

Local Regulation Design on the Protection and Empowerment of the Farmer Based on Law as a Tool of Social Empowering

By Yulia Neta, Budiyono, Martha Riananda Ahmad Saleh, Ade Arif Firmansyah

Local Regulation Design on the Protection and Empowerment of the Farmer Based on Law as a Tool of Social Empowering

Yulia Neta Budiyono Martha Riananda Ahmad Saleh Ade Arif Firmansyah

Constitutional Law Department, Faculty of Law, Universitas Lampung,

Prof. Dr. Soemantri Brojonegoro Street No.1, Bandar Lampung, Lampung, Indonesia, 35145

Abstract

Farmer has been giving real contribution upon development of agriculture and development of rural economic. The bigness contribution mentioned inversely proportional to the problem suffered by the farmer on field. It happens the huge amount of decreasing on the number of agriculture's family and the increasing of the agriculture company number beside the issued of land availability and the present of agricultural facility. Therefore, local government must present with applying the regulation in favour of the farmer. The object of this paper is to describe the design of Local Regulation on The Protection and Empowerment of The Farmer. Using the doctrinal approach and legislation theory along with the concept of 'hukum pengayoman' and 'hukum progresif', produced a design of local regulation as follows: 1). Local Regulation on The Protection and Empowerment of The Farmer must started from real problem which generally occur in a region with basis on its enactment upon philosophical, sociological, and juridical aspects (*problem based regulation*); 2). The role of Local Government, business world and college along with society self-supporting institutions shall given in space of arrangement so that can be related and configurated to achieved the protection and empowerment of the farmer; 3). Giving space access widely and facilities upon the farmer along with easy of for farmers on doing their betterment and business expansion.

Keywords: Farmer, protection, empowerment, design, local regulation.

1. Introduction

Farmer is the main actor that absolutely carry on the center role in agriculture sector. It is able to say, that up till now from regulation side, already did the effort be present of some statutes, in such special sector or which related to. There are Acts on Production Sharing of Landfarm, Basics of Agriculture, The Decision of Landfarm Capacity, Protection on Plants Variety, Water Resources, plantation, and etc.

Up till now the Farmer has been giving real contribution upon development of agriculture and development of rural economic. The huge hanging down of the citizen in Indonesia upon agricultural sector indicated if Indonesia can manage the resources that supported agricultural sector finely, then the welfare of the best part of Indonesia's citizen will fulfilled. Along with the effort of such prosperity, Indonesia actually still manage to applied *erocracy* concept that is life environment or ecosystem where a governance based on its governance loyally on the principle upon (ecologically sustainable development). One of implementation of that form is with developing organical agriculture.

The borne of Act No. 19 2013 on The Protection and Empowerment of The Farmer (Farmer Act), it is expected can guarantee the protection and empowerment of the farmer for the sake of society's prosperity. Moreover, *Nawacita* itself had patternize the food sovereignty as a development model of food and agriculture 2014-2019. *food sovereignty* had change the previous paradigm which knew as *food security*. But in fact, based on agricultural census 2013, number of farmer's family in Indonesia for the last ten years decreased into 5,04 million families. On the same period, the number of agricultural company increased for 1.475 companies. Thing that feel concerned about is the number of *gurem* farmer continue increasing (Kompas, 2013).

Started upon that fact, it is more and more showed that most of the poverty occurred in villager which in general is a farmer. From the total of the poor in Indonesia, approximately 66 percent live in a rural and approximately 56 percent hanging down their life thoroughly on agriculture. And it is also found out that from all of the poor upon this rural apparently 90 percent worked which means their worked but still poor.

Not yet about the problem of harvest failure which sometimes faced off by the farmer. The harvest failure for the farmer is not just about production fail. But the harvest failure give long and serious implication. The harvest failure means increasing of financial capital which have big probability the increased of debt caused the best part of the farmer still used debt from third party, like broker and agricultural store.

For example, in Lampung Tengah Regency which one of the most extensive regency in Lampung Province, have the number of inhabitant that reached 1.411.922 people with area of the region is 4.789,82 Km. For Lampung Tengah, food is the essential needs for sustainability of human life to have healthy life and productive, with the result that the fulfillment of it can't be postpone. Moreover with considering the fast of inhabitant's growth that average is 1,3% per year and decreased of production factor as a capacity of landfarm and human resources.

The composition number of agricultural household business in Lampung Tengah Regency according to

farmer's census resulted by Badan Pusat Statistik on 2013, in first position reached 19,00 percent from 14 city/regency in Lampung Province. For agricultural company which are legal body, there are 13,91 persen located in Lampung Tengah Regency or placed on the second position after Lampung Selatan Regency (17,22 persen).

Such data showed that big influence to agriculture sector on giving contribution to accomodate work field in Lampung Tengah Regency. Therefore, the agriculture sector shall developed it with utilize it's potency and the benefit of geography such area. In spite of that fact, in last times we saw that in some places it is often happen of difficulty of fertilizer. Anorganical fertilizer from time to time becomes expensive and often the distribution is not proper, instabilized weather, harvest fail and price fluctuation of harvest. This kind of situation make the farmers in difficult situation.

According to such explanation, be a legal needs nowadays to make a local regulation on the protection and empowerment of the farmer to accomodate the protection and empowerment of farmer in the area. This script will describe comprehensively about design of Local Regulation on The Protection and Empowerment of The Farmer which can be reference by local government in arrangement of Local Regulation on The Protection and Empowerment of The Farmer.

2. Research Method

This research did with the corridor of normative legal research (*doctrinal research*) which only used secondary data. The model of it's legal research is comprehensive and analitical study towards legal primary and legal secondary materials. The approach of the issue used statute approach and conceptual approach (Peter Mahmud, 2005). Data being analysis in qualitative manner with describing the data resulted from the research into an explanation form systematically so can acquired a clear view about the issued which being researched, and the result of analysis data concluded deductively.

3. Discussion

3.1 Conceptual Framework on The Protection and Empowerment of The Farmer

The protection of the farmer is all effort to help farmer on challenging problem of obtain the facility and preparation of the production, business assurance, price risk, harvest fail, economic expensive practice, and climate change. The protection and empowerment of the farmer cover up the planning, the protection of the farmer, empowerment of farmer, defrayal and funding, supervising, and society participation, implement grounded on sovereignty, autonomy, benefit, togetherness, kohesiveness, openness, fair efficiency, and sustainability principles.

Through the Act No. 19 2013 on The Protection and Empowerment of The Farmer, Central Government and also Local Government gave the main responsibility to arrange the strategy and policy of the protection along with empowerment of the farmer. Protection upon farmer does through provisioning the preparation and facility of agriculture production, business assurance, commodity price of agriculture, wiping out the practice of economic expensive, indemnity of harvest fail cause of supraordinary affair, early commemoration system and handling of the climate change effect, and agricultural insurance.

The form of policy which can given to protect the interest of the Farmer, inter-alia the regulation of Agricultural Commodity import appropriate with harvest season and/or domestic needs consumption; supplying the facility of agricultural production on proper time, proper quality, and achievable price upon farmer, along with the subsidy of production facility; the decision on the tariff of admission charge agricultural commodity, the decision on entering place of Agricultural Commodity from overseas in customs office area.

Relate to the empowerment of farmer, there are some definition which explained the empowerment concept, one other thing is Payne in Nasdian said that (Fredian Tonny Nasdian, 2014): "*empowerment process* purposed to help the client to achieve power to take decision and to determine the act that they do related to themself, also to reduce the effect of private and social obstacles when doing act. This matter shall through the increasing of capability and confident to used the power they have, inter-alia by means of power transfer from their environment" Besides of it, there are some others perspectives means that empowerment as an effort to make individu or group to control their own life and endeavor to determine the future appropriate with their own pretension. One of the key sentence upon empowerment is "*empowerment is road to participation*" as Craig and Mayo said in Nasdian which means that the participation hanging down from empowerment, so it's impossible if there is a participation from individual or group without the capability or empower (Fredian Tonny Nasdian, 2014).

The program of farmer's empowerment generally does with the object of farmer's group. Amanah dan Farmayanti said that the latest two years research upon farmer-fisherman's community heavy point upon the empowerment which cover: (a) cooperation values, cohesivity, and motivation to go forward for increasing the effectivity of communication inovation institutions, (b) stucture and behaviour norm with participative guidance, (c) increasing of commodity competitiveness, (d) group role as a central study for farmer, the central local

societies's social activity (Siti Amanah dan Narni Farmayanti, 2014).

Besides the protection policy toward the farmer, the effort of empowerment also have important role to reach the farmer's prosperity better. The empowerment do to go forward and developing the paradigm of farmer, increasing business of agriculture, along with growing and strengthening the farmer institution so that be autonomous and has high competitiveness on Agricultural Business.

The empowerment do to go forward and developing the paradigm of farmer, increasing business of agriculture, along with growing and strengthening the farmer institution so that be autonomous and has high competitiveness on Agricultural Business.

Some activities that expected capable to stimulate farmer to more empower, inter-alia, as education and training, socialization and guidance, developing system and market facility of agricultural product; giving priority to the domestic agricultural product to fulfill the needs of national's food; consolidation and the warranty capacity of landfarm; supplying of defrayal facility and modal; easy of knowledge access, technology, and information; and strengthening of Farmer Institution.

3.2 The Design of Local Regulation on The Protection and Empowerment of The Farmer Based on Law As A Tool of Social Empowering

According to Adolf Merkl, which it's opinion referenced by Maria Farida Indrati Soeprato and Ni'matul Huda, said that such legal norm always have two faces (*das Doppelte Rechtsantlitz*) (Ni'matul Huda, 2011). Such opinion being cleared by Hans Kelsen, in his opini, Law is valid if made by the institution or authority which have competence to make and considering the higher norm so that in this case the inferior norm can be made by the higher of the superior norm, and such law made a levels and in layers creating hierarchy, where a inferior norm are occurred, sourced, and grounded on the superior norm (Hans Kelsen, 1973). Beside focused upon validity side according by Kelsen, legal norm/statutes on it's formation must observes various aspects and principles.

According to Van der Vlies, in general there are two distinct category of the statutes enactment principles which proper (*algemene beginselen van behoorlijk regelgeving*), that is formal and material principles (Maria Farida Indrati S, 2007). Local Regulation on The Protection and Empowerment of The Farmer as one of type from Statutes in it's enactment also doesn't rid of from such formal and material principles.

According to Jimly Asshidiqie, the enactment of a good regulation must based on the aspects of philosophy, sociological, juridical, political and administrative and it's applying must reflecting in philosophical, sociological, juridical, and political manners (Jimly Asshidiqie, 2006).

Philosophically, the enactment of Local Regulation on The Protection and Empowerment of The Farmer must reference upon the vision of *Hukum Pancasila*. Arief Sidharta explained that the vision of hukum pancasila which rooted in life perspective of Pancasila, automatically will reflecting the purpose of the state and fundamental values which formally prescribed on preamble, specially in formula of five pillars on the national philosophy, and furtherly described in the sections of the UUD 1945 body. The purpose achieved with governance implementation by government for the prosperity of it's citizen (Arif Sidharta, 2010).

Sociologically, Local Regulation on The Protection and Empowerment of The Farmer said to have sociological basis if the provisions appropriate with general faith or legal consciousness of the society. Mochtar Kusumaatmadja said, as follows: "good law is a law which appropriate with the living law on a society, that absolutely also appropriate or constitute a reflection from the applied values from such society" (Mochtar Kusumaatmadja, 1986). According to Syaokani and Thohari, if such law constitute upon inappropriate basis with the structural of people's spiritual, it is surely the resistance from society toward such law shall be strong (Imam Syaokani dan Ahsin Thohari, 2008). Hart explained the existence of a legal system is social phenomenon which always presented in two aspects, that must be we observes so that our observation about it become realistic (Imam HLA Hart, 2009).

Juridically, Local Regulation on The Protection and Empowerment of The Farmer is an effort to fulfilled the empty space of law on the needs of The Protection and Empowerment of The Farmer also with legal solution upon the problematic of The Protection and Empowerment of The Farmer that we faced of. So that on the enactment of it must pay attention the aspect of synchronization with the existed regulation above it, like on the table one.

Table1. The Statutes Related on The Protection and Empowerment of The Farmer

No.	Statutes Related on The Protection and Empowerment of The Farmer
1.	Pasal 18 ayat (6) The Constitution of The Republic Indonesia 1945;
2.	Act No. 41 of 2009 concerning The Protection on Sustainability of Landfarm Food;
3.	Act No. 12 of 2011 concerning The Enactment of Statutes;
4.	Act No.18 of 2012 concerning Food;
5.	ActNo. 19 of 2013 concerning The Protection and Empowerment of The Farmer;
6.	Act No.23 of2014 concerning Local Government;
7.	Regulation of Agricultural Minister of The Republic Indonesia No.40/Permentan/SR.230/7/2015 concerning Facility of Agricultural Insurance
8.	Regulation of Domestic Minister No. 80 of 2015 concerning The Enactment of Local Law Product;

Local Regulation on The Protection and Empowerment of The Farmer must started from the view to achieved 'pengayoman' for society and it's enactment must be means progressively for society's common goods (Daniel S. Lev, 1965). According Arief Sidharta, Pancasila as a legal purposed to achieving 'pengayoman' upon human, that is protecting human passively with preventing of without compunction act, and actively with creating societies condition which make possible the process of societies last properly so that each human fairly get a wide chance and equal for developing all of the human potential wholly (Arif Sidharta, 2013).

In such a way with the ideas of 'hukum progresif', according to Satjipto Rahardjo the idea of *hukum progresif* started from philosophical basic assumption that law is for human, not the opposite (Satjipto Rahardjo, 2002). Thus, the existence of law is to served and protect human, not the opposite. Law deemed as institutionpurposed to bring human toward fair life, welfare and make human happy. *Hukum progresif* followed ideology of law which pro-justice and law which pro-society (Satjipto Rahardjo, 2009). The character of *hukum progresif* which intend the present of the law related with the utilizing as social purpose, which caused *hukum progresif* also close with *sosial engineering* by Roscoe Pound (Bernard L. Tanya, 2010).

Grounded on the description of the previous theoretical framework, Local Regulation on The Protection and Empowerment of The Farmer must capable to presenting justice upon the farmer based on the synergy of various elements. Such thing can be achieved with rest the enactment on synergy formula, as follows:

- 1) Local Regulation have role in implementing programs and policy which pro toward the effort on Protection and Empowerment of the Farmer throughlegality framework that appropriate with real requirement in it's region.
- 2) Business world roled as a partner of Local Government in supplying budget allocation,distribution and marketingso that it will give good *feedback* upon the continuity ofThe Protection and Empowerment of The Farmer in their region.
- 3) College and society self-supporting institution on agricultural sector expected to give input and suggestion on the effort of The Protection and Empowerment of The Farmer along with straight descend doing the activity of farmer's empowerment.

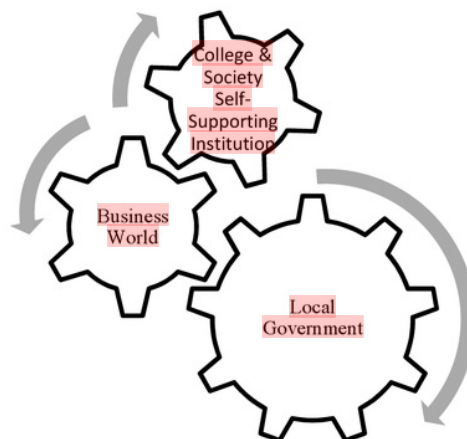


Figure 1. The Configuration of SynergySubstances

Local Regulation Design on The Protection and Empowerment of The Farmer

With the design of local regulation arrangement which merging some of such elements, it is expected will capable to compliance the right and givethe Protection and Empowerment of The Farmer in their region.

4. Conclusion

Design of Local Government on The Protection and Empowerment of The Farmer as an effort to achieved equality before the law with a way that the enactment must started from perspective to achieved 'pengayoman' upon society and it's enactment must means progressively for the profit of the society with complying such criteria as follows: 1). Local Regulation on The Protection and Empowerment of The Farmer must started from real problem which generally occur in a region with basis on it's enactment upon philosophical, sociological, and juridical aspects (*problem based regulation*); 2). The role of Local Government, business world and college along with society self-supporting institutions shall given in space of arrangement so that can be related and configurated to achieved the protection and empowerment of the farmer; 3). Giving space access widely and facilities upon the farmer along with easy for farmers on doing their betterment and business expansion.

References

- Bernard Arief Sidharta. (2010) *Ilmu Hukum Indonesia* (Indonesian Jurisprudence), Bandung: Fakultas Hukum Universitas Katolik Parahyangan.
- Bernard Arief Sidharta, (2013), *Ilmu Hukum Indonesia, Upaya Pengembangan Ilmu Hukum Sistemik Yang Responsif Terhadap Perubahan Masyarakat*, (Indonesian Jurisprudence, Systematic Systematic Law Development Efforts Responsive to Change Society) Genta Publishing, Yogyakarta.
- Bernard L. Tanya et all (2010). *Teori Hukum Strategi Tertib Manusia Lintas Ruang dan Generasi*, (Legal Theory of People's Ordered Strategy across Space and Generation), Genta Publishing, Yogyakarta.
- Daniel S. Lev, (1965), *The Lady and the Banyan Tree: Civil-Law Change in Indonesia*, *The American Journal of Comparative Law*, Vol. 14. No. 2 (spring).
- Fredian Tonny Nasdian, (2014), *Pengembangan Masyarakat*, (Society Empowerment), Pustaka Obor, Jakarta.
- H.L.A. Hart. (2009), *Konsep Hukum* (The Concept Of Law). Bandung: Nusamedia.
- Hans Kelsen, (1973), *General Theory of Law and State*, Russel & Russel, New York.
- Imam Syaekani dan Ahsin Thohari, (2008), *Dasar-Dasar Politik Hukum* (The Basics of Political Law) Jakarta: Raja Grafindo Persada.
- Jimly Asshiddiqie. (2006), *Perihal Undang-Undang* (About the Law), Jakarta: Konstitusi Press.
- Maria Farida Indrati S. (2007), *Ilmu Perundang-undangan: Proses dan Teknik Pembentukannya*. (Science and Legislation: Process and Its Formation Techniques), Jld 2. Yogyakarta: Kanisius.
- Mochtar Kusumaatmadja, (1986), *Hukum, Masyarakat dan Pembinaan Hukum Nasional*, (Law, Society and National Law Development), Binacipta, Bandung.
- Ni'matul Huda dan R. Nazriyah, (2011), *Teori dan Pengujian Peraturan Perundang-Undangan*, (Theory and Testing of Legislation), Nusa Media, Bandung.
- Peter Mahmud, (2005), *Penelitian Hukum*, (Legal Research), Kencana Prenada, Jakarta.
- Satjipto Rahardjo, (2002), *pada harian Kompas dengan judul "Indonesia Membutuhkan Penegakan Hukum Progresif* (Indonesia Requires Progressive Law Enforcement)", tanggal 15 Juni.
- Satjipto Rahardjo. (2009), *"Hukum Progresif sebuah Sintesa Hukum Indonesia*, (Progressive Law of an Indonesian Law Synthesis), Genta Publishing, Yogyakarta.
- Siti Amanah dan Narni Farmayanti, (2014), *Pemberdayaan Sosial Petani-Nelayan, Keunikan Agroekosistem, dan Daya Saing*. (Social Empowerment of Farmers-Fishermen, Agro-ecosystem Uniqueness, and Competitiveness), Yayasan Pustaka Obor Indonesia. Jakarta.
- Tim Redaksi, (2013), *Harian Kompas*, Selasa 3 September.

Local Regulation Design on the Protection and Empowerment of the Farmer Based on Law as a Tool of Social Empowering

ORIGINALITY REPORT

90%

SIMILARITY INDEX

PRIMARY SOURCES

1 www.iiste.org
Internet

2859 words — **90%**

EXCLUDE QUOTES ON

EXCLUDE MATCHES OFF

EXCLUDE
BIBLIOGRAPHY ON