is wide and relatively easy to be converted. However, if this happen continuously, Indonesia will face endanger of food resilience. Actually, a legal instrument, Law Number 41 of 2009 on Sustainable Food Agricultural Land Protection, is a law that prevents agricultural land conversion for the sake of national food resilience. Practically, agricultural land conversion unstoppable and continuously keeps happening. Therefore, judicial approach is significantly required in to comprehensively prevent agricultural land conversion.*

**Keywords:** *Legal Protection, Conversion, Agriculture*

**Introduction**

In developing countries such as Indonesia, the population growth has increased more than the economic development growth. That high dynamics of Indonesian population growth from year to year continues to increase where economic development growth is not specifically raising will cause several new social issues.

According to Indonesian statistic data, Indonesian total population has reached 242 millions with economic growth level 34% (Setiadi, hal. 1-2). A good legal system to protect agricultural land for future self-sufficient in food production should be implemented through effective programs and regulations to prevent land conversion, from agricultural land to residential land.

There are two main factors of converting agricultural land. Firstly, in line with industrial and property business development, it needs residential land to build public facilities and access that surely do support industrial and property business development. Therefore, this can promote industrial and property business development to the residents and investors.

Secondly, since converted land (residential land) has higher economic value than agricultural land, it increases the number of land conversion (RosianaDewiAdiaSiswi, 2011),

Unpublished Thesis, Juridical Study of the Permission Implementation of Land Conversion, from Agricultural to Non-Agricultural Land in Madiun Regency, Universitas Sebelas Maret, Surakarta, page 1).

When this land conversion continuously occurs, it means that there is no appropriate legal system to protect agricultural land.

This condition jeopardizes the idea of future self-sufficient in food production (Setiawan, 2000, hal. 4), because according to Sahid Susanto as cited by Zaenil Mustofa and Purbayu that agricultural land. Particularly farm land, has an important role to preserve food supply stability, rice especially; to intensify ecological function; to create rural community social and economic activities; and to create an agrarian society-based civilization (Mustofa & Santosa, 2011, hal. 5).

Land conversion from agricultural to residential land has been threatening self-sufficient in food production. It is difficult to control the intensity of land conversion. Most of converted lands even have the highest productivity among others. Those converted lands are technical and semi technical-irrigated farm fields. Those are located in agricultural land where advanced technological and institutional applications supporting rice development has been applied.

Social factors have been considerations why land conversions occur. Those factors are social engineering, management and conversion land. Meanwhile, what interferes land conversion is the relationship between landowners and tenants. Political factors can be seen from the dynamics of the development of society as the effect of regional autonomy and the dynamics of the development of society, which surely want to demand the rights of management of land more widespread and real (independent). Therefore, there is a tendency to convert agricultural land (agricultural land conversion).

According to Hakim, high economic growth led to rapid growth in some economic sectors. The growth also requires a wider land. Therefore, it increases the demands of land for development in various sectors, especially the industrial sector. The importance of land for these various sectors makes the demand for residential land increase. It is in line with the increasing population growth, but the availability of land is relatively limited (Hakim, 2002, p. 149).

According to Mubyarto, land is a production factor that cannot be reproduced by humans or often called non-producing input. Therefore, conversion leads to degradation. An endeavour to reduce rice production-losses due to the conversion of rice agricultural land is

important in order to counteract the stagnation of rice production growth, so that the conversion of agricultural land has reduced the carrying capacity of the region in maintaining food self-sufficiency, security, and sovereignty (Mubyarto, 1996, p. 89).

Today's problem is demands of land. This occurs because the population increases by 1.49 percent per year. Meanwhile, the existing land area is relatively stable; the productivity of the food farm is leveling off, and there is a land-use competition for industrial development. This includes the expansion of provincial and district / city areas, so that the availability of land to meet the national food sufficiency is increasingly threatened.

Agricultural land authorization by farmers is also being weakened. There are several reasons why this occurs such as landowner inheritance factors, unbalanced land-use competition, particularly between agricultural and non-agricultural sector. If related parties in land-use planning only focus on land rent economics, there will be no balance between agricultural development and another sector (Agus, Fahmuddin, & Irawan, 2004, p. 32).

This situation will influence to a reduction of environmental and land support capacity. Gatot Sroe Hardono et al, state that agricultural land conversion is a threatening problem for self-sufficiency food production. Food security is the condition related to how easy people access food, from both quality and quantity (Gatot Sroe Hardono, 2004, p. 18)

One of law, which regulates agricultural conversion, is Law Number 41 Year 2009 on Protection of Sustainable Food Crops Farmland. According to Law Number 41 Year 2009 Article 1 Paragraph 7 on Protection of Sustainable Food Crops Farmland, it is stated that:

“Sustainable Agriculture Farming Land is an agricultural land particularly in rural areas that has sustainable food and agriculture and/or sustainable food and agriculture reserve land including its components that aim to support food self-sufficiency, security, and sovereignty.”

There is a regulation on the sustainable food and agricultural land protection. It is regulated in the several government regulations (PP): Number 1 Year 2011 on the arrangement and conversion of sustainable agricultural land; Number 12 Year 2012 on the incentives for sustainable agricultural land protection; Number 25 Year 2012 on the information system of sustainable agricultural land; and Number 30 Year 2012 on financing sustainable agricultural land protection.

Besides law and government regulations, there is also a Ministry of Agriculture regulation Number 07/Minister of Agriculture Regulation (Permentan)/OT.140/2/2012 on technical guidelines on criteria and requirements for sustainable land use; agricultural land;

and food and agriculture reserve land. Furthermore, Ministry of Agriculture actively involves in the implementation of territory and spatial planning for national, provinces, cities and towns. (Ika Mustafa, 2017, Unpublished Thesis, Legal System on Food and Agricultural Land towards Land Conversion in Padang, UniversitasAndalas, Padang, page 8).

Prevention of the conversion of agricultural land to non-agricultural land would be effective with the legal protection of productive agricultural land from conversion. Based on the background of the study above, the researcher is interested to study a dept-research related to Legal System of Land Conversion from Agricultural to Non-Agricultural Land as described above.

### **Result Of The Study**

According to Central Bureau of Statistics, Suryamin, "Those families who plant rice (in 2003) amounted to 14.2 million families, while (year) 2013 fell to 14.1 million." Soybean crop business declined. In 2003, there were one million, while in 2013 were only 700 thousand. For corn crops there also decreased (from) in 2003 6.4 million, in 2013 to 5.1 million." Central Bureau of Statistics also notes that there is a decline in the number of families with the most agricultural sector occurred in Java, followed by Sumatra and Kalimantan. Central Bureau of Statistics, (<http://www.voaindonesia.com/content/bps-jumlah-petani-diindonesia-terus-berkurang/1949152.html>, accessed on June 1, 2016, at 8:15 pm.)

The number of farmers who change their job because the government does not support them so farmers have to try by themselves starting from finding farming land and fertilizer to facing the possibility of harvest failure until the harvest sales. Because of these, it can make farmers become frustrated when harvesting season comes. This is why the economic value of agricultural land is still inferior to the economic value of non-agricultural. Therefore, many farmers are choosing to convert their agricultural land.

Supplying, using, and upgrading of land resources, for non-farms to increase the economic level freely without legal protection of agricultural land, can lead to future disasters. It is important to realize the importance of conservation of the function of land, as agricultural land is fundamental and essential for all of us so that there will be no disaster in the future.

If the conversion of agricultural land to non-agricultural is left uncontrolled then there must be a condition that agricultural land will become narrower, agricultural production will decrease. In the future, Indonesia will experience a food-deficit. In other words, Indonesia

will have a dependence on rice imports from other countries, even the threat of ecological disaster that follows this condition.

Actually, many legal instruments have been made to control the number of conversion of agricultural land. In fact, the Law for controlling the number of agricultural land conversion has been published since the beginning of the Indonesian independence period, namely: the Law relating to the 5th / 1960th annotation of the Agrarian Principles governing land ownership (land reform, eigendom land etc). It also includes how to manage it by the state and its citizens; Law No.5 of 1990 on the Conservation of Biological Natural Resources and Ecosystems; Law No.41 / 2009 on Sustainable Agricultural Land Protection.

It needs a development concept that is planned to bring benefits to many people and do not negate factors that affect the sustainability of agricultural land. The concept has been carried out in many developed countries that produce advances in various fields, including economics, technology, production, education and information. The concept has improved the quality of human life in that country but has not forgotten the essence of food productivity required by all citizens.

Therefore, to achieve the required development objectives is a plan that is in accordance with the laws and regulations. Therefore, it can provide guarantee, protection, certainty and direction that heed to land conversion. There are reality in which developed and developing countries are desperately appreciated that the country is experiencing a rapid increase in agricultural productivity from both quantity and quality.

Competition for land optimizing use for various sectors is getting broader. The amount of agricultural land conversion had been planned based on Spatial/ regional Planning is 3.09 million Ha out of 7.08 million Ha in total of agricultural land (BPS, 2004). The results of the analysis showed that the condition of existing agricultural land is quite alarming, even though there is increase of land in amount of 1.593.649 ha from 1981-1999. However, in the other hand, there was a sharp decline in 1999 – 2002 in amount of 422.857 ha. Conversion of agricultural land in Java is conducted for several purposes, namely: housing by 58.7%, other agricultural lands by 21.8% and non-housing by 19.5%. Meanwhile, outside Java Island, agricultural land is converted for purposes of: housing by 16.1%, other agricultural lands by 48.6% and non-housing by 35.3% (Plant Protection Center Food and Horticulture, <http://diperta.sumbarprov.go.id/statis56-.html>, accessed on June 1, 2016 at 4 a.m.)

Indonesia is a country in which 49% of its people earn income from agricultural sector. Of this amount, 71% cultivate the rice field with rice, or *palawija*, the second crops

planted on dry season. In this case, Indonesia produces 9% of world rice production. Thus, it makes Indonesia as the third largest rice producer in the world after China (30%) and India (21%). Indonesia is a country with population growth rate reaching 1.49% per year. Therefore, there is significant increase in the census. Based on the census data conducted in 1990, Indonesia's population is 173 million. However, the population number reached 237 million people in 2010.

Crops consumption data for each population was recorded at an average of 131 kg/year with marginal interval only 0.14%. Technically, it becomes perfectly inelastic necessity. This is due to food production that is relatively unchanged significantly, gradually, although technically, the methods and planting technology has been improved.

In 2011, rice production in Indonesia was estimated reached 65,385,183 tons or equivalent to 39,231,109,800 kg of rice. With consumption rate of 131.5 kg/year and population number 237.7 million people, the rice consumption is estimated will be equivalent to 52,083,057 tons. Thus, if the population growth rate is constant, it can be estimated that in 2015, the consumption will take 48 million tons of rice or 80 million tons of grain. It means that rice production in Indonesia should increase in double than of that in 2011 (Tutik Setyawati, 2014, The Dynamics of Rice Production in East Java v.s. Surplus Target of 10 Million Ton of National Rice Production, Agricultural Technology Information Center of East Java, Malang, page 2).

In fact, this real condition shows that food productivity has considerably increased rather than the variability of agricultural land. However, in the other hand, it also shows that the rice fields are actually stagnated. This condition is triggered by the significant decrease of rice fields. As the result, it causes decrease of crop production.

Conversion of agricultural land will bring negative impact on food problems due to the reduced capacity food production. Such impact is considerably permanent since the converted agricultural land will be not able to be re-converted once it is converted into non-agricultural purposive. Thus, some efforts that are attempted to restore food production capacity such as opening new rice fields or increasing crops productivity become significantly more difficult to achieve. Unfortunately, this impact of agricultural land conversion is habitually assumed as a temporary impact. As the result, this matter is considered not as a big deal that requires further solution. (Sunarno, 1996, Problems on Water Resources Management, Challenges, and Opportunity in Stabilizing Food Self-Sufficiency, Article published in Proceeding of

Competition in Land and Water Resource Use, Indonesian Center for Agricultural Socio Economic and Policy Studies, Malang, page 87-89).

Conducting good planning and legal arrangement of land conversion mean preventing sustainable food supply from the destructive, environmentally irresponsible development. In this case, people are obliged to actively participate in ensuring that the conversion process is well regulated. Thus, the potential of agricultural food production can be maintained significantly. Moreover, it also can provide more benefits for all people in every level of society.

The legal instruments, such as laws and regulations as mentioned above, fail to provide control and proper arrangements in order to prevent land conversion. Besides, they also fail to provide regulation concerning the mechanism of land conversion in detail, clear way, especially in relation with rights, obligations and sanctions for all parties. In addition, particular legal instruments are also required in order to regulate the issues of incentives, disincentives, and compensation. In the point of view of current policy, incentives in the form of subsidy, tax break, and agricultural tools supply are granted for the defending parties. Meanwhile, disincentives are given to the converting parties. The compensation, then, is provided in order to prevent the land from conversion.

The best mechanism of legal protection can be realized by improving farmers welfare. This opinion is drawn from mapped typology, in which land conversion is divided into 7 points, namely (Sihaloho, 2009, hal. 76):

1. Gradual conversion of sporadic typology. It is a conversion influenced by major factors, such as minimum productivity of land or economic interests.
2. Systematic conversion of "enclave" system. It is simultaneous land conversion in order to increase its additional value.
3. Conversion with responsive typology for population growth, or demographic-based adaptation conversion. It is land conversion for residential purposes.
4. Conversion of social problems typology. It is land conversion that occurs due to high economic demands and changes in welfare.
5. Conversion of migration typology. It is conversion that is influenced by life improvement factors. It is conducted by doing migration or converting land in the migration place.
6. Conversion of agricultural adaptation typology. It is conversion that is caused by the objectives of increasing agricultural products (e.g., conversion of rice fields into farms/fisheries).
7. Multi-typology conversion. It is land conversion that is caused by several factors, such as inheritance systems, schools, trading and offices.

If an agricultural land is converted, the surrounding land will be also progressively converted. According to Akbar (Akbar, 2008, hal. 66), conversion of agricultural land are

mostly caused by the low economic value of agricultural products. Thus, such land is converted to it more profitable. As the result, investments of agricultural, reservoirs, and irrigation systems as the infrastructure are not able to be fulfilled. In this case, land conversion will bring adverse impact for people and great loss of environmental damage (Sumaryanto, 2016, hal. 22)

It is true that the biggest factor of land conversion is due to the economic factor, however, doing land conversion is not merely the have-to-do action. Generally speaking, the government, actually, has the legal authority to control the land optimization use. Thus, in this case, the conversion of agricultural land is actually determined by the effectiveness of policy that regulates the land conversion. The effectiveness of this policy also determines how much land conversion takes impacts on social, economic, environment, and food supply issues.

Actually, there are three main policy instruments that can be used as the efforts to minimize land conversion. The first is Spatial/ Regional Planning that is officially created by regional government and authorized by Regional Representatives Assembly. Spatial/ Regional Planning are used as the basic references in regulating or utilizing land use for particular activity. Particularly, the principle of utilitarianism or giving maximum benefit to the citizens is applied here.

The second instrument is land use application permits under the authority of National land Agency in regional level. Then, the third instrument is the regulation of agricultural land conversion. In the same time, this regulation is the instrument used to determine which types of agricultural land that are allowed to be converted. Moreover, this regulation should be considered in proposing the land permission documents. Regionally, the decision concerning whether or not an agricultural land can be converted into non-agriculture purpose is determined by official team consisting of officers from relevant department of land affairs.

Conceptually, a legal instrument is considered as ideal if it accomplishes some elements. First, it must have clear specification and direction concerning convertible lands that have been formulated in Spatial/ Regional Planning. Second, it must have clear, considerable instrument for determining areas of agricultural and non-agricultural activities. The last is that it must be in form of legal instrument of incentives and disincentives for land conversion.

Nevertheless, the main drawback of this regulation on agricultural land conversion is its lackness of public understanding due to unwell-coordinated socialization. The fact is that



not every single policy and regulation, such as Spatial/ Regional Planning, is easily understood by common people. People do not understand the rules on certain types of agricultural land that are forbidden to be converted. Moreover, not all people understand that converting agricultural land with technical irrigation is a violation of law.

Another factor that also supports the weak implementation of land conversion regulations is the governments' leader tendency, in this case is the village headman, in supporting agricultural land conversion. They tend to support the conversion of agricultural land purchased by investors. It is assumed that the leaders do this due to the certain of money the village treasury will receive when the conversion is done. This matter is called as the organizational interest of village government.

Additionally, technical difference between bureaucratic operational structures and the implementation of land conversion policy becomes another concern. In this case, bureaucracy of organizations such as National Land Agency is centralized, while the implementation of conversion policies is decentralized. Such structure actually is not effective in the central government because there is no detail legal instrument to encourage policy implementation or to consistently implement a defined conversion policy.

Incentives and disincentives stated in the regulation should actually be able to encourage farmers to improve their welfare and to increase the economic value of agricultural products. Moreover, various policies used to support agribusiness or other agricultural commodities have been provided. According to EC Pasrour, the importance of agriculture and agribusiness in economic development of a country becomes one of main problems in planning land optimizing use in rural areas. Furthermore, the conventional welfare theory shows that agricultural land and soil resources must be maintained well (Pasrour & Gardner, 1993, hal. 18).

Therefore, various efforts have been attempted to control the conversion of agricultural land. Plenty of studies focused on understanding the process of conversion functions, the causal factors, the typology of land management, and the predictable negative impacts have also been conducted. In addition, several recommendations and a number of policies have also been formulated. From the results of literature study conducted before, actually there are 11 legal products that have been formulated. Those legal products are in the form of Government Regulation, Presidential Instruction, Ministerial Regulation, or Ministerial Decree. However, such policies mentioned above have not achieved the target yet. The effectiveness of these regulations is still questionable due to the lack of consistency

in planning. In addition, the coordination and synchronization of policy implementation is still not good enough.

### **Conclusion**

Indonesia is a big country with rapid population growth. Due to this condition, the need for land becomes a vital, strategic requirement. The demands for housing, roads, schools, and infrastructure force the conversion of agricultural land into non-agricultural one. Conversion of agricultural land for non-agricultural purposes will be a problem if it is not covered by good regulation. It definitely will affect food autonomy of the country. Agricultural land and its agricultural products are actually the national source of life. That is why randomly or inequently converting agricultural land will result in disaster.

Such conversion occurs mostly due to the low economic value of agricultural land and its products that are lower than non-agricultural products. This is what makes land conversion is more promising. Actually, there are some legal instruments that rule or discuss the protection of agricultural land. However, not even one of the regulations has set about the incentives, dissuatives, and compensation of agricultural land conversion.

Therefore, the best way to protect agricultural land conversion into non-agricultural land is by issuing policies that support farmers' life improvement. By issuing such policy, it is expected that the economic value of agricultural products will increase and become higher than the non-agricultural products. Increasing agricultural products can be done by conducting crops diversification or agribusiness. Besides, doing optimization of land use is another helpful way to prevent land conversion. It can minimize the needs for land, and at the same time, it can fulfil the requirement of development by providing apartments, flats, and so on.

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