

WELFARE-BASED LAND CONVERSION POLICY IN MAQOSHID SYARIAH PERSPECTIVEAlex Teguh Prastyo¹, Moh Indra Bangsawan²¹ Muhammadiyah University of Surakarta (alexteguhprastyo@gmail.com)² Muhammadiyah University of Surakarta (Mib136@ums.ac.id)**ABSTRACT**

Land conversion is a government effort to provide environmental governance. Land conversion is regulated in Law No. 32/2009 on Environmental Protection and Management. Land conversion can have both positive and negative impacts. The conversion of agricultural land to non-agricultural uses is a very important discussion because it can have an impact on food production and security from an economic perspective. Conversion of agricultural land will also affect environmental issues. This condition can be studied more deeply actually, seen from the perspective of Islamic economics, the conditions of land conversion carried out by the government from agricultural land to settlements and industries without providing new land for farmers to continue to grow crops and make food security, there are elements that are not fulfilled, namely the attitude of justice and maslahat. This perspective will appear as in the current condition that occurs is the conversion of land as much as possible which results in farmers losing their livelihoods and food security decreasing, so in this case the conversion of land carried out has not been able to prioritize the principles of justice and maslahat and in the view of maqoshid sharia is also considered unable to embody and realize welfare. The type of research is Normative legal research. The approach method used in this research uses qualitative methods.

Keywords: Land Conversion, Welfare, Maqoshid Syariah

INTRODUCTION

If this is done continuously, the conversion of agricultural land into non-agricultural land will reduce the agricultural area, the productivity of the agricultural sector will decrease, and in the long term Indonesia will face food shortages. This makes Indonesia dependent on other countries to import agricultural products. This is a phenomenon that often occurs in the transition phase of agricultural land. Therefore, the location closest to the city will be the most important choice of housing supply location. However, recently the problem has emerged that the land conversion that has occurred is encroaching on agricultural areas that are still productive. Land use changes can also occur as a result of government changes in regional planning, development policies and market mechanisms. The last two things often happened in the past because the community and government officials did not understand and consider the spatial planning of their territory. The transfer of land from agricultural to non-agricultural functions occurs widely and widely in line with development policies that emphasize aspects of economic growth with easy investment facilities, both for local and foreign investors in providing land. Economic growth requires infrastructure development such as roads, industrial buildings, public facilities and settlements. This situation reflects the increasing need for non-agricultural land which has resulted in many small rice fields, especially around urban areas, being converted. Conversion of agricultural land use can also occur due to a lack of incentives for rice cultivation, which is expected to lead to land conversion to other crops.¹

Law no. 32 of 2009 concerning Environmental Protection and Management Article 1 number 1 which explains that the living environment is the unity of space with all objects, forces, conditions and living creatures, including humans and their behavior, which influence nature itself, the continuity of life and

¹Andik Hadi Wijayanto, 2015, *Efforts by the Department of Agriculture to Control the Conversion of Agricultural Land into Housing in Siman District, Ponorogo Regency*. Thesis, Muhammadiyah University of Ponorogo, Page. 1-3

human welfare. as well as other living creatures. The need for land for various sectors is increasing along with the increase in population and rapid economic development, especially around urban areas and around industrial centers. The need for land for infrastructure development (roads, toll roads, airports, ports, industry, offices) and housing (real estate) and residential areas extends to intensive rice fields which have become production centers. The Ministry of Agriculture (Kementan) noted the transfer of functions agricultural land reaching the range of 90 thousand to 100 thousand hectares per year. Conversion of agricultural land is a threat to the agricultural sector in increasing production to meet community needs.² Based on data from the National Land Agency (BPN), the trend of conversion of agricultural land in the 1990s reached around 30,000 hectares per year. However, this land conversion increased to around 110,000 hectares in 2011 and reached 150,000 hectares in 2019.³

The Koran is a holy book whose existence is believed to be the ultimate source monumental in Islamic teachings, has outlined verses that talk about earth/soil as gift of Allah SWT to humans. This is shown by many words *al – ardh* revealed by the Koran, as contained in the surah An-Nahl verse 65:

وَاللَّهُ وَاللَّهُ وَاللَّهُ وَاللَّهُ
God willing Home

Meaning: "And Allah sent down from the sky water (rain) and with that water He revived the earth after its death. Indeed on that So there really are signstyou (God's greatness) for people who listen (lesson).

Next to the word *al-ardh*, a word that is also mentioned a lot in the Koran is *al-tin*, then said *al-turab* which when translated into Indonesian means land. Paying attention to the verses that talk about land above, there are at least 3 (three) important points that are interesting to study. First, land is a gift from Allah SWT, which he created for the benefit of human happiness. Second, land (in this case the essence of the soil) is the origin of human creation. Third, land is wealth that humans can own and control in predetermined ways. Islam likes humans to develop by building various housing complexes and spreading them to various corners of the world, revitalizing (opening up) empty lands. The existence of Islamic law relating to land is a norm for regulating human relations with nature (land), humans with fellow humans as well as humans with a higher being (Allah), who is given authority by Allah (as one of God's creatures who inhabit the earth) to regulate , manage and prosper it as a sense of responsibility to Allah. Therefore, discussions about land from the perspective of Islamic law have aspects that relate to discussions about land with the concept of divinity in Islamic law.

RESEARCH METHODS

This research uses a type of research, namely normative legal research. Normative legal research is legal research carried out by examining library materials by processing secondary data. The approach used in the research focuses on reviewing land conversion policies towards the sustainable welfare of the community from a sharia maqosid perspective

RESULTS AND DISCUSSION

Land change, also known as land transition, is a change in land use that occurs partially or completely from an initial use to another use, which affects the environment and land potential. Changes in cultivation are caused by people's need to obtain more land for their needs, as well as developments over time and population. Forest land conversion is the conversion of forests into agricultural land, plantations (for example oil palm), mining areas, road construction and settlements. A common problem in Indonesia's big cities is the rapid population growth in these cities. This increase is caused by natural

² <https://Ekonomi.republika.co.id/berita/rnt9iv490/alih-function-lahan-pertanian-tembus-100-ribu-hektare-per-tahun> accessed on Friday, March 31 2023 at 21.45 WIB

³ <https://money.kompas.com/read/2021/03/29/140755726/mentan-alih-function-dari-lahan-pertanian-di-2019-capai-150000-hektar> accessed on Friday, March 31 2023 at 21.50 WIB

population growth and urbanization factors. These causal factors give rise to various problems, such as the lack of housing in urban areas. Another consequence of the increasing need for space in cities is the high need for space. Land supplies in the center are increasingly scarce and of course very expensive, so urban development tends to take over peripheral areas. With each increase in population, the need for basic necessities (food, clothing and shelter) also increases. part or all of the original use becomes another use and affects the environment and land potential. Changes in land use are caused by people's need for more land to meet their needs, as well as developments over time and population. Forest land conversion is understood as the conversion of forests into agricultural land, plantations (for example oil palm), mining areas, road construction and also settlements. A common problem in big cities in Indonesia is the rapid population growth in these cities. This growth is caused by natural population growth and urbanization factors. This causal factor then causes the emergence of various problems such as the lack of housing needs in urban areas. Another consequence of the increasing need for space in urban areas is the high need for space. Land supplies in city centers are increasingly scarce and of course very expensive, so urban development tends to take over suburban areas. Every increase in population is accompanied by an increase in basic needs (food, clothing and shelter). The need for food and clothing usually comes from agricultural production, while the need for building materials for houses usually comes from natural resources. The narrowing of agricultural land in urban and suburban areas due to land eviction has an impact on the economic, social and environmental aspects of the community, if the function of agriculture is transferred to non-agriculture. continues unhindered, it is a threat to farmers and the environment, but can become a national problem.

The increasing demand for land for non-agricultural use has resulted in a lot of it being converted, especially around urban areas. Land conversion can also occur due to the lack of incentives given to land farmers as well as the urbanization process which has an impact on the expansion of activities in urban areas. Protection of food agricultural areas is an inseparable effort from agrarian reform. This agrarian reform includes structuring efforts related to aspects of control/ownership as well as aspects of use and utilization. The control/ownership aspect relates to the legal relationship between humans and land, while the use/utilization aspect refers to activities to take advantage or add value to land resources. The provisions of Law Number 41 of 2009 concerning the protection of sustainable food agricultural land aim to ensure that certain land can only be used for appropriate agricultural activities.⁴

ConversionAgricultural land is an inevitable phenomenon in development. Efforts that can be made are to slow down and control the conversion of agricultural land into non-agricultural land use, including housing. According to experience, agricultural land that is most vulnerable to conversion is rice field for the following reasons:⁵

- (1) Densitythe rural population dominated by paddy field agroecosystems is generally much higher than that of dryland agroecosystems, and population pressure on land is also greater;
- (2) Ricefieldmany are close to urban areas;
- (3) Based onprevious development patterns, rice field infrastructure was generally better than dry land;
- (4) Developmentinfrastructure such as residential areas and industrial areas tend to be carried out more quickly in areas with flat terrain, whereas in areas with flat terrain(especially the dominant agricultural ecosystem in rice fields).

Data on the rate of land conversion each year is used as a benchmark for determining how much effort the government has made in carrying out land conversion efforts. Indonesia is known as an agricultural country that has the potential for natural resources with all its diversity of flora and fauna. Currently, many lands in Indonesia have been converted into residential or housing, both subsidized and

⁴U. Nurzia, The Impact of Land Conversion on the Spatial Planning of Singkawang City, *Journal of Socioscientia Kopertis Region XI*, Vol. 8 No. 2, September 2016. Pg. 194

⁵I Komang Darman, Conversion of Agricultural Land and Its Legal Consequences, *Belom Bahadat: Volume VIII No I*, January – June 2018. Page. 9

non-subsidized housing. These spatial changes are sometimes not accompanied by the provision of new land to land owners to carry out their activities as farmers. The land area is getting narrower and the need for more land is causing investors to enter to develop the property sector rather than the food sector. Land loss that is not accompanied by the government opening up new land will cause the food crisis to become even greater due to the lack of food supply due to reduced agricultural land. The impact of this loss of land will result in decreased food security, so with this phenomenon there will be an onslaught of basic goods coming in from imports, because domestic supplies are no longer able to meet domestic needs. The negative impact of land conversion, increasingly, has an impact on agricultural yields, reduced agricultural employment, and reduced river watersheds which can cause floods and droughts.

The regulations governing land conversion are as follows:⁶

1. PRESIDENTIAL DECREE No. 53 of 1989
2. PRESIDENTIAL DECREE No. 33 of 1990
3. PERMENDAGRI No. 5 of 1974
4. SE MNA/KBPN No. 410-1851 of 1994
5. SE MNA/KBPN No. 410-2262 of 1994
6. SE KBAPENAS No. 5334/MK/9/1994
7. SE MNA/KBPN No. 5335/MK/1994
8. SE MNA/KBPN No. 5417/MK/10/1994
9. SE MNA/KBPN No. 460-1594/1996

Based on the government's authority mentioned above, land changes in the field actually depend very much on the effectiveness of the government's land change control policies. Likewise, the impact of land use changes on nutritional, economic, social and environmental impacts depends on the effectiveness of the policy. To date, three main tools have been used to implement land change policies, namely: first, making regional and regional plans. The RTRW is prepared in each administrative district/city and approved by the DPRD as a basis or reference for regulating the location and area of land used in each development activity based on the principle of maximization. a division that benefits the wider community while still paying attention to environmental considerations and sustainability. In the RTRW, the mapped areas are offered or can be used for various agricultural and non-agricultural activities. Second: Issuance of location permits. Location permits are a RTRW-compliant tool for monitoring operational locations and the scope of individual development activities. Legally, the issuance of location permits is the national land agency (BPN)/city level agency. Third, different regulations for land conversion. These regulations are a tool to control the types of agricultural land that can be converted to non-agricultural use. These regulations must be taken into account when issuing a location permit. At the district/city level, the decision whether or not to convert agricultural land to non-agricultural use is made by the land change control group consisting of departments that handle land use.

Welfare-based land conversion policy from a maqoshid sharia perspective

A country has socio-economic, ecological and social values, namely the vision and orientation of society. Therefore, a political structure is needed that can create a fair distribution of social welfare so that it reflects a just social life. Economic value is able to meet the economic needs of society for present and future generations. So it is important to preserve ecological values that are able to reflect the sustainability of natural resources and in this case the stability of the ecosystem. Therefore, to implement this protection, it is also regulated by law, because it is based on the constitution of the Republic of Indonesia which is contained in the 1945 Constitution of the Republic of Indonesia and is stated in Article 28 paragraph 1 which reads: "Everyone has the right to recognition, guarantee of fair legal protection and certainty as well as equal recognition before the law." Efforts to protect the environment are something that is not easy to do, there needs to be good and appropriate planning in order to create a harmonious bond between humans and nature in every generation. If we look at cultivation, it is very complex and

⁶Bambang Irawan, Increasing the Effectiveness of Land Conversion Policies, Agro Economic Research Forum, Vol. 26 No. 2, December 2008, Pg.120-121

plays an important role in the process of economic development, infrastructure and increasing human wealth. The policy of land rights has a mission stated in article 33 paragraph (3): "The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people." In fact, Indonesian land rights prioritize and support the prosperity of the people (the Indonesian nation). Additional regulations regarding this matter require planning, master use, procurement and distribution of earth, water, space and natural content contained therein in the context of implementing Indonesian socialism as stated in Article 14 of the UUPA.⁷

In the Al-Qur'an, changes in agricultural land management are not explained in detail, but only explain in general the prohibition of acts of ecological destruction, namely regulating the management of natural resources in the form of maintenance in the forestry and agricultural sectors. Basically, ownership of all resources on earth belongs to Allah SWT, people like the Khalifah, who represents humans on earth to control it, while in cultivation land owners must think more about the implications of an action, especially land conversion, must be based on what will be the impact of land conversion in the future, whether it will be mutually beneficial or detrimental, if in various activities you always think about how it will affect many people, then the maqshod element of sharia is achieved because everyone thinks about each other. Islam provides a view regarding land conversion as food security not directly in the Al-Quran, but in this case Islam provides an indirect view that damage to nature should not cause damage to the earth. Islam is a religion of rahmatan lil alamin which is a blessing for the entire universe, where in this case Islam provides a description of nature. This is in line with the conversion of agricultural land which is starting to narrow as a result of the conversion of agricultural land / rice fields which are now becoming industrial areas and most of them are residential areas. Planted food security is proof that this land conversion is evidence of environmental damage and damage to human food security. The Islamic concept, not only logic, but maintaining food security means maintaining the five goals of sharia (dharuriyat al-khamsah).

Land is a direct gift from Allah SWT in the sense that we humans are not can be used haphazardly⁸. Ecological balance also needs to be considered. From an ecological perspective, humans are part of the environment, an integral part of the universe, and the absolute source of human life. Related to the environment as stated by Allah SWT in Qs. Hijrah (15/19).

مَدَدْنَاهَا وَأَلْقَيْنَا فِيهَا رَوَاسِيَ وَأَنْبَتْنَا فِيهَا مِنْ كُلِّ شَيْءٍ مَوْزُونٍ وَالْأَرْضَ

Meaning: "And We spread out the earth and made mountains on it and made everything grow on it according to size"

The protection that Allah gives us as servants through the Islamic religion is a form of protection against those who are prohibited from playing with or insulting (mistreating) Him. Allah SWT orders every caliph not to do anything that could damage the surface of the earth and carry out acts that are dangerous to human life as stated in Surah Al Araf verse 56.

وَلَا

Meaning: And do not do any harm on the earth after it was created, pray to it with fear and hope that indeed the mercy of Allah SWT is truly close to those who do good deeds (QS. Al-Araf 56).

Allah SWT strictly prohibits doing something haram in the form of excessive exploitation in the conversion of agricultural land which can endanger human life and ecological balance. Therefore, Islam teaches the protection of five core elements that must be protected in Islamic law and is known as maqshod sharia. In this work, people are responsible for maintaining environmental stability and achieving the welfare of all levels of society. According to Islam, a person can own land for certain reasons. Conventionally, a person can own his land by buying the land, because he received an inheritance in the form of land or received a gift or grant in the form of land. Apart from these general reasons, land can

⁷Achmad Rifqi Firdaus Hidayat, 2021, Legal Protection for Farmers Due to the Conversion of Agricultural Land in Grenden Village, Puger District (Perspective of Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land and Maqasyid Syariah), Thesis, Kiai Haji Ahmad Shiddiq State Islamic University Jember Sharia Faculty, Pg. 4-5

⁸Afif Sumantri, 2010, Environmental Health, Jakarta: PT Fajar Interpratama Mandiri, Page. 64

also be obtained for special reasons that only exist in the Islamic system, namely al-iqtha (gift from the caliph) and ihya al-mawat (managing abandoned land).⁹ Islamic economic principles in land conversion are actually based on welfare that occurs in accordance with the provisions of Islamic sharia. This welfare must first be met, a number of conditions that must be fulfilled, among others, the fulfillment of all human needs from all aspects of life and protection from interference with religion and things that attack human honor. This Islamic economic principle prioritizes the principle of fairness and benefit. The pressing condition of the need for housing caused by the rapid rate of population growth will have an impact on the condition of land which will change its function from agricultural land to residential land. This urgent condition falls into the form of maqoshid sharia classification in terms of Maslahah Dauriyat, in this case the view of land conversion from a maqoshid sharia perspective is still prohibited because it is in an emergency condition. This condition can be studied more deeply, in fact, seen from an Islamic economic perspective, the condition of land conversion carried out by the government from agricultural land to residential or industrial land without providing new land for farmers to continue to grow crops and create food security, there are elements that are not fulfilled, namely the attitude of justice and benefit. This perspective will emerge as in the current conditions what is happening is large-scale land conversion which results in farmers losing their livelihoods and decreasing food security, so in this case the land conversion carried out has not been able to prioritize the principles of fairness and benefit and in the view of maqoshid sharia it is also felt that unable to manifest and realize prosperity. The land conversion that we think is capable of realizing the principles of maqoshid sharia is by providing boundaries for land zones that can be used for residential, industrial and agricultural land for food security. If productive land continues to be used as industrial and residential land, the government is obliged to provide a solution in the form of replacement land prepared for agricultural areas as an effort to promote food security.

CONCLUSION

PolicyLand conversion that has occurred in Indonesia has been happening for a long time with the use of concessions with several types of designation. This land conversion has many benefits if it is done in a good and correct manner. Land conversion is strictly regulated by Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land. This regulation clearly regulates agricultural land as a form of food security. The central and regional governments are putting the position of agricultural land under threat. This very rapid need for land means that existing regulations are unable to consistently maintain this. Capital owners and the sector's need for land is a very important commodity, in this case the need for land can be said to be a basic or primary need. Land conversion is strictly regulated by Law No. 41 of 2009, which is actually the basis for protecting and developing food security in Indonesia. In practice, the law is unable to accommodate interests in efforts to implement food security, because there are large interests and the need for land increases every year. Food area protection is an integral part of regional planning. Therefore, food cultivation areas must be protected through the establishment of protected food cultivation areas. Food growing areas are part of rural administrative areas. In fact, food crops in urban areas must also be protected.

This condition can be studied more deeply, in fact, seen from an Islamic economic perspective, the condition of land conversion carried out by the government from agricultural land to residential or industrial land without providing new land for farmers to be able to continue planting and creating food security, there are elements that are not fulfilled, namely the attitude of justice and benefit. This perspective will emerge as in the current conditions what is happening is large-scale land conversion which results in farmers losing their livelihoods and decreasing food security, so in this case the land conversion carried out has not been able to prioritize the principles of fairness and benefit and in the view of maqoshid sharia it is also felt that unable to manifest and realize prosperity. In our opinion, land conversion is capable of realizing the principles of maqoshid sharia is by providing boundaries for land

⁹Hendi Suhendi, 2005, *Fiqh Muamalah*, Jakarta: PT Raja Grafindo Persada, Page. 268-269

zones that can be used for residential, industrial and agricultural land for food security.

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