

# The Regional Government Authority on Food-Crop Agricultural Land Protection

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## Abstract

The authority of the regional government both provincial and district / municipality governments that have the potential of food agricultural land has the authority and responsibility to formulate regulations to govern Food-Crop Agricultural Land Protection and enforce the regulation. This authority is an attribution of Article 33 paragraph (3) of the 1945 Indonesian Constitution and is also a sub-system of the Law No. 26 of 2007 Concerning Spatial Planning. In addition, at the level of implementation, this authority is a mandate of Article 12 of the Law No. 23 of 2014 concerning Regional Government. In this context, the implementation of food-crop agricultural land protection conducted by the regional government is the authority of the delegation. The implementation of this authority can take the form of regulation, planning, determination, development, utilization, and control of the implementation of protection of food-crop agricultural land.

**Keywords:** Authority, Regional Government, Protection, Food-Crop Agricultural Land.

## 1. Introduction

In the context of Indonesian Unitary System, the implementation of autonomy authority as broadly as possible must be based on the 1945 Indonesian Constitution as a consequence as a rule of law.<sup>1</sup> This means that in every legal action regarding the concept of authority must be established through legislation. The authority is the legally rights and the power of the government. Therefore, in the concept of rule of law, every single legal action must be referred to legality principle as the source of the authority. It can be said then, it is a form of legitimate power.

In the concept of public law, authority is a very important part of Administrative Law.<sup>2</sup> Therefore, the government can only carry out its functions based on the authority he has, in which the validity of government actions is measured based on the authority stipulated in the legislation. Implementation of an authority will be considered valid if it is based on the provisions of the applicable law.<sup>3</sup> The authority can be found in the state constitution which gives legitimacy to public bodies and state institutions in carrying out their functions.<sup>4</sup>

Food agricultural land is essentially mentioned in the Law No. 5 of 1960 concerning Basic Agrarian Principles (abbreviated as UUPA). It states that the earth, water and space, including the natural wealth contained therein, are controlled by the state as an organization of the power of all people.<sup>5</sup> Based on this policy, to achieve the ideals of the nation and state in the land sector, it is necessary to be a plan regarding the allotment, a use and supply of earth, water and space for the various interests of the people and the state.<sup>6</sup>

Food agricultural land is a place for foodstuffs to grow, as well as supporting the prosperity and welfare of the people. It is important therefore to be protected by its sustainability and maintained its quality and function. Agricultural land is an important asset that guarantees the continuity of national food supply and other economic activities outside agriculture. Moreover, the reality is that most Indonesians work in the agricultural sector. This is in line with Ilmar's point of view,<sup>7</sup> that the agricultural sector is very important in the national economy in terms of its contribution to the Gross Domestic Product (GDP) and the level of employment.

The issue of food agriculture in the national context has become a strategic policy because the state is obliged to guarantee the right to food as a basic right of every citizen. In addition, the state is obliged to guarantee national independence, resilience and food sovereignty. From the importance of this strategic policy, the protection of food agricultural land was first mentioned in the Law No. 26 of 2007 concerning Spatial Planning (abbreviated Spatial Planning Law), but the specific regulations have not been detailed.<sup>8</sup>

<sup>1</sup> Philipus M. Hadjon, 1994, *The Normative Function of Administrative Law to Perform Good Governance (Fungsi Normatif Hukum Administrasi dalam Mewujudkan Pemerintahan yang Bersih)*, Inaugural Address of Professor in Legal Science at Faculty of Law Airlangga University, Surabaya, p. 7. See also Aminuddin Ilmar, 2013, *Governance Law (Hukum Tata Pemerintahan)*, Identitas Universitas Hasanuddin, Makassar, pp. 105-106.

<sup>2</sup> Philipus M. Hadjon, 1997/1998, *An Arrangement of Administrative Law (Penataan Hukum Administrasi)*, Faculty of law, Airlangga University, Surabaya, p.2.

<sup>3</sup> Aminuddin Ilmar, 2013, *Op. Cit.*, p. 131.

<sup>4</sup> See Dewa Gede Atmadja, 1996, *Interpretation of the Constitution in the Frame of Legal Socialization: Implementation Side of the 1945 Indonesian Constitution (Penafsiran Konstitusi Dalam Rangka Sosialisasi Hukum: Sisi Pelaksanaan UUD 1945 Secara Murni dan Konsekwen)*, Inaugural Address of Professor in Legal Science at Faculty of Law University of Udayana, 10 April 1996, p. 2

<sup>5</sup> See Article 2 sub-section (1) Undang-Undang No. 5 Tahun 1960 Tentang Undang-Undang Pokok Agraria.

<sup>6</sup> Ibid.

<sup>7</sup> Aminuddin Ilmar, 2006, *Investment Law in Indonesia (Hukum Penanaman Modal di Indonesia)*, ed. 6, Kencana Prenada, Jakarta, p. 134.

<sup>8</sup> In Article 48 paragraph (1) letter e the Spatial Planning Law states that the spatial planning of rural areas is directed to the defense of eternal

In the development of the agricultural sector today, the most important problem is sustainable agriculture. The sustainable agriculture is intended to guarantee that the process of utilizing agricultural resources can be implemented optimally. The sustainable agriculture is expected to meet the needs and welfare of today's society without having to sacrifice the needs and welfare of future generations.

The state's concern for the importance of sustainable agriculture is realized by issuing several regulations. One of them is the Law No. 41 of 2009 concerning Food-Crop Agricultural Land Protection (hereinafter abbreviated as PLP2B Law) as basic principles concerning the protection of sustainable agricultural food in the national context. In PLP2B Law, sustainable food agricultural land protection is carried out based on the principle of benefits; sustainability and consistency; cohesiveness; openness and accountability; togetherness and mutual cooperation; participatory; justice; harmony, harmony and balance; environmental sustainability and local wisdom; decentralization; state responsibility; diversity; and social and cultural.<sup>1</sup>

The PLP2B Law held with some purposes - namely: protecting the area and land of agricultural land in a sustainable manner; guarantee the availability of sustainable food crops; realize independence, resilience and food sovereignty; protect ownership of farmer food owned by farmers; increasing prosperity and welfare of farmers and the community; increasing the protection and empowerment of farmers; increase the provision of employment for a decent life; maintain ecological balance; and realize agricultural revitalization.<sup>2</sup>

Food-crop agricultural land is one of the potentials of food production which is a medium for cultivation and production of agricultural products that maintains the availability of food, especially staple food for the community. One of the benefits is expected from the agricultural development process is the availability of adequate national food needs along with the increase in population from year to year. The availability of land for agricultural business is an absolute requirement to realize the role of the agricultural sector in a sustainable manner, especially in its role in realizing national independence, resilience and food sovereignty.

Solid food security is an important matter and needs to be realized because of an important part of national security. The more adequate food supply for households, the more adequacy of food in terms of quantity and quality including the guarantee of safety, equitable distribution and ability to buy. In this context, the Law No. 18 of 2012 concerning Food (hereinafter referred to as the Food Law) states that it is the responsibility of the government, the regional government and the community to develop the potential of this food production.<sup>3</sup>

The Food Law furthermore states that the implementation of food is carried out to fulfill basic human needs that provide benefits in a fair, equitable and sustainable manner based on food sovereignty, food independence, and food security.<sup>4</sup> This provision requires that to meet food needs, the government and regional government are obliged to regulate, develop and allocate agricultural land.<sup>5</sup>

The government then issued several derivative regulations as implementation rules of the PLP2B Law which are technically and operationally regulations. Some government regulations (hereinafter abbreviated as PP) serve to explain in more detail the PLP2B law, namely (1) PP No.1 of 2011 concerning the Determination and Transfer of Agricultural Land Functions; (2) PP No.12 of 2012 concerning Incentives for Sustainable Agricultural Land Protection; (3) PP No. 25 of 2012 concerning Sustainable Food Agricultural Land Information System; and (4) PP No. 30 of 2012 concerning Financing for Sustainable Food Farming Protection.

## **2. The Authority of Food-Crop Agricultural Land Protection in Establishment of the Regional Government.**

The constitutional foundation of the authority of the regional government to regulate the protection of sustainable agricultural land is sourced and rooted in article 33 paragraph (3) of the 1945 Indonesian Constitution. On the basis of the Article 33, it was later revealed in the provisions of Article 2 of the UUPA which interpreted the authority of the state in the management of natural resources derived from the right to control the state which is used to achieve the greatest prosperity of the people. Both the Article 33 of the Constitution and the Article 2 of BAL are the legal basis to exercise the implementation of the authority of the government, the private sector, and customary law communities. This authority indeed is not in conflict with national interests and the provisions of the applicable laws.<sup>6</sup>

If it is elaborated on the implementation of authority by the regional government on the protection of agricultural land, it will not be separated from the implementation of government affairs as regulated in Article 12 the Law No.23 of 2014 Concerning Regional Government. The Article states that the food, land, spatial planning and agriculture sectors become regional government affairs. Even in matters of protection of more complex food

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land areas for food agriculture for food security. However, it is further stated in Article 48 paragraph (2) of the Spatial Planning Law that further provisions concerning the protection of the area of eternal food agriculture are regulated by the Law.

<sup>1</sup> See Article 2 PLP2B Law

<sup>2</sup> See Article 3 PLP2B Law

<sup>3</sup> See Article 16 (1) the Food Law.

<sup>4</sup> See Article 3 the Food Law.

<sup>5</sup> See Article 18 the Food Law.

<sup>6</sup> See Article 2 UUPA

agricultural land will intersect with the realm of government affairs in the housing sector, labor, environment, community and village empowerment and population control.

In connection with the concept of regional autonomy in the protection of food agricultural land against the administration of regional government, the implementation of the principle of autonomy as broadly as possible means that the region is given the authority to make regional policies to provide services, increase participation, initiative and community empowerment aimed at protecting food agricultural land as an effort to improve people's welfare. In order for regional autonomy to be implemented in line with the objectives of protecting agricultural food land, the government must carry out guidance in the form of providing guidelines such as in research, supervision, control, coordination, monitoring, and evaluation. For this reason, the government is obliged to provide facilities in the form of providing opportunities for convenience, assistance and encouragement to local governments so that in implementing autonomy can be carried out efficiently and effectively in accordance with the legislation.

It has been explained earlier that the protection of agricultural food land is related to the implementation of spatial planning as stipulated in the Spatial Planning Law which gives greater authority in the implementation of spatial planning based on the archipelago's insight, ordering the need for protection of the area of agricultural food land which is regulated by the Law.

In connection with this, the PLP2B Law was issued with the aim of becoming a legal umbrella for the provision of food agricultural land in an adequate area and agreed and stipulated by all relevant stakeholders to produce food. The expected result is that agricultural land is preserved and maintained by all stakeholders to ensure food availability for the people of Indonesia. The state will provide a sanction to violations of the PLP2B Law, including the Spatial Planning Law.

The development of the industrial, service, and property sectors in the era of economic growth in recent years has generally put pressure on the agricultural sector, especially food agriculture. Land use conflicts are dilemmatic to see the opportunities of expansion of agricultural areas are very limited, while demands for land needs for developments outside the agricultural sector are increasing. Thus, changes in land use in line with the economic growth of an area are difficult to avoid.

The situation as mentioned above has created a new problem in line with the implementation of regional autonomy. This problem is increasingly complex in the field because the national policy direction in terms of protection of food agricultural land often collides with local government policies that prioritize local interests and regional policies. Although the implementation of land use control policies is still considered quite effective in limiting the use of paddy fields for non-agricultural activities such as the location licensing mechanism and the application of the Regional Spatial Plan. It can be concluded therefore that the authority of the regional government in the protection of food agricultural land has a legitimate power.

### **3. The Source of Attribution Authority in Sustainability of Food-Crop Agricultural Land Protection Conducted by the Regional Government**

According to the Law No. 30 of 2014 concerning Government Administration, attribution authority is the granting of authority to government bodies and / or officials by the 1945 Constitution of the Republic of Indonesia or the law. It is then also determined that government agencies and / or officials who obtain authority through Attribution, the responsibility of authority lies with the relevant government agencies and / or officials.<sup>1</sup>

The Law No. 30 of 2014 requires that attribution authority cannot be delegated, unless stipulated in the 1945 Constitution of the Republic of Indonesia and / or the law.<sup>2</sup> Regarding attribution authority, it is further stipulated that government bodies and / or officials obtain authority through attribution if: (a) is regulated in the 1945 Constitution of the Republic of Indonesia and / or the law; (b) is a new or previously absent authority; and (c) Attribution is given to Government Agencies and / or Officials.<sup>3</sup>

Attribution authority is the inherent authority continuously and its implementation on its own initiative at any time necessary with limits given based on the 1945 Constitution and / or the law. It is therefore that the urgency of this attribution authority is required to be delegated through the 1945 Constitution and / or the law. The attribution authority cannot be submitted through other legislation. It is a form of strengthening the concept of power sharing. It is basically the House of Representative (DPR) holds the power of legislation. In order for the regulation be carried out by other government institutions, there must be a handover of governing authority from the DPR which of course can only be done through the Law.

In addition, it should also be remembered that attribution cannot be given by limiting the scope of regulation. With the delegation of authority to regulate the legislative body to an organ or government institution, the governing authority is given entirely by the DPR and the receiver of the attribution (atributaris) institution has the right to make regulations regarding any matter and not limited to certain scope as long as the regulated affairs are

<sup>1</sup> See Article 1 subsection 22 the Law No.30 of 2014.

<sup>2</sup> See Article 12 subsection 3 the Law No.30 of 2014.

<sup>3</sup> See Article 12 subsection 1 the Law No.30 of 2014.

still the authority of institutions that receive attribution.

At attribution authority, a new authority is created which is the usual way to complete state organs. It is further stated that competent legislators to provide attribution of government authority are distinguished between:

1. An original legislator; it means that in the central level the People's Consultative Assembly of the Republic of Indonesia (MPR) is the constitution maker and the DPR together with the government produce a law. At the regional level, the Regional of House of Representative (DPRD) and the Regional Government makes the Regional Regulation;
2. A delegated legislator; lit means that the President issued a Government Regulation in which government authorities are created for certain State Administration Bodies or Position.

Government power comes from the Original Legislator, which is defined as power and authority that originates from the original legislator as a condition for the establishment of Attribution authority. This authority can be described as granting authority to a state organ, in which the state's organs carry out the authorities that have been determined to be carried out independently, as well as for their own names and opinions. Both the MPR and the President along with the DPR have appointed the state's organs to carry out that authority.

Based on the discussion as mentioned above, it appears that the attribution authority is genuine originating from the constitution and legislation. In other words, the government organs obtain authority directly from the editors of certain articles in the constitution or statutory regulations. In the case of attribution, the receiver authority (atributaris) can create new authority or expand existing authority with internal and external responsibility for the exercise of authority that is distributed entirely to the atributaris. The attribution authority in general can be found in the laws and regulations governing the establishment of institutions that receive the attribution.

In the case of the authority to carry out the regulation of sustainable agricultural land protection, it is sourced and rooted in Article 20, Article 21, Article 27 paragraph (2), Article 28A, Article 28C, and Article 33 of the 1945 Constitution as a form of efforts to guarantee the right to food for anyone. It is human rights for every citizens in which the state is obliged to strive for independence, resilience and food sovereignty in Indonesia.

Specifically, the regulation in the land sector is stated in Article 2 of UUPA which is the implementation of article 33 paragraph 3 of the 1945 Constitution. Article 2 determines clearly that the Right to Control the State as mentioned above can be authorized to the regions, the private sector and customary communities, as long as it does not conflict with national interests and some provisions of the applicable regulations.<sup>1</sup> The explanation of it indicates that the regional government has the authority to regulate land relations and in accordance with the Regional Government Law.

It can also be explained that the protection of food agricultural land is a subsystem of spatial space. Regarding to the authority in carrying out to the regulation of sustainable agricultural land protection as stipulated in Article 48 of the Spatial Planning Law. It states that further provisions regarding the protection of the eternal land of food agriculture will be governed by law.<sup>2</sup>

It is also stated that the regional government is authorized to regulate and administer its own government affairs according to the principle of autonomy and assistance tasks.<sup>3</sup> The authority of broad autonomy is the freedom of the region to complete the government which includes the authority of all fields of government, except the authority in the field of foreign policy, defense, justice, monetary, and fiscal, religion, and other authorities which will be determined by Government Regulation.

The implementation of real and responsibility autonomy as regional freedom to carry out governmental authority in certain areas in the regions is the authority of attribution. In addition, the attribution authority granted under the 1945 Indonesian Constitution in the establishment of regional government is the granting of the right to make regional regulations in order to implement autonomy and assistance tasks.

The implementation of regional government is divided into provincial governments and district / municipality governments. The central government in the context of decentralization must also be accompanied by the organization and transfer of financing; facilities and infrastructure; and human resources. In general, the form of authority done by the regional government is the administration of mandatory governmental affairs and the government of choice as stipulated in Article 11 and Article 12 of the Regional Government Law.

It has also been explained previously that the implementation of food agricultural land protection as a sub spatial system. In terms of it, the regulation of provincial government authority in spatial planning in general is regulated in Article 10 of the Spatial Planning Law. Whereas the same authority granted to the district government is generally regulated in Article 11 of the Spatial Planning Law. It can be concluded, as stipulated in the PLP2B Law, that it is not attribution authority because it is preceded by a rule that regulates beforehand and is a delegate authority. This protection authority is based on the mandate of the laws and regulations that have been set beforehand, which is specifically mandated in Article 48 of the Spatial Planning Law.

The food-crop agricultural food protection is a sub-system of the provisions in the Spatial Planning Law. The

<sup>1</sup> See Article 2 paragraph 4 UUPA

<sup>2</sup> See Article 48 paragraph 2 the Spatial Planning Law.

<sup>3</sup> See Article 18 paragraph 2 the 1945 Indonesian Constitution.

content of the laws is still fundamental in regulating the life of the community. The issuance of the PLP2B Law specifically regulates and prohibits to do something which if it is necessary, it is accompanied by sanctions in order to enforce the law in the protection of sustainable agricultural land to become prestigious.

In order to achieve the objectives of legal protection for food agricultural land, the apparatus activities are needed and become influential factors in carrying out their functions. The implementation of the functions and roles of the apparatus is certainly based on the aspects of legitimacy and legality of their authority. For this reason, state administrative is the basis for state administrators in carrying out their duties and functions. It can become also as a tool of legal protection for citizens towards state administrative actions, including to protect the state interests itself.

It can be said that the authority of this state is an original authority that is obtained by direct attribution sourced in Article 33 paragraph (3) of the 1945 Indonesia Constitution. In this context, the direct attribution gives authority to the government to regulate the control, designation, and use of agricultural land. For the exercise of authority in the land sector, the President as Head of Government establishes a non-Departmental Government Institution, namely the National Land Agency (BPN) as a government agency to manage and handle the land sector as regulated by the Presidential Regulation of the Republic of Indonesia Number 20 of 2015 concerning the National Land Agency.

BPN has the task of carrying out government duties in the land sector in accordance with the provisions of the legislation.<sup>1</sup> In carrying out the tasks as intended, BPN organizes functions to:<sup>2</sup>

- (a) compile and assign land policy sector;
- (b) formulate and implement survey, measurement, and mapping policies;
- (c) formulate and implement the policies of the determination of land rights, land registration, and community empowerment;
- (d) formulate and implement regulation, arrangement, and control of land policies;
- (e) formulate and implement the land acquisition policy; formulation and implementation of policies in the field of control and handling of disputes and land cases;
- (g) supervise of the implementation of duties within the BPN;
- (h) Implement the task coordination, guidance and administration support to all organizational units within the BPN;
- (i) implement data management information on sustainable food agricultural land and information in the land sector;
- (j) implement research and development in the land sector; and
- (k) implement human resource development in the land sector.

Berdasarkan the duties and functions of BPN as described above, it can be seen that BPN in the implementation of PLP2B Law has administrative duties and functions for the implementation of data management of sustainable food agricultural land based on the PLP2B Law and other Legislation. In the formulation of the duties and functions of the BPN, implicitly contained the authority of BPN to issue various regulations in the field of agrarian and regulating spatial planning which was obtained by delegation of authority as the person responsible for administering the government under the coordination of the Ministry of Agrarian Affairs and Spatial Planning / BPN.

#### **4. The Implementation of Delegate Authority Conducted by the Regional Government to Protect Food-crop Agricultural Land**

The word "delegation" can be interpreted semantically as the handover of authority from higher officials to the lower officials. However, it is required that the authority of the delegation cannot be justified except for the sake of law or based on the law. In the delegation, therefore, there is the transfer of authority from the state body / organ or one government official to the body / organ or other government officials.

The delegation is always required to have a legal basis. It is because if the delegate wants to withdraw the authority that has been delegated, then the same laws and regulations must be applied. The authority obtained from the delegation can also be sub-delegated to sub-delegates. For the subdelegataris, it applies equally to the provisions of the delegation.

The official definition of the authority of the delegation is the delegation of authority from the higher body and / or government official to the lower body and / or government officials with full responsibility and accountability to the delegation receiver. Thus, the delegation is a shift in competence and also the release and acceptance of something of authority, in which both of them are based on the will of the party who submits that authority.

The delegation is basically not a complete exemption, but rather to ease the workload of delegates. For the

<sup>1</sup> See Article 2 the Presidential Decree No. 20 of 2015 Concerning the National Land Agency.

<sup>2</sup> See Article 3 the Presidential Decree No. 20 of 2015 Concerning the National Land Agency.

sake of it, those who delegate their authority can withdraw the delegated authority. Thus, those who delegate does not completely lose their competence, but have lost their dominance in the exercise of delegated authority. Hans Peters provides limitations based on positive law for delegation, namely (1) if an authority is based on a higher legal source than those controlled by those who authorize (delegate); and (2) if it lies in the principle that no organ may delegate its entire competence also not regarding the main parts of it to other equipment.<sup>1</sup>

In implementing spatial planning authority, it is carried out in a comprehensive, holistic, coordinated, integrated, effective and efficient manner while still taking into account political, economic, social, cultural, defense, security and environmental sustainability factors. For this reason, the state of spatial planning, its authority is carried out by the central government and regional governments while respecting the rights held by each person and the local wisdom prevailing in the community.

The authority of the regional government in spatial planning is included in the Regional Government Law by affirming that the planning, utilization and supervision of spatial planning is a compulsory affair that is the authority of the provincial government and the district / municipality government. The regulation of it can be seen in Article 10 and Article 11 of the Spatial Planning Law, which clearly governs the scope of authority of the provincial and district / municipality governments in spatial planning.

Based on the PLP2B Law, the scope of PLP2B is to rely on Article 4 of the PLP2B Law. Food-crop Agricultural Land has been determined on irrigated land, tidal and non-tidal swamp reclamation land (lebak), and / or non-irrigated land.<sup>2</sup> It clearly regulates the scope of authority of the provincial and district / municipality governments in the protection of sustainable food agricultural lands. As a subsystem of spatial planning, therefore, it can be said that some authority has been delegated from provincial to district / municipality governments. To explain in detail the problem of regulation is set in, as followings:

- 1) Planning; it has regulated in Article 11 of the PLP2B Law. It states that the planning of Sustainable Food Agricultural Land is prepared at the national, provincial and district / municipality levels, which consists of long-term, medium-term planning and annual planning.
- 2) Determination; it has regulated in articles 17 to Article 26 of the PLP2B Law. It is determined in Article 21, Article 23 and Article 25 that in determining the reserve land is regulated in the regency / municipality of Spatial Planning (RTRR). It is similar to determination of LP2B as referred to in Article 18 letter b of the PLP2B Law. It is determined that LP2B is part of the determination in the form of regional RTRR, while sustainable food crops and agricultural lands are regulated in provincial and district regulations concerning the Regional Spatial Planning (RTRW).
- 3) Development; the development of Sustainable Food-crop Agriculture Areas and Sustainable Food Agriculture Land includes intensification and extensification of land. In Article 27 of the PL2PB Law stipulates that the development shall be carried out by the Government, also carried out by provincial governments, and district / municipality governments, communities and / or corporations whose main activities are in food-crop agribusiness.
- 4) Research; In the case of research, Article 30 of the PLP2B Law states that the provincial government, and the district / municipality government are given the authority to do so. LP2B research includes at least: (a) the development of food diversity; (b) identification and mapping of land suitability; (c) LP2B zoning mapping; (d) agricultural innovation; (e) functions of agroclimatology and hydrology; (f) ecosystem functions; and (g) social culture and local wisdom.
- 5) Utilization; Based on Article 33 of the PLP2B Law, the government and regional governments are given the responsibility to carry out soil and water conservation, which includes: (a) protection of land and water resources; (b) preservation of land and water resources; (c) quality management of land and water; and (d) pollution control.
- 6) Founding. It has determined in Article 35 of the PL2PB Law, which states that the Government and regional governments are obliged to provide guidance for everyone who is bound by the utilization of LP2B; and protection against LP2B.
- 7) Control; in the case of controlling LP2B, it must be coordinated. Control of Sustainable Food Agriculture Land is carried out by the Government and Regional Government through the provision of: (a) incentives; (b) disincentives; (c) licensing mechanism; (d) protection; and (e) counseling.
- 8) Supervision; To ensure the achievement of LP2B, supervision is carried out on the performance of planning, determining, developing, utilizing, fostering and controlling. Supervision as intended in the provincial government level, and the district / city regional government according to their authority.
- 9) Information Systems; pursuant to Article 58 of the PLP2B Law that the provincial government, the district / municipality government organizes the LP2B System which can be accessed by the public. LP2B information system at least contains land data about KP2B, LP2B, LCP2B and abandoned land and the

<sup>1</sup> Mustamin Dg Matutu, et.al. 1999, *mandate of Delegation Authority and its Implementation in Indonesia* (Mandat Delegasi Atribusi dan Implementasinya di Indonesia), UII Press, Yogyakarta., pp. 105, 138-139.

<sup>2</sup> See Article 6 of PLP2B Law.

subject of rights.

- 10) Financing; as stipulated in article 66 that the PLP2B financing is charged to the State Budget of Revenue and Expenditure, the provincial Regional Revenue and Expenditure Budget, as well as the district / city Regional Revenue and Expenditure Budget. PLP2B financing can also be sourced from social and environmental responsibility funds from business entities.

It can be explained furthermore that the essence of granting location permits is the essence of efforts to use and control land use in order to create planned space conditions through a spatial plan. It is important to the extent to which the government and regional governments are able to expressly give or not give permission locations related to the importance of maintaining the existence of food agricultural land. Location permit is an effort to be maintained and enforced as a control system for land use and utilization in accordance with its allocation, especially for the protection of food agricultural land.

if it is analyzed from the economic and political aspects, land use in the era of regional autonomy has the authority to utilize the potential in their area. In the economic aspect on the one hand, the regional government must ensure the smooth implementation of national economic policies at the regional level. On the other hand, the regional governments have the opportunity to develop regional and local policies to optimize the utilization of economic potential in their regions. In this context, regional autonomy will enable the birth of various local government initiatives that can offer and innovate with various facilities and investments. One of them is to facilitate the process of business licensing and build shared infrastructure that supports economic turnover in the region.

On the political aspect, due to regional autonomy is a policy of decentralization and democratization, the government is responsive to the interests of the wider community and maintains a decision-making mechanism that adheres to the principle of public accountability. Thus, the regional government will compete with each other to advance their respective regions by optimizing all the potential they have.

In this context, the existence of land in the area essentially is often seen as the most profitable sector if maximally exploited or exploited. With these conditions. It is possible to make development in one sector, it would be sacrificed other sectors without regard to the consequences in the long run. Food agriculture business is the lowest sector that contributes to improving welfare based on GDP, which is often the neglected sector. Whereas food security is a human right that must be fulfilled and its availability cannot be delayed and the need for food will continue to increase in line with population growth and the level of community welfare.

The reality in the RTRW process often takes place without involving the participation of the local community. The condition is made worse that after the RTRW is structured, the plan is rarely known even difficult to be accessed by the wider community. This is an information distortion that has a fatal impact because only a small part of the community access information to the local government bureaucracy. This opportunity is often used by speculators to control land because it has capital and information about land use according to the RTRW.

In rural areas, such polarization will limit the space for small farmers and other poor communities. The effect of it, agricultural lands become more vulnerable to change. As a coordinating legal product, the spatial utilization plan has been compiled in the spatial plan to be realized only through a number of coordinating policies, including in the land sector. This is 'a must' as far as land is concerned. The planned use of space is basically a land use plan. This means that land stewardship activities are an integral part of spatial planning activities.

In this context, the land stewardship has a fundamental essence, namely as a spatial structuring sub-system. In view of the fact, the land have been controlled by the community with various forms of legal relations and with various kinds and types of land use and utilization. In the spatial planning, then, these land conditions are factors that need to be considered.

Land aspects must be an integral part of the spatial planning process including the current state of land use, the physical condition of land capability, the potential of the land and the status of land ownership. To support these activities, the availability of complete, reliable and easily updated land and land data and information that is easily accessible is a must in urban development planning activities, such as spatial planning. Therefore, presumably local government should be able to be equipped with land data and information along with its management facilities and infrastructure.

As a condition to guarantee the implementation of spatial plan, it is needed as an implementation facility, for example, the licensing mechanism in land use. In the implementation of licensing until the issuance of it, land rights must respect the rights to land already owned by the community. The rapid rate of change in the use of agricultural food land into non-agricultural land indicates that the regulation on the prohibition of changes in land use has not been effective.

There are at least three fundamental barriers which are the reason why the regulation is difficult to implement, namely:

- 1) Barriers in policy coordination which in reality are difficult to implement. On the one hand, government policy strives to prohibit the conversion of functions, but other policies actually encourage the transfer of functions through the growth policy of other non-agricultural sectors which in practice use food agriculture.

- 2) Barriers in implementing policies. Various regulations determine the sanctions imposed on individuals, companies or legal entities that use agricultural land and/or will change agricultural land to non-agricultural land. However, the regulations are carried out half-heartedly and have not been enforced primarily on changes in the use of agricultural land to non-agriculture carried out individually.
- 3) Barriers in planning consistency. Determination of RTRW which was then followed by the mechanism for granting location permits is the main instrument in the control to prevent the conversion of food agricultural land. In fact, many RTRWs are actually planning to convert agricultural land into non-agricultural land.

The political will, therefore, is needed primarily from regional governments to demonstrate corrective efforts in order to PLP2B can be applied more effectively. The authority of the regional government in utilizing the land in its territory to achieve the people's welfare goals in the region by optimizing the resources and agricultural potential they have. The regional government needs to develop an objective, rational and modern government management. The management and protection of food agricultural land can go as expected.

## 5. Conclusion

The authority of food-crop agricultural land protection has been set in some laws such as the 1945 Indonesian Constitution, the Basic Agrarian Principles, the Spatial Planning Law, The Regional Government Law, the Food Law, and the PLP2B Law. Those laws also have mandated an authority of dealing with food agricultural land to the regional government both provincial and district / municipality governments. Both governments have the potential of food agricultural land. In the context of its implementation, the implementation of food-crop agricultural land protection conducted by the regional government is the authority of the delegation. It means that it can take the form of regulation, planning, determination, development, utilization, and control of the implementation of protection of food-crop agricultural land.

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