

# OPTIMIZATION THROUGH LEGAL INSTRUMENTS FOR THE UTILIZATION OF SWAMP LAND FOR SUPPORTING FOOD SECURITY IN SOUTH KALIMANTAN AS A BUFFER FOR THE NATIONAL CAPITAL

**MUHAMMAD HADIN MUHJAD**

Faculty of Law, Lambung University of Mangkurat. Email: mhmuhammad@ulm.ac.id

**ARISANDY MURSALIN**

Faculty of Law, Lambung University of Mangkurat.

## **Abstract**

Utilization land swamps in South Kalimantan to currently still not optimal. This is reflected from facts on the ground that show that there is Lots land the swamp that has not been attempted or owned low productivity. This article aiming for analyze in approach law about role Government both Central and Provincial and also Regency /City according to with his authority in develop land the swamp that is not utilized by the community and analyzed approach law related method control transfer function land from land swamp productive become non- agricultural land and direct use land sustainable. This article use study normative law with type doctrinal legal research. This article conclude that South Kalimantan own role strategic as buffer resilience food for the National Capital (IKN). Optimization utilization land swamps are very important to maintain availability food. However, challenges such as human resources and funding need intervention government, including through development of agricultural zoning and instruments law to prevent land conversion agriculture.

**Keywords:** Swamp Land, Food Security, National Capital Buffer.

## **A. INTRODUCTION**

South Kalimantan Province is designated as the buffer for the National Capital City (IKN) or the Indonesian Capital City which is Mother city new plan moving from Mother the city of Jakarta which has been This become Mother city of the Republic of Indonesia to East Kalimantan Province.

What is meant by as area buffer that is a area For support or support IKN. Because geographically South Kalimantan is close to IKN Nusantara which is located in Penajam Paser Utara Regency , East Kalimantan Province . One of method for supporting IKN is with guard availability food. Therefore That South Kalimantan Province in prepare self as buffer IKN food has formulate steps strategic for improvement agriculture in South Kalimantan. This is done with create resilience food.

Form the implementation of Article 1 number 4 of Law No. 18 of 2012 concerning Food states that Food Security is condition fulfillment of food for the country until with individual, which is reflected from availability of sufficient food, both amount and also quality, safe, diverse, nutritious, evenly distributed and affordable as well as No contradictory with religion, belief and culture society, for can life healthy, active and productive in a way sustainable.

South Kalimantan No just planned as area IKN support but Already be one of province buffer production food nationally ranked 12th out of 38 provinces in Indonesia and is one of the provinces appointed by the Indonesian Ministry of Agriculture in programs such as optimization land swamp, and overlap scales.

For fulfil availability food the then South Kalimantan need land adequate agriculture. One of alternative for overcome availability land agriculture is with utilization land swamp, then appropriate once a government program of the Ministry of Agriculture for optimization land swamp.

Increase amount resident about 2 percent per year and conversion sufficient rice fields to non- agricultural areas wide, causing Indonesia's dependence on rice fields for sufficient need the food be in position critical. So, the potential land swamp for agriculture get attention Serious from Government for support need food said. South Kalimantan expected can become supplier main material food for IKN residents in the future. This means that the quality and quantity of agricultural production will increase.

The area of swamp land in South Kalimantan is 400,262 ha, which is utilized very little. The area of swamp land in South Kalimantan is 400,262 ha, which is utilized very little. Swamp said, consisting of from land tidal swamps (190,369 ha) and agricultural land swamp lowland (209,893 ha).<sup>1</sup> Area the If utilized for agricultural areas will impact on increasing quantity food that ultimately will going to creation resilience food.

In South Kalimantan utilization land swamp still not optimal, things this can see from fact field the amount area land the swamp that is still not yet attempted, or productivity that is still low and limited commodities developed. For the South Kalimantan community land swamp this put into operation as plant rice. Swamp land in South Kalimantan not optimally managed due to condition social, economic community, institutions and infrastructure supporters who have not adequate.

The constraints water management problems, acidity land, human resources, capital and pests disease. Availability land dry and rice fields for development agriculture decrease in a way significant among other things because transfer function land for non- agricultural needs. On the other hand, production commodity agriculture No developed with Good for fulfil need the population is increasing increase.

With thus problem in utilization land swamp located first on his land Alone such as poor nutrients, atmospheric anaerobic, many peaty thick, pyrite and when converted will emit compounds that can poison plants (sulfide, iron ferrous, and acids organic), and soil pH low. For optimize utilization land swamp, support technology and resources Power human beings, moreover capitalization is an inevitability.

Then second development carried out by experts in accordance his field during this like expert agriculture, expert fisheries, and experts farms that have been Lots done only focus on the object land and plants the food but No too notice from aspect law development land agriculture this.

In Thailand like put forward Wanwisa Pansak , Natta Takrattanasuggests , Nuntapon Nongharnpitak & Nuttapon Khongdee aspect law in development land agriculture get attention as their writing states that :<sup>2</sup>

In Thailand, soil and land protection are regulated by legislation and land use planning documents such as the Forest Act and the National Forest Act, the Law on Environmental Protection, the Law on Land Protection, and the Law on Agricultural Land.

Land use planning regulations represent the basis for supervision of the land use of all types and the management of natural resources, implementing guidelines for space preservation and protection purposes, and measures of sustainable use of land resources. Furthermore, there is a pressing need to determine the status of sustainable soil management efforts and raise awareness of soil in Thailand

With Thus in Thailand, protection land and land regulated by regulations legislation and documents planning use land such as the Forestry Law and the National Forest Law, the Protection Law Environment, Land Protection Act, and Agricultural Land Act. Regulations planning use land is base supervision use land from all types and purposes as well as management source Power nature, guidelines implementation preservation and protection space, and steps use source Power land in a way sustainable.

In addition, there is need urge for determine the status of the effort management land sustainable and improving awareness will land in Thailand. It seems that the Republic of Indonesia should also do the same thing. This article will use study normative law with type *doctrinal* legal research.

## **B. DISCUSSION**

### **1. Mandatory Law Government Both Central/ Provincial Either District City According to with His Authority Developing Swamp Lands**

As mentioned above, swamp land in South Kalimantan is divided into two, tidal swamp land and lowland swamp land. Of the 190,369 ha of tidal swamp land, only 178,494 ha or 93.76% (Saragih) are utilized, which are located in Batola, Banjarmasin, Banjar, Tanah Laut and Tapin Regencies. Meanwhile, the lowland swamp land of 209,893 ha is utilized only 119,532 ha. Lowland swamp land is located in Batulicin, Banjar, Tapin, HSS, HST, HSU, Tanah Laut, Balangan, Tabalong Regencies.

The potential area of lowland land in South Kalimantan is 119,523 ha or 27.61% of the total rice field area. There is in ten district/city. Land potential swamp in Kalimantan South in the year of 2000 widest there are in Regency Tapin (46,503 ha) And Upstream North River (27,449 ha), while the largest tidal swamp area there is in Regency Upstream River North namely 27,449 Ha (BPS Province Kalimantan South 2014).

The characteristics of swamp land are based on soil properties and constraints on agricultural development. Land swamp shared in four typology land, namely 1) land potential swamp, 2) land sulfate swamp sour, 3) land peat, and 4) Saline land. <sup>3</sup>Potential swamp land has lighter constraints compared to acid sulfate land. Or peat land, including

moderate soil acidity (pH land > 4-4.5), layer pyrite There is on depth >100 cm, and low aluminum and iron content. <sup>4</sup>The potential swamp area for agriculture or forestry reaches 19.99 million ha, while the rest is around 14.93 million Ha No potential for agriculture, which is part of big there is in area forest.<sup>5</sup> Potential swamp land in general own soil acidity sour until a bit sour (pH 4-5) (Simatupang *et al.* 2014).<sup>6</sup>

The development of swamp land to build food barns requires more activities to increase optimization, repair and development of infrastructure, increase the provision and use of agricultural machinery. In addition, strengthening farmer institutions and supporting institutions, as well as increasing the capacity and empowerment of farmers.

The swamp farming business system is needed on a large scale that is cross-administrative, governmental, but regional in nature based on the similarity of agro-ecosystem characteristics. Corporate management that crosses districts/provinces must be designed because it concerns the arrangement of water sources and the environment.

Controlling water flow in one district/province can have a negative impact on other districts. For example, intensification of tidal swamps (sulfate acid) can cause shallowing of rivers that cross other districts. Because That must there is a water *treaty* between districts / provinces crossed a busy river. As example is a water *treaty* between the countries crossed by the Mekong River and a water *treaty* between the United States in use *ground* water agnifer to be continued.

Planning in a way holistic and comprehensive need formulated and arranged in stage or time settlement, so that can count *critical path*, so that activities implemented appropriate time. With so , no happen matter like following : (1) the rice fields have printed , but the farmer Not yet there are ; (2) tools and machines agriculture brought in , while the rice fields have not yet been printed ; (3) printed rice fields , water arranged with true , the rice fields are cultivated and planted with successful harvest , but rice fields not yet certified ; (4) tools and machines functioning with good , but No There is workshop For maintenance or repair agricultural machinery and (5) the results harvest pile up but No There is tool drying , and not someone bought it .

Food barn program on land swamp will come true if there is support and participation from level central, regional and community agriculture. Commitment from the parties the clear and binding since planning until implementation of the program reflected in implementation activity annual from each institution related to the level central and regional.

Directorate general technical and agency scope of the Ministry of Agriculture play a role as facilitator, good in aspect source Power and also policy general. The program concerned with aspect technical irrigation and production, as well as counseling be in the directorate general, namely Directorate General (Directorate General) of Food Crops, Directorate General Horticulture, Directorate General of Plantations, Directorate General of Animal Husbandry, Directorate General Agricultural Infrastructure and Facilities, Extension and Development Agency Human Resources Agriculture and Food Security Agency. The Government and Regional Governments are legally obliged to protect and

empower farmers as food producers in order to simultaneously meet food needs, for that reason, in addition to fostering them, they also allocate the assumption of developing agricultural land as regulated in Article 17 of Law No. 18 of 2012 concerning Food:

Article 17 of Law 18/2012

The Government and Regional Governments are obliged to protect and empower Farmers, Fishermen, Fish Cultivators, and Food Business Actors as Food producers.

Article 18 of Law 18/2012

The Government and Regional Governments are obliged to:

- a) Organize, develop, and allocate land agriculture and resources water power;
- b) Give counseling and mentoring;
- c) Remove various policies that have an impact on reducing Power competitive; and
- d) Do allocation budget.

Optimization land swamp is part from commitment government to maintain need food we with increase productivity agriculture. In fact, for a bigger vision namely the world's food barn in 2045,<sup>1</sup> Issue optimization land this swamp becomes the theme main peak Commemoration of the 38th World Food Day (HPS) in Barito Kuala, South Kalimantan. Puncak This warning will in progress from 18 - 21 October 2018. Government determined make land swamp as guarantor availability future food, in the midst rapid growth population and its decline land agriculture. However unfortunately this policy is not enough taken by experts in the field agriculture without involving policies in the field of law. For example, in Thailand it is developing this farm with approach **Agricultural Zoning and Policy Conflict**. Nararuk Boonyanam write:

Agricultural zoning is a regulatory approach that redefine property rights. The technique has been used to preserve agricultural areas and ensure food security of a country.<sup>2</sup> The method will address the two critical issues that the agricultural zoning programs in Thailand try to solve: the land-use mismatch problem and the crop price instability.<sup>3</sup>

Furthermore, put forward that there are two strategies for meeting Thailand's agricultural zoning objectives. First, after setting the price based on its origin, the government should also play a small role as possible in intervening the agricultural commodity market. Second, the government should integrate a crop production information system with the Agri-map of the MOAC for farmers to check the production area quantity of each crop in the country. This current production quantity information should be updated at least monthly, so that farmers will have sufficient information to make a decision on the quantity supply of the agricultural commodity apart from the price.<sup>4</sup>

With notice characteristics swamp, then naturally the government is responsible for allocation budget for development land swamps can be directed. According to Article 1 paragraph (1) of the Regulation Government Regulation No. 27 of 1991 concerning Swamps, states that Swamp is a land waterlogging natural occurrence continuous or

seasonal consequence drainage natural obstructed and has characteristics special in a way physical, chemical, and biological. In this PP, swamps are included:

- a. Coastal Swamp, namely swamp located on the coast or near beach, at the estuary or near estuary river so that influenced by the ebb and flow of sea water.
- b. Swamp Interior, namely the swamp is located such that Far distance from beach so it is not influenced by the ebb and flow of sea water. As for the characteristics typical Swamp is:
  1. Physical characteristics, especially condition the land sunken
  2. Chemical characteristics, especially degrees acidity the water in general low;
  3. Biological characteristics, especially there are swamp fish, plants swamps and forests swamp.

However Unfortunately, PP 27 of 1991 is in the process of being regulated management land swamp not based on the concept of Water Management Zone. At the time of the PP created, development of science/ technology swamp not yet in use Water Management Zone concept (science/ technology is very important to use in determining policies).

## **2. Law Controlling the Conversion of Land from Productive Swamp Land to Non-Agricultural Land**

In Indonesia, the law on controlling the conversion of agricultural land to non-agricultural land is still not implemented. Whereas based on Article 22 of Law No. 18 of 2012, it is stated that conversion to other uses is a threat to food production failure, the provisions are more complete as follows:

- (1) Food Production Threats are events that can cause Food Production failures caused by:
  - a. change climate;
  - b. attack organism the bully plant as well as plague disease animals and fish;
  - c. disaster nature;
  - d. disaster social;
  - e. pollution environment;
  - f. degradation source Power land and water;
  - g. competition utilization source Power Food Production;
  - h. transfer function use land; and
  - i. disincentive economy
- (2) The Government and Regional Governments are obliged anticipate and overcome threat Food Production as referred to in paragraph (1) through help technology and regulation.

There are some reason Why regulation applicable laws and regulations For used as a legal instrument For control transfer function land agriculture become non- agricultural land No applicable , among others there are a number of regulation like Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency of the Republic of Indonesia Number 18 of 2016 Concerning Control Agricultural Land Tenure and Regulations Government Replacement Constitution Number 56 of 1960 Concerning Determination of the area of agricultural land that has been set become Constitution Number 56 PRP of 1960, and the Decree of the Minister of Agrarian Affairs No. SK. 978/Ka/1960 concerning Confirmation of Maximum Area of Agricultural Land own limitation different and different criteria. Regulations the only state if his physical changed so land the can diverted function.

Besides that Constitution Number 41 of 2009 Concerning Sustainable Food Crop Land Protection (LP2B) also does not in a way clear to detail criteria from land agriculture that is allowed or No can be transferred function. If connected with a sense of justice clear matter This No give justice for owner land or farmers, because for party certain matter This can utilized Because the criteria only about land irrigated technical so that if changed with method like application permission drying or change utilization land agriculture the or change irrigation technical the so that can done switcher functional land agriculture that. There are provisions exceptional Article 44 of Law 41 of 2009 concerning ownership land agriculture as one of the instruments in control transfer function land agriculture become non- agricultural land.

Government as the entrusted party must play a role for prevent transfer function this with do arrangement in a way firm. Firmness that has not been owned government Where One Regional side required have RTRW, but on the other hand a Institutions can change use land without coordinate with party related. Then Regulation legislation about restrictions imposed by the government about area maximum from land agriculture the No it is clear which one can used as base in determination , Many circles consider that restrictions said at the time Now it feels like No relevant Where are you now development resident the more population , but in other places it happens distribution that is not evenly in other words density resident For nearby area with very dense urban while the far away from urban will the more rare . Besides that's also because lack of data and registration so often public use Name family that doesn't one Family Card For certificate land his own.

Not yet available regulations that are firm arrange ownership land agriculture and conversion ownership land agriculture from somebody to others or from a legal entity to a legal entity others. Conditions this is what often happens used by the authorities or individual in do transfer function land agriculture become non- agricultural land.

Lack of publication policy government in set regional spatial planning or land For resilience food sustainable (LP2B), where in formulation This No existence clear explanation Why land the No may diverted function become non - agricultural land. Ownership restrictions land stated agriculture in Constitution Number 56 Prp 1960 About Determination of the Area of Agricultural Land and Regulation of the Minister of Agrarian Affairs and Spatial Planning/ Head of the National Land Agency of the Republic of

Indonesia Number 18 of 2016 Concerning Control Control of Agricultural Land, a must in line and make area clear maximum because of development a very fast and diverse population so that Government should limit ownership land in accordance with provision regulations legislation .

In this regard, Thailand regulates the relationship between Land Ownership Security, Farm Productivity, and Land Policies in Thailand, as written by Garshon. Feder, Tongroj Onchan and Chira Hongladarom, who wrote, among other things:

The most obvious effect of land ownership insecurity is increased uncertainty for the farmer as to whether he will be able to benefit from the investments that he makes to retain or improve the productive capacity of his farm. Such investments may include equipment, structures, irrigation infrastructure or land conservation measures. One would expect investment to be negatively related to tenure uncertainty: with increased uncertainty, investment incentives are reduced and current consumption is preferred. With lower capital accumulation, the demand for variable inputs which are complementary to capital is reduced. For example, if acquisition -h of machinery allows fast land preparation then more area can be double-cropped, and the demand for variable inputs such as labor and fertilizers increases.<sup>11</sup>

Therefore that question security and certainty ownership land is part from aspect the law that becomes task government make regulations and their implementation.

### **C. CONCLUSION**

Based on discussion on so can concluded that, in a way geographical South Kalimantan as IKN buffer is prepared For become buffer food, then need guard availability food South Kalimantan with create resilience food. Resilience food need availability land agriculture is with utilization land swamp. However sadly area the swamp owned South Kalimantan cannot be used for agriculture optimally, because Still Lots area land unemployed swamp. The problem is about human resources and funding which is the responsibility of government. To develop land this agriculture needs to be developed Agricultural zoning. Then legal instrument related with control transfer function land agriculture become non-agricultural land. Government make an effort Keep going emit regulation legislation for control transfer function land agriculture become non- agricultural land. Reconstruction the law is in Article 44 of Law no. 41 of 2009 Concerning Sustainable Agricultural Land Protection

#### **Footnotes**

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