



## The Effectiveness of Presidential Regulation Number 59 of 2019 Concerning Protection of the Transfer of Function of Paddy Fields in Sukoharjo Regency

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### **Abstract**

This study analyzes the effectiveness of the LSD policy through Presidential Regulation no. 59 of 2019. To prevent threats to national food security, the Ministry of ATR/BPN as the executor of the provisions of the Presidential Decree directly issued a map of Protected Paddy Fields based on the provisions of Presidential Decree No. 59 of 2019. Article 16 paragraph (1) of this Presidential Regulation mandates that LSD be used as an ingredient in the determination of Sustainable Food Agriculture Land in the Regional Spatial Plan. This research is an empirical legal research that is prescriptive with an empirical juridical approach. Types and sources of data using primary data and secondary data. Data collection techniques using field research and Library Research. Then analyzed using interactive data analysis methods. The results showed that the policy of stipulating LSD in Sukoharjo Regency was considered ineffective because it did not involve Sukoharjo Regency so that there were many discrepancies between field conditions and the conditions expected by the Ministry of Agrarian Affairs/BPN. The results of this study suggest that this Presidential Decree has not been effective, as evidenced by the fact that its enforcement is not yet optimal.

**Keywords:** *Effectiveness; Protected Paddy Land; Spatial Planning*

### **Introduction**

The Sukoharjo Regency Spatial Plan has been stipulated by the Sukoharjo Regency Regional Regulation Number 14 of 2011 which was prepared as a guideline to direct development in Sukoharjo Regency that is efficient, harmonious, balanced and sustainable as well as improving people's welfare, integrated development between sectors, between regions, and between regional governments it is necessary to prepare Regional Spatial Plans. Realizing a district that is based on the agricultural sector, environmentally friendly industrial sector and infrastructure development to increase accessibility. Various obstacles to the Regional Government in realizing the development of the Sukoharjo Regency area in accordance with the Regency/City spatial plan are caused by factors: operational administrative techniques and demands for market development. The tendency for these deviations can occur due to a lack of spatial planning products paying attention to implementation aspects

(spatial utilization) or conversely that utilization pays little attention to the spatial plans that have been prepared. Therefore, it is very important to evaluate the existing spatial planning products to see whether the spatial planning products are running according to their utilization or deviations have occurred.

Besides that, the Regional Regulation concerning the Spatial Plan for the Sukoharjo Regency does not yet contain the mandate of Presidential Regulation Number 59 of 2019 concerning Control of the Transfer of Functions of Paddy Fields. The urgency of making Presidential Regulation Number 59 of 2019 is because the conversion of food land functions, especially paddy fields to non-rice fields, is increasing rapidly from year to year so that it has the potential to affect national rice production and threaten national food security, controlling the conversion of paddy fields is one of the strategy to increase domestic rice production capacity, so it is necessary to accelerate, determine the map of protected paddy fields and control the conversion of paddy fields as a national strategic program.

The implementation of Presidential Regulation 59 of 2019 began in 2019 through carrying out rice field verification activities in 8 Indonesian food storage provinces (Banten, West Java, East Java, Central Java, DI Yogyakarta, Bali, West Nusa Tenggara and West Sumatra), then continued with verification activities in 12 provinces (Aceh, North Sumatra, Jambi, Riau Islands, Riau, Bengkulu, Babel, Lampung, South Sumatra, South Kalimantan, West Kalimantan and South Sulawesi) in 2020 and 13 provinces (Central Kalimantan, East Kalimantan, North Kalimantan, West Sulawesi, Central Sulawesi, Southeast Sulawesi, North Sulawesi, Gorontalo, Maluku, North Maluku, NTT, Papua and West Papua) in 2021. Results of verification and clarification of 20 provinces (Banten, West Java, East Java, Central Java, DI Yogyakarta, Bali, NTB, W Sumatra, Aceh, North Sumatra, Jambi, Riau Islands, Riau, Bengkulu, Babel, Lampung, South Sumatra, South Kalimantan, West Kalimantan and South Sulawesi) in 2020 and 13 provinces (Central Kalimantan, East Kalimantan, North Kalimantan, West Sulawesi, Central Sulawesi, Southeast Sulawesi, North Sulawesi, Gorontalo, Maluku, North Maluku, NTT, Papua and West Papua) will then be designated as Land Sa protected rice fields in 2021. Apart from being part of an effort to take sides with the government towards protecting paddy fields, the aim is to encourage the Regional Government to immediately enact a Regional Spatial Planning Regulation (RTRW) with a spatial map of paddy fields.<sup>1</sup> The Sukoharjo Regency Spatial Plan has been stipulated by the Sukoharjo Regency Regional Regulation Number 14 of 2011 which was prepared as a guideline to direct development in Sukoharjo Regency that is efficient, harmonious, harmonious, balanced and sustainable as well as improving people's welfare, integrated development between sectors, between regions, and between regional governments it is necessary to prepare Regional Spatial Plans. Realizing a district that is based on the agricultural sector, environmentally friendly industrial sector and infrastructure development to increase accessibility. Various obstacles to the Regional Government in realizing the development of the Sukoharjo Regency area in accordance with the Regency/City spatial plan are caused by factors: operational administrative techniques and demands for market development. The tendency for such deviations can occur because the product of the spatial plan pays little attention to implementation aspects (space utilization) or conversely, that utilization pays little attention to the spatial plan that has been prepared. Therefore, it is very important to evaluate the existing spatial planning products to see whether the spatial planning products are running according to their utilization or deviations have occurred.

## **Research Methods**

This research is an empirical research or non-doctrinal research. Sociological or empirical legal research wants to measure the effectiveness of certain laws and regulations, so the operational definitions

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<sup>1</sup><https://ekon.go.id/publikasi/detail/2565/penetapan-lsd-proof-keseriusan-government-menjaga-lahan-sawah>. Accessed June 18, 2022.

of the research methodology can be taken from these laws and regulations. The nature of the legal research used in the preparation of this legal research is prescriptive and applied. This study describes the effectiveness of controlling land conversion in Sukoharjo Regency. This research approach is carried out using an empirical juridical approach, in other words, it is a type of sociological legal research and can also be called field research, which examines what is happening in society. Types of data using primary data and secondary data, primary data in the form of interviews and secondary data using primary and secondary legal materials. The data source for this research uses primary data sources and secondary data sources. Data collection techniques using *field research* and *library research*. The data analysis technique uses an interactive data analysis model.

## Results and Discussion

### The Urgency of stipulating Presidential Regulation No. 59 of 2019 concerning Control over the Function Transfer of Paddy Fields

In issues related to the environment, the fundamental scrutiny of it is how the law is. Previously, what needs to be conveyed is an understanding of the law. Hans Kelsen, law is an order of rules (*order*) as a system of rules (*rules*) about human behavior. thus, the law does not refer to a single rule (*rule*), but a set of rules (*rules*) which has a unity, so that it can be understood as a system.<sup>2</sup> Bellefroid, that the legal system is a unitary network of legal regulations arranged in an orderly manner according to its principles.<sup>3</sup> Paul Schoten, that the legal system is a unity of legal regulations, in which there are no legal regulations that conflict with other legal regulations of that system.<sup>4</sup>

According to Lawrence Mier Friedman, there are 3 (three) elements of the legal system, namely: *structure*, *substance*, and *legal culture*. *Structure* is related to the institutions authorized to make and implement laws. *Substance*, namely the material or form of statutory regulations, which are divided into written and unwritten laws. *Legal culture* is the attitude of people towards the law and the legal system, namely regarding beliefs about their values, thoughts or ideas and hopes.<sup>5</sup> Friedman further said that law as a behavior consists of systems, substance and culture that are interrelated, so law enforcement reform is not directed at improving legal material and legal apparatus but also related to the development of a legal culture (*legal culture*) at all levels of society.<sup>6</sup> Based on this, the most important goal of law enforcement is to guarantee justice, democratization and the benefit of law for society.

Taking into account that the area of conversion of food land functions, especially rice fields to non-rice fields, is increasing rapidly from year to year so that it has the potential to affect national rice production and threaten national food security, in 6 September 2019, President Joko Widodo has signed Presidential Regulation (Perpres) Number 59 of 2019 concerning Control of the Conversion of Rice Field Functions. However, the problem faced when the Commission IV idea was rolled out was the high pressure on agricultural land<sup>7</sup>. With an increase in population of around 1.34 percent per year, while the existing land area is relatively constant, this has caused increased pressure on land and water resources, especially in Java. As an illustration, the average area of paddy fields in Java and Bali is only 0.34 hectares per farmer household. In addition to the narrowing average land tenure by farmers, there is also unequal competition in land use, especially between the agricultural and non-agricultural sectors. Such

<sup>2</sup> Hans Kelsen, *General Theory of Law and State*. Russel & Russel: New York. 1973. Hlm. 3

<sup>3</sup> Riduan Syahrani, *Summary of the Essence of Law Science*. 1999. PT. Citra Aditya Bakti: Bandung. p.169

<sup>4</sup> *Ibid.*

<sup>5</sup> Lawrence M. Friedman, *American Law: An Introduction*. W.W. Northon and Company, New York. 1994. Hlm. 5- 7.

<sup>6</sup> *Ibid.*

<sup>7</sup> Maria S.W. Sumardjono, 2009, *Land in the Perspective of Economic, Social and Cultural Rights*, Kompas Book Publishers, Jakarta, p. 4

conditions result in an increase in the rate of conversion or conversion of agricultural land from year to year. The conversion of paddy fields into non-agricultural land from 1999 to 2002 was estimated at 330,000 hectares or the equivalent of 110,000 hectares per year<sup>8</sup>.

### **The Effectiveness of Presidential Regulation Number 59 of 2019 concerning Protection of Paddy Field Transfer and Designation of Protected Paddy Fields (LSD) in Sukoharjo Regency**

Taking into account that the area of conversion of food land, especially rice fields to non-rice fields, is increasing rapidly from year to year so that it has the potential to affect national rice production and threaten national food security, on September 6 2019, President Joko Widodo has signed Presidential Regulation (Perpres) No. 59 of 2019 concerning Control over the Function Transfer of Paddy Fields. However, the problem faced when the Commission IV idea was rolled out was the high pressure on agricultural land<sup>9</sup>. With an increase in population of around 1.34 percent per year, while the existing land area is relatively constant, this has caused increased pressure on land and water resources, especially in Java. As an illustration, the average area of paddy fields in Java and Bali is only 0.34 hectares per farmer household. In addition to the narrowing average land tenure by farmers, there is also unequal competition in land use, especially between the agricultural and non-agricultural sectors. Such conditions result in an increase in the rate of conversion or conversion of agricultural land from year to year. Conversion of paddy fields into non-agricultural land from 1999 to 2002 it was estimated that it would reach 330,000 hectares or the equivalent of 110,000 hectares per year<sup>10</sup>. It was also stated that so far various policies related to the problem of controlling the conversion of agricultural land, especially rice fields, have been made a lot. However, the implementation was not effective because it was not supported by adequate data and proactive attitude from stakeholders. In addition, the negative impact of conversion of paddy fields is not considered a problem that needs to be addressed seriously and consistently.

The following is the area of paddy fields in Sukoharjo Regency per year:

Paddy field area of Sukoharjo Regency per year		
Year	Area (ha)	Difference in paddy field area (ha)
2012	21.009	-
2013	20.858	-151
2014	20.814	-44
2015	20.643	-171
2016	20.617	-26
2017	20.518	-99
2018	20.460	-58

Source: Central Bureau of Statistics for Sukoharjo Regency, 2018.

<sup>8</sup> Secretariat General of the Indonesian People's Representative Council.

<sup>9</sup> Maria S.W. Sumardjono, *On. Cit.*, hlm. 4

<sup>10</sup> Secretariat General of the Indonesian People's Representative Council, *On. cit.*, hlm. 7.

Because of these various problems, on the initiative of Commission IV of the House of Representatives of the Republic of

Indonesia, Law Number 41 of 2009 was issued.<sup>11</sup> Competence to control the conversion of paddy fields is still low, because there is no standard rule that can cover all control efforts that are carried out and protect seriously and consistently.

Based on the table above, it can be seen that the area of paddy fields in Sukoharjo Regency from 2012 to 2018 has decreased annually. Factors causing the reduction in the area of agricultural land include the increasing population from year to year which causes the need for housing to continue to increase. The following is a table of population growth from year to year:

Year	Amount	Presentation	Sex Ratio
2012	841.773	100,00	100,1
2013	849.392	100,00	100,15
2014	856.861	100,00	98,2
2015	864.207	100,00	98,18
2016	871.397	100,00	98,19
2017	878.374	100,00	98,17
2018	885.205	100,00	98,20
2019	891.912	100,00	98,23
2020	907.587	100,00	98,22
2021	911.603	100,00	98,22

Source: Central Bureau of Statistics for Sukoharjo Regency (Last Update 20 April 2022).

<sup>11</sup> *Ibid.*

The following is data on the level of rice productivity in Sukoharjo Regency:

Year	Productivity(ku/ha)
2013	68.85
2014	63.29
2015	75.26
2016	72
2017	72
2018	64.83
2019	69.19
2020	68.71
2021	65.74

Sukoharjo Regency was designated as a rice granary in Central Java province, therefore the Sukoharjo Regency government is expected to be able to carry out or strengthen the implementation of paddy field management so that land conversion does not occur from paddy fields to settlements or industrial activities. The impact of the issuance of a policy regarding LSD limited the space for local governments, especially the Sukoharjo district, in carrying out regional development when referring to the Sukoharjo Regency RTRW. Some of these obstacles are caused by the agency as the executor of policies that are based on the provisions of regional regulations, cannot directly implement regulations derived from presidential regulations, therefore the synergy between the central government and regional governments must be further enhanced because those who are most affected by the birth of a new regulation are the people directly. The regulations for implementing regional government originate from the Regional Regulation concerning the Organizational Structure of the Workforce (SOTK), so that if the regional government adjusts to the provisions of higher laws and regulations, it must change several policy regulations (Perbup) or statutory regulations (Perda).

According to Anthony Allott, the effectiveness of laws in a country is measured through three degrees of application of laws, these three levels include:

- a. The law becomes a deterrent, whether a law can prevent legal subjects from carrying out prohibited acts.
- b. The law becomes a settlement of disputes that arise between legal subjects, whether the law can provide a fair settlement.

- c. When the law becomes a provider of the needs of its legal subjects to carry out legal actions, does the law succeed in providing rules that facilitate their needs. The level of effectiveness is the extent to which the state can facilitate such legal actions to be carried out by those who are qualified to do so and the extent to which regulated institutions can maintain the security of legal subjects from threats or disturbances.

Anthony Allott said there were three factors that made the law ineffective. These three factors include:

- a. Unsuccessful delivery of the intent and purpose of the law or communication of norms that are not conveyed to the public. Laws are generally in the form of regulations that use standard language that is difficult for ordinary people to understand and there is a lack of oversight bodies for the acceptance and application of these laws.
- b. There is a conflict between the goals to be achieved by legislators and the nature of society. The possibility of conflict between the goals of the legislator and the nature of the society in which the law will be implemented.
- c. Lack of supporting instruments for laws, such as implementing regulations, institutions or processes related to the implementation and application of these laws.

In practice Presidential Regulation No. 59 of 2019 concerning Control of Land Function Transfer, it can be said that the Presidential Decree is ineffective because there are many collisions between the real conditions on the ground and the conditions planned by the Presidential Decree, besides that there is a conflict between the objectives achieved by the Presidential Decree makers and conditions in the local government. Apart from that, in its making, it did not involve the participation of the regions in paying attention to the real conditions and the goals to be achieved by making these regulations so that this Presidential Decree was less effective, especially in controlling the conversion of paddy fields in Sukoharjo Regency. If it is based on Anthony Allott's theory of Legal Effectiveness, this LSD policy is considered ineffective due to the lack of supporting instruments for its implementation, partly because Sukoharjo Regency itself does not yet have a Regional Regulation on Sustainable Food Agricultural Land (LP2B).

## **Conclusion**

Presidential Regulation No. 59 of 2019 concerning Control of the Conversion of Paddy Fields in Sukoharjo Regency can be declared ineffective because several villages and sub-districts can be found that do not match their designation according to the Ministry of Agrarian Affairs/BPN and the Government of Sukoharjo Regency. If based on Anthony Allott's theory of Legal Effectiveness, this Presidential Decree is conflicted between the goals to be achieved from the Presidential Regulation itself and the policy direction determined by the Sukoharjo Regency Government, as well as the lack of supporting instruments from the Law, such as implementing regulations, institutions or processes relating to the implementation of a law.

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