

Technium.

50/2023



The 7th International Conference on Social Sciences
Organized by Faculty of Social Science
and Law Manado State University

The Innovation Breakthrough
in Digital and Disruptive Era



Powered by

PLUS
COMMUNICATION



Criminal Aspects Of Plant Cultivation

Eny Suastuti^{1*}, Umi Purwandari²

¹ Criminal Law Study, Faculty of Law, Universitas Trunojoyo Madura, Indonesia

² Agriculture Study, Faculty of Agriculture, Universitas Trunojoyo Madura, Indonesia

Abstract. Plant cultivation is a very important means of production in realising food self-sufficiency for farmers, considering that cultivating plants is the life and livelihood of farmers. Therefore, it is a wrong action when the government draws up a plan for plant cultivation without involving farmers. The purpose of this research is to examine the extent of the government's role in strengthening food sovereignty through the implementation of the Plant Cultivation System Law, because the Law does not appear to provide for the rights of farmers. The existence of several cases where farmers are brought to trial for criminal provisions of plant cultivation shows that legal protection has not been carried out on the rights of farmers in maintaining local seeds and conducting plant crosses as charged in court, namely having carried out programs that are contrary to government programs that require the use of certified seeds or seeds produced by seed companies. This research is important to do in order to provide protection to novice farmers in cultivating plants to create a just legal framework. The research method uses normative research with a statutory approach, concept approach and case approach. The results of the study aim to provide a recommendation for strengthening the role of farmer participation in planning their lives and livelihoods so that there is no dependence on seeds originating from companies in accordance with the mandate of Article 28 A of the 1945 Constitution.

1 Introduction

Agricultural development is part of national development directed at the development of advanced and resilient agriculture so as to increase the yield and quality of production, increase the income of farmers' living standards and increase regional development and strengthen the foundation of the economic field. For farmers, farming or cultivating plants is their life and livelihood. [1]

For farmers, farming or cultivating plants is their life and livelihood, so the government's action in preparing crop cultivation plans without involving farmers is a mistake. It is a mistake for the government to draw up crop cultivation plans without involving farmers because the absence of farmers' participation in the planning has resulted in farmers' lives and livelihoods not being determined by themselves and losing their knowledge of nature. This has resulted in farmers becoming poorer due to their dependence on seeds from the Company and also farmers having difficulty in reading planting season forecasts, and when new pests and plant diseases arise, they are no longer recognized by farmers. This is a violation of

participation and the right to life which is contrary to Article 28A of the 1945 Constitution.

However, the absence of policies both at the national and regional levels that are specifically given to farmers in conducting crop cultivation creates problems. Public participation in realising food sovereignty can be carried out through the implementation of production and organisation of food availability through community response in conveying problems, input on how to solve food problems to the Government and Regional Governments. Therefore, the state needs to provide legal protection for plant cultivation and the rights of farmers as mandated in Law Number 12 of 1992 concerning Plant Cultivation Systems.

Intensification and extensification are carried out in realising food self-sufficiency through seeds. Strengthening food sovereignty starts from regional development planning based on Regional Medium Term Development Plan/ Rencana Pembangunan Jangka Menengah Daerah (RPJMD) by including the food self-sufficiency program in the vision and mission of the Regional Head's priority program.

*Corresponding author: eny.suastuti@trunojoyo.ac.id

The absence of policies and protection for farmers related to food legislation, especially legal protection for plant breeders, is an inconsistency in the formulation of offences that makes disparity in imposing punishment. This needs the main attention as a form of protection and strengthening of food sovereignty towards farmers. In principle, the socio-economic position of farmers is weak and powerless so that the state must be present to help the weak and its presence can solve the problems that entangle farmers in rural areas.

The role of the agricultural sector is crucial for the growth of the country's economy, and for the utilisation of labour. Abundant natural resources for food needs and a variety of crops that can be processed need to be improved to get the needs to increase the growth and production of corn (Pandia, 2013). The presence of seed-producing companies in various places in the region, in fact, adds to the problems and heavy burden for farmers. The application of the provisions of criminal sanctions is not spared to be imposed on farmers based on the concept of without rights or without permission to use plant seeds so that farmers who cultivate plants are sentenced to criminal sanctions.

The role of the regional government should be pursued through cooperation between companies and farmers, regional government cooperation is considered to be more beneficial to companies and regional governments. Considering Indonesia as a state of law, the law should be present in protecting farmers who are in a weak position both economically and from a juridical aspect.

Therefore, the main issues in this research are the protection of sophistication in the implementation of the protection of plant breeding and plant variety rights and the problems and challenges in protecting plant breeding and plant variety rights as a core instrument for creating food sovereignty and creating an equitable legal framework in protecting the rights of plant breeders, especially the rights of farmers.

From the above explanation, the main issue in this research is the criminal aspect and legal protection of novice farmers in the regulation of the Plant Cultivation Law and Plant Cultivation Varieties. From the central issue, the following legal problems are proposed:

1. What is the concept of legal protection in plant cultivation law
2. What are the opportunities in the management of crop cultivation that can lead to criminal offences?

2 Discussion

Aspects of Legal Protection for Beginner Farmers in Plant Cultivation

Plant-based natural resources are diverse and have an important role for human life, therefore they need to be managed and utilised in a balanced manner for the greatest prosperity of the people. Sustainable and environmentally sound development systems need to be developed in agricultural development as a whole and integrated, in order for agriculture to progress and play an important role in achieving national development goals. Therefore, the issue of farmers' rights must have legal regulation and protection in relation to intellectual property rights as stated in FAO Resolution 5/89.[2]

This shows that the management of the plant cultivation system, which is part of agriculture, needs to be developed in line with that part of agriculture needs to be developed in line with the improvement of quality of human resources to realise advanced agriculture as stated in the Plant Cultivation Law. [3]

The government has regulated agriculture in order to strengthen food sovereignty. There are several laws and regulations related to strengthening food sovereignty. The current regulation on plant cultivation is Law No. 12 of 1992 on Plant Cultivation System which is then elaborated in Government Regulation No. 44 of 1945 on Plant Seeding and then further regulated in Ministry of Agriculture Regulation No. 12/Permentan/TP.020/4/2018 on Production, Certification, and Distribution of Plant Seeds, and other regulations related to plant cultivation.

Based on these rules, it appears that legal protection of farmers over plant cultivation is in favour of farmers. This will strengthen the state's ability to create food sovereignty in Indonesia, but in practice many farmers are brought to the court. This certainly adds to the problem at the practical level, and questions the role of the government. As the statement by Dewi Taliroso stated as follows:

Production targets used as parameters for agricultural development in the crop sector include rice, corn and soybeans, which will be discussed in relation to corn. One of the targets of the Main Performance Index is 30 million tons of corn and 2.2 million tons of soybeans, so the existence of quality superior seeds needs to be pursued. The role of high quality seeds in crop cultivation is that the government guarantees the quality of seeds to be circulated and traded with regulations in the field of seeds regulated in Law No. 12 of 1992 concerning Plant Cultivation Systems elaborated in Government Regulation No. 44 of 1995 concerning Plant Seeds, Ministry of Agriculture Regulation No. 12/Permentan/TP.020/4/2018 concerning Production, Certification, and Distribution of Plant Seeds and other regulations¹. [4]

The assessment of the challenges in terms of plant cultivation is related to lack of technology, lack

of quality human resources, lack of funding and so on are problems that must be resolved immediately in order to strengthen the food sector.

The number of cases related to the problem of plant cultivation is a problem that must be resolved immediately. Law No. 12 of 1992 also includes criminal provisions for those who carry out plant cultivation and certification without criminal provisions for those who carry out plant cultivation and certification without a licence. This was seen in several farmers who were brought to the District Court of Kediri and Tulungagung in relation to maize seeds. In these cases, they were charged with the charge of distributing maize seeds without certification, imitating the company's farming methods, falsifying brands, or stealing seeds based on the seed company's report. Of course these cases reflect how farmers are not sovereign over their seeds by producing or multiplying local maize seeds. This shows that the government has not protected farmers so that the practice of exploitation of farmers and how farmers are not sovereign over their own seeds.

The government has not shown support for seed sovereignty among farmers, so it has not been able to provide legal protection for the cultivation carried out by corn farmers in terms of local seeding. Considering the right of each farmer to decide their own local agricultural and food management policies, which have been built since long ago through trust between farmers, was reflected in the transaction of local corn seeds. In the absence of protection for the use of local seeds, the practice of exploitation of farmers continues. Farmers in various regions are not sovereign over their own seeds.

The prohibition of farmers from distributing seeds from plant breeding which is carried out in the interests of agriculture and farmers' sovereignty over their seeds is at the same time a violation of farmers' rights because it will kill farmers' right to life in maintaining their lives. The issue of seeding is life and livelihood as mandated in Article 28A of the 1945 Constitution which states: "Everyone has the right to live and the right to defend his life and life." Therefore, prohibiting farmers from distributing seeds from plant breeding carried out by farmers is the same as preventing farmers from developing knowledge for their own progress and general welfare so that it is contrary to the constitution.[5]

Yuliati said, Various attempts, especially research, were directed to overcome food shortages, resulting in the green revolution in the mid-1950s that significantly increased food production [6]. Furthermore, the success of the green revolution will eventually threaten the existence of biodiversity. Another consequence of prohibiting farmers from distributing seeds from crop cultivation will result in the control of food and agricultural crop seeds that are centralized in several multi-national companies that greatly affect the availability of these seeds.[7] The government has not shown its support for seed sovereignty among farmers, so it has not been able to provide legal protection for cultivation carried out by

farmers in terms of local seeding. In the absence of protection for the use of local seeds, the practice of exploitation of farmers continues, which is a reflection of how farmers in various regions are not sovereign over their own seeds.

The concept of legal protection for farmers in obtaining legal protection as stipulated in several relevant laws in the field of nutrition, considering the existence of farmers as the first pillar in strengthening food security, so it needs protection. Farmers have the freedom to determine the choice of plant species and cultivation and are obliged to participate in realising the plan for the development and production of plant cultivation, if farmers cannot realise it then the Government is obliged to strive for farmers concerned to obtain certain income guarantees.

The issue of protection of farmers is still not sufficient in the legislation, so it becomes an obstacle in the level of implementation. In this regard, Law Number 39 of 1999 on Human Rights and strengthened by the existence of Article 28 letter J of the Constitution of the Republic of Indonesia 1945 mandates the obligation to support the Government's programs in the realisation of National Development in agriculture, especially in the field of crop cultivation. field of crop cultivation.

Criminal Aspects of Plant Cultivation Cultivation

Charges of distributing seeds without certification, imitating company farming methods, falsifying brands, or stealing seeds based on seed company reports. The cases against farmers related to food reflect how farmers are not sovereign over their own seeds, which includes the use of producing or multiplying local maize seeds. This has an impact on the farmers' reluctance to develop seeds according to their own techniques. Several regulations, such as Law No. 29/2000 on Plant Variety Protection, include criminal sanctions against seed development activities. In addition, based on the regulation of Law No. 12 of 1992 on Plant Cultivation Systems, one of the articles includes criminal sanctions for seeding activities. One of the articles includes criminal sanctions for those who carry out cultivation without a licence or certification without a licence.

The government has not shown any support for seed sovereignty among farmers, therefore it has not been able to provide legal protection for the cultivation carried out by corn farmers in terms of local seeding. Considering the right of each farmer to decide their own local agricultural and food management policies, which have been built since long ago through trust between farmers, is reflected in the transaction of local corn seeds. With the absence of protection for the use of local maize seeds, the practice of exploitation of farmers continues, which is a reflection of how farmers in various regions are not sovereign.

Since the start of the green revolution era in the early 1960s, developing countries have officially encouraged a commercial seed system that is detrimental to farmers themselves because control and

management of seeds are taken over by national seed industry companies. The result is an increase in the number of farmers in the country. This has negated the role of farmers as innovators and agro-ecosystem management subjects that function to preserve biodiversity.

The presence of Law No. 12/1992 has facilitated the seed industry to monopolise seeds and has separated farmers from their activities as plant breeders and ignored the hereditary tradition of farmers as plant breeders.[8] In Article 3 of Law Number 12 of 1992, the objectives of plant cultivation are: to increase and expand the diversity of plant products, in order to meet the needs of food, clothing, shelter, health, domestic industry, and increase exports, and increase the income and standard of living of farmers and encourage the expansion and equitable distribution of business opportunities and employment opportunities.[9] Based on these provisions, the law has implicitly provided protection for breeder farmers. However, the criminal provisions in Chapter X are too severe and the fines are so heavy that it is unlikely that farmers will be able to pay them. Likewise, plants and plant cultivation facilities used to commit criminal acts can be confiscated. This clearly shows that there is no alignment of the Plant Cultivation System Law to farmers.

This is completely contrary to the existing reality considering that 60 percent of Indonesia's population works as farmers, so the existence of the Act has narrowed and hindered opportunities for farmers to participate in the development of crop cultivation and a barrier for farmers in the development of plant breeding crop cultivation and a barrier for farmers in the fulfilment of the right to food and the right to a decent life. This is not in accordance with the Constitutional Mandate of the Constitution of the Republic of Indonesia 1945 and ignores the rights of farmers because regulations related to seed actually modernise agriculture through various provisions that ignore the social situation and economic reality of the family farming system. The existence of Law No. 12 of 1992 concerning the Plant Cultivation System has ignored the diversity and complexity of local seed systems and the existence of seed breeders. At the implementation level, many farmers are brought to trial based on various criminal provisions in the Plant Cultivation System Law. Therefore, it is necessary to protect farmers from downturns and losses, as experienced by farmers in developing their own seeds and being brought to trial in relation to developing and producing seeds. [10]

At the level of implementation, many farmers are brought to trial on the basis of various criminal provisions in the Law on Plant Cultivation System of farmers' incomes and living standards as well as encouraging the expansion and equitable distribution of business opportunities and employment opportunities. Therefore, its scope includes the process of production activities up to post-harvest, the obligation of the Government and the community to utilise and preserve it, so that its utilisation must be directed to improve the

welfare of the community. Therefore, in order for the germ plasm not to be misused, it is necessary to regulate the role of the community in supporting national interest programs and to create an obligation that is obeyed by farmers in the context of developing plant cultivation. The freedom considered by the applicants above in terms of determining the choice of plant species and plant cultivation is not as well as the obligation to follow the law.

However, this freedom also creates an obligation. Legal protection is provided by the government through policies outlined in legislation as a manifestation of the rule of law that prioritises legal protection in accordance with the United Nation Charter on the Universal Declaration of Human Rights 1948, which protects the public from arbitrary acts committed by the authorities that are contrary to the norms that exist. Legal protection in legislation related to plant cultivation. This was based on the fact that many farmers have been brought to court on the basis of various claims related to food issues, which are arbitrary and not based on the rule of law. The purpose of this research is to provide a recommendation on the concept of legal protection for farmers in obtaining legal protection contained in the legislation.

The farmers have not received adequate legal protection in the laws and regulations, thus becoming an obstacle in providing legal protection. Researchers recommend the preparation of legal rules and rules of implementation for farmers in planting to obtain legal protection. The application and participation of local governments in providing protection of plant breeding in order to create sophistication and protection of farmers and also efforts made in order to face problems and challenges in protecting plant breeding and plant variety rights as a core instrument for creating food sovereignty by using a policy model in order to protect the rights of plant breeders, especially the rights of farmers. The protection of plant cultivation in the context of strengthening food security is related to regional policies carried out in order to face problems and challenges in protecting plant cultivation and plant variety rights as a core instrument for creating food sovereignty.

Policies in protecting the rights of plant breeders, especially the rights of farmers in the context of protecting and strengthening food sovereignty through the socio- culture of the Madurese community in plant cultivation. Laws and regulations as well as legislation and government policies related to criminal law, one of which relates to legal protection and strengthening food sovereignty in the implementation of plant cultivation rights. The legal protection and sovereignty of farmers in the cultivation of plants is important considering that many corn farmers are brought to trial in cases of plant cultivation and plant varieties.

3 Closing

Conclusion

1. The issue of legal protection of breeder farmers is important considering that many farmers are brought to trial in plant cultivation cases based on various claims related to plant seed problems. Protection of plant cultivation rights is related to the recognition of farmers' rights. Freedom in terms of determining the choice of plant species and plant cultivation is not necessarily interpreted as obstructing government programs.
2. Legal protection of plant cultivation laws has not been fully implemented by the government so that it becomes an obstacle in law enforcement. Efforts are made in order to face the problems and challenges in protecting plant cultivation and plant variety rights as a core instrument for creating food sovereignty by using a policy model in order to protect the rights of plant breeders, especially the rights of farmers.
3. The existence of the Plant Cultivation System Law narrows farmers to participate in the development of plant cultivation and the right to life in accordance with the constitutional mandate of Article 28A of the Indonesian Constitution. The presence of the Act ignores the diversity and complexity of local seed systems and the existence of seed breeders. At the level of implementation, many farmers are brought to trial based on various criminal provisions in the Plant Cultivation System Law.

Suggestions

1. The government in preparing a plan for the development of crop cultivation needs to include the participation of the community, especially farmers. This is intended so that the development of crop cultivation can be directed and in accordance with the potential of the region with due regard to national interests as well as government programs involving farmers who in its implementation experience failure, the government is obliged to provide assistance and compensation according to its ability.
2. The government ensures that the seeds to be circulated really have superiority and seed quality so that farmers are not disadvantaged, and the government must accommodate the interests of all in order to increase crop yields and provide freedom to farmers in determining the type of choice of plant species to be cultivated.

References

- [1] Yuliati, dalam Subejo, Memahami dan Mengkritik Kebijakan Pertanian di Indonesia, Makalah yang disampaikan dalam Latihan Kepemimpinan Management Mahasiswa oleh Dewan Mahasiswa Faperta Universitas Gajag Mada, 15 Pebruari 2007, Yogyakarta (2007)

- [2] J. Haapala, , Farmer Right, Journal of Environmental Law and Litigation, 19, 477 (2004)
- [3] J.J. Setyabudhi, Penegakan Hukum Perlindungan Varietas Tanaman Bagi Kesejahteraan Rakyat di Indonesia, Jurnal Gema Aktualita, 2, 66 (2013)
- [4] D. Taliroso, Peran Pengawas Benih Tanaman Dalam Meningkatkan Industri Perbenihan Nasional (2023)
- [5] Article 28 letter A of the Constitution of the Republic of Indonesia 1945
- [6] Yuliati, dalam Subejo, Memahami dan Mengkritik Kebijakan Pertanian di Indonesia, Makalah yang disampaikan dalam Latihan Kepemimpinan Management Mahasiswa oleh Dewan Mahasiswa Faperta Universitas Gajag Mada, 15 Pebruari 2007, Yogyakarta, 115 (2007)
- [7] Yuliati, dalam Subejo, Memahami dan Mengkritik Kebijakan Pertanian di Indonesia, Makalah yang disampaikan dalam Latihan Kepemimpinan Management Mahasiswa oleh Dewan Mahasiswa Faperta Universitas Gajag Mada, 15 Pebruari 2007, Yogyakarta, 115 (2007)
- [8] Article 1 Number 1, Law Number 12 Of 1992 Concerning The Crop Cultivation System
- [9] Article 1 Number 1, Law Number 12 Of 1992 Concerning The Crop Cultivation System
- [10] Yuliati, dalam Subejo, Memahami dan Mengkritik Kebijakan Pertanian di Indonesia, Makalah yang disampaikan dalam Latihan Kepemimpinan Management Mahasiswa oleh Dewan Mahasiswa Faperta Universitas Gajah Mada, 15 Pebruari 2007, Yogyakarta, 127 (2007)
- [11] Mubyarto, Pembaharuan Kebijakan Agraria, Makalah yang disampaikan pada diskusi Panel Departemen Pertanian, Hotel Salak, Bogor (2022)
- [12] P.M. Hadjon, Perlindungan Hukum Bagi Rakyat Indonesia, Bina Ilmu, Surabaya (1987)
- [13] Subejo, Memahami dan Mengkritisi Kebijakan Pertanian Di Indonesia, Makalah yang disampaikan pada Latihan Kepemimpinan Management Mahasiswa Faperta, Universitas Gajah Mada, Yogyakarta (2007)
- [14] W.K. Sejati, Peranan Benih Unggul Jagung Hibrida Dalam Peningkatan Produksi Pangan: Studi Kasus Di Kabupaten Klaten, Prosiding Seminar Nasional Swasembada Pangan, Politeknik Negeri, Lampung (2015)