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Implementation of Law Number 41 of 2009 concerning Sustainable Food Crop Land Protection for Protected Rice Fields (LSD)

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Abstract: Law Number 41 of 2009 for the Protection of Sustainable Food Crop Land (Law 41/2009) was issued by the government in 2009. This law's issuing is part of the government's strategic aim to preserve agricultural land and ensure national food security. The massive conversion of agricultural land into residential and industrial regions is an important endeavor. One critical aspect regulated in Law 41/2009 is the regulation on Protected Rice Fields (LSD). The regulation on LSD aims to prevent uncontrolled conversion of rice fields into non-agricultural land. This article attempts to reflect on the role of LSD in protecting agricultural ecosystems to maintain national food security. The purpose of LSD is not only to focus on legal aspects but also to consider the sustainability of agricultural ecosystems that affect biodiversity, quality, and availability of water for agriculture. Although this law has provided a strong legal basis, in its implementation there are still problems and challenges that must be faced by the government in implementing this law. The problem raised in this article is how the implementation of Law 41/2009 is related to the overlapping of the determination of protected rice fields between the regional and the central government. The problem will be analyzed using the normative legal research method. The study results found that the implementation of Law 41/2009 still faces obstacles related to regional spatial planning policies as part of regional rights in managing their regional areas.

Keywords: Legal Protection, Agricultural Land, Sustainable Food, Protected Rice Fields

INTRODUCTION

The government's attempts to address issues associated with Indonesia's growing land conversion are shown in the history of Law Number 41 of 2009 concerning the Protection of Sustainable Food Crop Land. Attempts to ensure national food security are impacted by the growing amount of agricultural land being converted to non-agricultural uses (Widiarsa, 2018). The government is aware that there has been a large-scale conversion of rice fields to non-rice fields, where this event has an impact on national food security so the amount of food imports is increasing. This has an impact on the high price of necessities. Therefore, a regulation is needed that can firmly regulate the conversion of rice fields. In response, in early 2000 the

government began to draft policy laws pertaining to rice field protection, which led to the creation of the Draft Law on the Protection of Sustainable Food Crop Land.

The Sustainable Food Crop Land Protection Bill then became a parliamentary discussion where the discussion of the bill involved various parties including the central government, local governments, academics, and community organizations that focus on issues of agriculture and food security. Finally, the Bill was passed into Enacted on October 14, 2009, Law Number 41 of 2009 concerning the Protection of Sustainable Food Crop Land was published as a supplement to Republic of Indonesia Number 5068's State Gazette. Sustainable food farmland is defined as an area of agricultural land that is protected and continuously developed to provide staple foods for national food independence, resilience, and sovereignty (Article 1 number 3 of Law 41/2009). This Law will become the legal basis for the formation of related policies that are integrated with the agricultural sector such as the industrial and development sectors.

There are several reasons for the birth of Law 41/2009, namely 1) as an effort to maintain national food security where currently the issue of food security is disturbing in society; 2) as an effort to control the uncontrolled conversion of agricultural land so that it becomes a major threat to the availability of rice fields for the production of staple food needs; 3) as an effort to increase sustainable food production; 4) as an effort to manage proper food cropland; 5) as an effort to protect natural resources and the environment; and 6) as an effort to meet the need for firm and integrated legal regulations in terms of protecting rice fields.

The problems that arise as an implementation of Law 41/2009 are related to several main problems, namely those related to the challenges of converting rice fields, the sustainability of agricultural ecosystems, the implementation of policies that are not yet optimal, and the conflict of interests of various parties related to land conversion. The main representation of Law 41/2009 is about how with Law 41/2009 the government can limit the conversion of rice fields. However, in its implementation, the application of this Law still conflicts with the determination of regional spatial planning. This is evident from Law Number 26 of 2007's (Spatial Planning Law) Article 10 paragraph (2), which states that the provincial government's authority to carry out provincial spatial planning as mentioned in paragraph (1) letter b comprises the following: a. provincial spatial planning; b. utilization of provincial space; and c. control of provincial space utilization; and c. control of provincial space utilization. Based on the regional authority, the regional government has conducted spatial mapping of its region based on regional spatial planning strategies that have been adjusted to the needs of regional spatial planning. With the provisions of Law 41/2009 in its implementation, an overlapping situation has emerged. It is because the central government, based on the provisions of Article 22 paragraph (1) of the National Food Crop Land Protection Plan has been determined as a reference for compiling sustainable food crop land protection plans for provinces and districts/cities. Judging from these provisions, it can cause overlapping determination of areas or locations of rice fields that are part of Protected Rice Fields.

The determination of regional spatial planning is under the regional government's authority, as outlined in the Detailed Spatial Planning Plan (RDTR) and Regional Spatial Planning Plan (RTRW). RTRW and RDTR are maps of spatial planning results in areas that are geographical units along with elements related to the boundaries and determination of spatial allocation of an area. Based on these issues, the main problem discussed in this study is the implementation of Law 41/2009 on the federal government's stipulations on the identification of protected rice fields based on regional spatial planning that has been stipulated by the regional government.

METHOD

This article discusses the problems related to the implementation of Law 41/2009 related to the determination of protected rice fields by the central government which has the potential

to overlap regulations with the determination of regional spatial planning that has been determined by the local government through the RTRW and RDTR, so the research method used is a research method that uses a statutory regulatory approach. To carry out a statutory research approach, a normative legal research method will be used.

As normative legal research, the leading source of legal materials used as a reference in this study are statutory regulations and other literature that is relevant to the problem being studied. The data obtained from legal material sources will then be analyzed to be used as an analytical tool for the problems being studied and to find answers to these problems.

RESULT AND DISCUSSION

Implementation of Law Number 41 of 2009 concerning Sustainable Food Crop Land Protection for Protected Rice Fields (LSD)

The birth of Law 41/2009 cannot be separated from the various problems that have arisen in Indonesia related to the transformation of agricultural land, such as rice fields, into non-agricultural land, either as a place for industry, shops, offices, or housing. Protected rice fields are plots of rice fields that are officially designated by the Ministry Head of the National Land Agency's ATR/BPN Division of Agrarian Affairs and Spatial Planning to prevent uncontrolled conversion of rice fields (Nisrina Atikah, 2020).

The concept of protected rice lots was born as a response to the increasing threat of conversion of rice lots. Uncontrolled land conversion can threaten national food security efforts which are a government program through the Regulation of the Minister of Villages and Development of Disadvantaged Villages Number 2 of 2024 concerning Operational Instructions for the Focus of Use of Village Funds in 2025 (Permendes 2/2024) which states that in Article 7 paragraph (1) The following criteria are used to implement the usage of village funds to assist the food security program mentioned in Article 2 paragraph (1) letter d: a. availability of food in the village; b. affordability of food in the village; and c. utilization of food in the village. The relevance of Permendes 2/2024 related to Law 41/2009 is how village funds are focused on food security programs. The food security program in the Permendes is one of the efforts where the government at the lowest level, namely the village government, participates in maintaining the sustainability of protected rice fields.

In a general study, the category of rice fields that are included as protected rice fields are productive rice fields that still have a good level of soil fertility and can support long-term rice production, rice fields that cannot be converted or in the spatial planning area are included in green land areas, and rice fields that have a strategic role in maintaining the balance of the agricultural ecosystem such as rice field irrigation channels, erosion prevention functions, and maintaining soil fertility. The implementation of Law 41/2009 concerning protected rice fields is found in several articles, including:

1. Article 1 number 5 "Protection of sustainable food agricultural land is a system and process in planning and determining, developing, utilizing and fostering, controlling, and supervising food agricultural land and its areas in a sustainable manner".
2. Article 3, "Protection of sustainable food agricultural land is carried out with the aim of: a. protecting food agricultural areas and land sustainably; b. ensuring the availability of food agricultural land in a sustainable manner; c. realizing food independence, resilience, and sovereignty; d. protecting ownership of food agricultural land owned by farmers; e. increasing the prosperity and welfare of farmers and the community; f. increasing the protection and empowerment of farmers; g. increasing the provision of employment for a decent life; h. maintaining ecological balance, and i. realizing agricultural revitalization".
3. Article 17, "The Determination of the Sustainable Food Agricultural Land Protection Plan is contained in the Long-Term Development Plan (RPJP), Medium-Term

Development Plan (RPJM), and Annual Plan both nationally through the Government Work Plan (RKP), province, and district/city”.

4. Article 44 – 45, which emphasizes the regulation on the prohibition of conversion, including the procurement of replacement land if the conversion is carried out for strategic interests;
5. Article 72-78, which regulates criminal provisions against violators of land conversion as regulated in the provisions of this law.

Overlapping Regional Spatial Planning Determination Based on the Authority of the Central Government and Regional Governments

As previously explained, the implementation of LSD is related to the determination of spatial planning. Regional spatial planning is a map of the determination of land and regional functions based on the allocation of space. Determination of regional spatial planning is carried out to maintain the balance of spatial allocation so that the government can more easily carry out continuous evaluations related to the use of space. The legal basis for authority related to spatial planning when viewed from the hierarchy of regulations starts from the central government which is then delegated to the regional government. Law Number 26 of 2007 concerning Spatial Planning (Spatial Planning Law) serves as the foundation for the central government's power over spatial planning. The Spatial Planning Article 7 Law states that "(1) The state organizes spatial planning for the greatest prosperity of the people; (2) In carrying out the duties as referred to in paragraph (1), the state grants authority to organize spatial planning to the government and regional governments; (3) The implementation of spatial planning as referred to in paragraph (2) is carried out while still respecting the rights of people by the provisions of the legislation." According to the power it possesses, the central government can implement spatial planning initiatives by determine the National Spatial Plan (RTRWN), and National Strategic Areas (KSN), and determine policies and general directions for spatial planning.

Overlapping implementation of spatial planning between the authority of the central government and regional governments, especially related to the determination of protected rice fields, is a crucial issue that leads to conflicts of interest. This is due to differences in the interpretation of authority which has the potential to hinder sustainable development and end in legal uncertainty (Dahfid, 2017). As previously explained, the regulation of spatial planning in Indonesia has divided the authority in determining spatial planning between the national government and local administrations. But in practice, the two institutions' power clashes and even overlaps; for example, the national spatial planning map's designation of protected rice fields overlaps with the protected rice field determination map stipulated in the RDTR of the provincial, district/city regions. The central government is considered not to have considered the reality of the actual spatial allocation in the region, therefore there is an overlap in the determination of space between the central government and regional governments.

Several factors cause overlapping spatial planning policies related to the identification of protected rice fields, as well as modifications to existing laws, such as the adoption of Law Number 23 of 2014 concerning the Regional Government, which modifies the balance of power between the national and local governments. The changes that occur are often not accompanied by adjustments to facts or phenomena in society, causing confusion or overlapping in terms of authority. Another factor is due to different interpretations in the implementation of the law which leads to overlapping claims of authority. The next factor is related to the dominance of the central government. Referring to the principle of decentralization that has been mandated in the law related to regional government, regional governments are given the authority to regulate their regions, but the fact of the dominance of

the central government has a major influence on the policies taken by regional governments (Wardhana, 2022).

Another factor that influences the overlapping spatial planning is the implication of the birth of the Job Creation Law Number 11 of 2020 (Job Creation Law). Where in the law there is a change in the legal system regarding spatial planning, the change is the elimination of concurrent authority from the regional government in spatial planning which was previously regulated in The Job Creation Law's Article 9 paragraph 1 of Law Number 26 of 2007 states that the central government is responsible for carrying out spatial planning, while Article 9 paragraph 2 states that additional provisions pertaining to the roles and responsibilities of spatial planning implementation are governed by government regulations. The way the legislation is regulated demonstrates how the decentralized system is giving way to centralization in terms of authority over spatial planning.

With the shift in authority, the regional government only plays a role as an implementer of government policies in spatial planning. The negative impact of overlapping authority in terms of spatial planning between the central government and regional governments is that it will create legal uncertainty, especially for the community and business actors who are directly affected, resulting in investment obstacles, which will reduce investor interest in investing due to the unclear authority related to spatial planning, and the impact of environmental damage that may occur due to unstructured coordination.

In response to this issue, the government's efforts to resolve the problem are to synchronize and harmonize regulations between the central government and regional governments, where this synchronization and harmonization can only be realized if the government has agreed on the certainty of authority in determining spatial planning. Synchronization efforts can be made by improving coordination and communication through more effective communication forums. Other efforts that can be made are to implement the one map policy and strengthen the capacity of regional governments based on the principle of decentralization. It is seen as effective because the regional government is the closest and most in touch with the community demand in its region which is considered the most relevant in determining the ideal regional spatial planning policy for its region.

It can be concluded that overlapping authority in determining spatial planning is a complex problem and has a major impact on regional development in various aspects, including economic aspects, investment, regional development, and other aspects related to spatial utilization. Therefore, the government needs to reform the law that can provide legal certainty regarding this problem.

CONCLUSION

The issuance of Law 41 of 2009 has caused a conflict of power between the national government and local governments in relation to regional spatial planning, where the application of Law 41 of 2009 has brought attention to the issue of regional governments' diminished ability to govern their areas using the decentralization principle, particularly in relation to spatial planning. The central government's and regional governments' overlapping policies are what have an impact. The overlapping policy can result in legal uncertainty and other impacts, such as decreased investment interest and imbalance in regional development. Therefore, regional governments and the central government must begin to synchronize and harmonize in determining or mapping regional spatial planning, where regional spatial maps should consider regional needs more and not be generalized based on central government mapping that does not directly touch the regional area. In other words, returning the authority of regional governments with the principle of decentralization.

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