



## Reconstruction of farmer protection and empowerment in Indonesia based on justice value

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### Abstract

This study discusses the reconstruction of protection and empowerment of farmers based on fair value. That becomes the problem here is it true that the protection and empowerment of farmers when it is already based on values of justice, the weaknesses of what just that arise in the protection and empowerment of farmers in The practice is seen from the aspects of legal substance, Legal Structure and Legal Culture, as well as how the reconstruction of the protection and empowerment of farmers is based on justice values. The method of research that is used in the writing of a dissertation this is the method of research legal normative and research empirical namely the collection of data in studies library ( *library research* ), research field and interviews. The data used are primary and secondary data. Data secondary that has been obtained and then analyzed by qualitative that is as comfortable as possible. The ingredients are there that are according to the principles, understanding as well as the sources of law that exist. That Act Protection and Empowerment of Farmers moment is, when seen from the contents do not correspond with the name. When viewed, the weaknesses of Act of Protection and Empowerment of Farmers is when it gets applied, the community of farmers does not feel it nor does it brings prosperity. In order for Law Protection and Empowerment of Farmers that, in accordance with the contents and name, as well as the values of justice can be realized to be applied to farmers, reconstruction of the Act are to be done: the identity of the land in order to refer to the plan layout of space and territory, payment of premiums to subsidize full of government, oversight of the failure and success of the farmers must be the institution that is independent, as well as the cost of insurance as compensation losses that need to be regulated is the limit of tolerance of damage were not able to replace the loss.

**Keywords:** farmer, guarantee, insurance, paddy farming business

### 1. Introduction

Agricultural Sector holds a role which is very important for most large countries with a category being evolved. It is because most large countries developing world still rely on the sector of agriculture in the development of its economy, including Indonesia. In the Indonesian sector of the agricultural holding role important in most big society since the days of prehistory, a period of colonial, until the time of the post- independence. As a commodity that holds the livelihood of life of people much, the sector of agriculture is a thing that is quite sensitive because of the turmoil availability and price will have implications on sectors other related. On the Other Hand, businesses in the sector of agriculture faced the risk of uncertainty which is quite high and farmers during this bear alone the risk of such.

Agriculture is one of the economic sectors most vulnerable to the negative impacts of climate change behavior. Increased incidence and intensity of floods and or drought led to the failed harvest. At the time of the same, the behavior of climatic extremes also result in not optimal or damage to the network of irrigation, the farm, and the infrastructure of agriculture more. So in general risk and uncertainty in farming increases. With Thus, it directly or not directly affect the average crops harvested. If not anticipated rightly, things have the potential to weaken the motivation of farmers to develop the business of farming, even can threat to the stability of food. The uncertainty that occurs to the sector of agriculture long gradually making more and more number of failed harvests that occurred and make a lot of farmers into a loss so hard to live in the line of

well-being.

As a result of these uncertainties, efforts are needed to protect and at the same time empower farmers. The birth of the Law of the Republic of Indonesia Number 19 Year 2013 About Protection and Empowerment of Farmers, is an effort that is made by the government when it in giving protection to farmers, with some strategies among others: ( i ) infrastructure and means of production Farms ; (ii) business certainty ; (iii) prices of Agricultural Commodities ; (iv) the elimination of high- cost economic practices ; (v) replace the loss failed harvests due to events beyond the ordinary ; (vi) early warning systems and handling the effects of climate change ; and (vii) Agricultural Insurance.

The strategy of empowerment of the farmers, carried out by way of : ( i ) education and training ; (ii) counseling and assistance ; (iii) development of systems and means of marketing of agricultural products ; (iv) consolidation and guarantee of Agricultural land area ; (v) provision of financing and capital facilities ; (vi) the ease of access to the science of knowledge, technology, and information ; and (vii) strengthening Farmer Institutions.

Implementation of the Law of the Republic of Indonesia Number 19 Year 2013 About Protection and Empowerment of Felling trees trimming logs are Insurance Agriculture, which is more detailed described by the Regulation of the Minister of Agriculture of the Republic of Indonesia Number : 40 / Permentan /SR.230/7/2015 on Facilitation Insurance Agriculture where the regulation that discusses the case of technical programs as such. The government has explained that the program that will provide reimbursement

for Rp.6.000.000, - (six million rupiah) per hectare with Crop Failure 75%, with premiums amounting to Rp.180.000, - (one hundred eight thousand rupiah) in which the government will provide subsidies premiums amounting to 80% ( eighty percent ) so that the participants only need to pay for Rp.36.000, - (thirty six thousand rupiah).

Will but in fact, the community of farmers are still many who do not follow the program of insurance of agriculture that the trending reasons like not never heard of and know what it is the insurance of agriculture, the reason the cost of the premium that is charged to the farmers, the cost of insurance as compensation losses are considered to farmers is not relevant and things have sparked community of farmers who have land farming is choosing to leave the profession as a farmer with a way to sell land farming them or replace land farming them to be used as land productive more like lots of housing and so forth.

### Formulation of the problem

The problems to be investigated are

1. Is it true that the protection and empowerment of farmers when it has been based on the value of justice
2. Weakness -kelemahan what just that arise in the protection and empowerment of farmers in practice be seen from the aspect of the substance of the law, Structure Law and the Culture Law.
3. How is the reconstruction of protection and empowerment of farmers based on the value of justice

### Research Methods

The method of research that is used in the writing of a dissertation this is the method of research legal normative and research empirical namely the collection of data in studies library (*library research*), research field and interviews. The data used are primary and secondary data. Data secondary that has been obtained and then analyzed by qualitative that is as comfortable as possible to wear the materials that exist are based on the principles, understanding as well as the sources of law that exist.

### Research results and Discussion

#### A. Protection and Empowerment of Farmers in Indonesia Currently

Pancasila and the Law of the State of the Republic of Indonesia Year 1945 (UUD 1945) mandates the State has the responsibility responsibility to protect all the people of Indonesia and promote the welfare of the public, the intellectual life of the nation and realize justice social for the entire people of Indonesia. In principle the five Pancasila and the opening of the 1945 Constitution, it clearly stated that the justice social for the entire people of Indonesia became the basis of one of the philosophy of the development of the nation, so that every citizen of Indonesia is entitled and obliged to conform with the ability to participate as well as in the development effort to improve the welfare, especially in agriculture sector.

In their efforts to carry out agricultural development, farmers certainly have a central role and make a major contribution. Performers major development Agriculture is the Farmers, who are generally trying to scale a little, which is the average area of Farming Business less than 0.5 hectares, and even the majority of Farmers do not own their own land Usaha Tani or referred to as Farmer Cultivators, even as well as farm laborer. Farmers in general have a

position that is weak in obtaining the means of production, financing the farming business, and access to markets. In addition to the Farmers faced with the tendency of the change of climate, vulnerability to disasters of nature and risks of business, globalization and volatility economy globally, as well as the system of market that is not aligned to the Farmers. Because all that the necessary efforts to protect the farmer from the mentioned risks is needed.

In its efforts to the regulatory legislation which became an umbrella law for this is considered not sufficient to protect Farmers in various risk Therefore, the President of the Republic of Indonesia at the time, Dr. H. Susilo Bambang Yudhoyono on the date of 6 August 2013 with the promulgation on the date that is the same, issuing Law No. 19 Year 2013. The Act that such set of 2 ( two ) terms of principle that if it were necessary to achieve by the Government to empower and protect Enterprises Farmer. Protection and Empowerment of Farmers includes planning Protection of Farmers, Empowering Farmers, financing and funding, oversight, and role as well as the community as well as the provision of sanctions criminal for people who commit crimes against Usaha Tani, which was organized by the principles of sovereignty, independence, useful, solidarity, cohesive, transparency, efficiency, just, and sustainable.

The implementation of programs of insurance of agriculture there are several stages that is done by the ministry of agriculture through the Department of Agriculture district / city to phase implementation of the program and in accordance with the guidelines for the implementation of the program which has been set in the guidelines for the implementation of the program asuransi agriculture to improve the welfare of farmers. Although there are still some shortcomings that must be overcome to achieve the welfare of farmers. The stages are carried out by the Department of Agriculture District / City are :

#### 1. Preparation Stage

Before you do the implementation of programs of insurance of agriculture especially first conducted socialization to introduce to farmers related to the program of insurance of agriculture. The socialization was carried out by the Department of Agriculture, PT. Jasindo, Mantri Tani, and farmer groups. Socialization is done is not enough only one time, would but every season planting rice always held socialization. The purpose of socialization in the program insurance of agriculture is to introduce the public about the program insurance of agriculture so that people, especially farmers are interested to follow the program of insurance of agriculture.

#### 2. Implementation Stage

The implementation of all decisions and rules to carry out the activities for the realization of the objectives of the policy are. In the phase of implementation of the first is a group of farmers to coordinate its members were intending to register as a participant of insurance farming to gather requirements are handed on how spacious land that will be registered, how to pay premiums in accordance with the area of land that is registered and submitting the copy of Citizen ID ( KTP). After that the farmer group deposits the money the farmer pays to the bank through the farmer group's account. Then the requirements are collected and proof of payment submitted to PT. Jasindo with

accompanied by Agriculture Filed Instructor (PPL). To fill in the registration form. After the registration are completed and processed companies insurers provide proof of payment or receipt and the policy of insurance as proof has become the participant of farming insurance, stage of implementation later if the case of damage the group of peasants or PPL reported to the Department of Agriculture and the Department reported to the PT. Jasindo, then verification is done if the damage reaches 75%, then a claim can be submitted. Filing a claim can be done by showing an insurance policy, photographic evidence of damage to the fields, and filling out the registration form for submitting a claim. Claims are paid in accordance damage to land that is measured by broad swath of naturally multiplied with money claims Rp. 6,000. 000, - / ha. After filing a claim made stage payments kalim who performed premises ways by transferring it to a group of farmers and the Department of Agriculture (Head Instructor and Financing ) will inform the group of farmers that the funds have been disbursed, then the chairman of the group of farmers will distribute the funds to the farmers who joined the insurance.

### 3. Monitoring, evaluation and reporting Phase

The monitoring phase, which is to carry out supervision to ensure the smooth implementation of the program. Therefore, if there are irregularities or violations, appropriate action can be taken. Monitoring is done by way of digging to get the information is regularly based on indicators specific, with the intent to determine whether the activity that was taking place in accordance with the planning of the procedures that have been agreed upon. If the monitoring is done by the well will be helpful in ensuring the implementation of activities in accordance with pedoman early and planning program. Evaluation aims to collect information that realizes or implements of a policy, takes place in a process that is continuous, and occurs in an organization that involves a group of people to decision -making. Furthermore, the results of the evaluation of the program is used as a base to carry out the activities of follow -up or to perform decision -making next. The benefits of program evaluation can be in the form of terminating the program, revising the program, continuing the program, and disseminating the program.

At the stage of reporting to determine whether the achievement of work that meets the standards that have been determined. Naturally, the insurance program of agriculture are reported, monitoring and evaluation of the participants who enrolled in the insurance of agriculture, the filing of claims and payment of claims when the case of damage, area of land which is registered in the insurance of agriculture and spacious land that is registered in filing a claim.

Insurance farming as an institution diversion risks will give authority to the farmer in doing the production and marketing of the results, the smoothness of the activities of the highly influential on the income of farmers. Sales results of production will result in a number of receipts that have reduced the cost of business farmer then be obtained revenues are used for the cost of living of farmers and their families. the ability of farmers to meet the needs of the family can be used as indicators of the welfare of the farmer. There is a lot of factors that affect the cost of the business of farmers and the income of farmers. According to Suratiah there are two factor, namely :

#### 1. Internal Factors

- a. Age of the farmer ;
- b. Education, knowledge, experience and skills ;
- c. The number of personnel working in Family ;
- d. Land area ; and
- e. Capital.

#### 2. External Factors

- a. *Input* : availability and price ; and
- b. *Output* : request and price <sup>[1]</sup>.

In achieving prosperity, it is inseparable from the factors involved. These factors support the increase in business in the types of sources or facilities. In an effort to improve the economic welfare of the community can be done as follows:

1. Capital which is a very essential factor for the poor in the process of improving the quality of life
2. Skills are a very strategic production in increasing the income and welfare of the poor
3. Technology is something that can be used as an effort to improve welfare. Because of technology, new methods of production can also be formed
4. Business land is an indispensable factor for improving the economic welfare of the community <sup>[2]</sup>.

So the determining factor for the sustainability of farming is capital. Capital is related to the role of farmers in managing their farming. The use of agricultural production factors depends on the available capital. The use of factors of production that are not in accordance with the provisions can lead to low productivity and income. Therefore, the availability of capital is an absolute requirement in a farming business. Insurance is one of the funding schemes offered to share the risk of crop failure by guaranteeing farmer income and product availability. Agricultural insurance is expected to be a stock of capital, so farming activities in the next season can run. Farmers as a profession that is generally carried out by the lower middle class, especially in developing countries are considered not very promising because it produces uncertain income. Income uncertainty is caused not only by production uncertainty, but also by commodity price fluctuations in the market. The Minister of Agriculture said, farmers as a component or a community that contributes greatly to food security should be if life, especially their welfare get attention. Protection of farmers is needed especially when farmers are being overwritten by difficulties, so farmers can carry out farming. Rice farming income is the income that is obtained directly from farmers in the form of rupiah farming. Because the planting and harvest season is only twice a year, the income is also received twice a year. This income is the farmer's net income received from the sale of the produce minus production twice a year. Not if there is a crop failure, the farmers will be very disadvantaged. The government's effort in realizing the farmer protection effort is by giving birth to a law, as stated in the Law of the Republic of Indonesia Number 19 of 2013 concerning Protection and Empowerment of Farmers, which has been followed up with the issuance of the Minister of Agriculture Regulation of the Republic of Indonesia Number 40 of 2015 concerning

<sup>1</sup> Suratiah. 2009. *Ilmu Usaha Tani*, Depok: Penebar Swadaya. P. 104.

<sup>2</sup> Usman Yatim. 1992. *Zakat dan Pajak*, Jakarta: PT Bina Rena Pariera. P. 243.

Facilities Agricultural Insurance <sup>[3]</sup>. The law is expected to become a legal umbrella for agricultural risk transfer activities such as insurance guarantees to improve the welfare of farmers. The protection effort is also expected to motivate farmers to improve work efficiency, so that the scale of their farming business also increases.

However, for farmers whose land does not or rarely fails to harvest they already feel prosperous, because the land they planted can be harvested in accordance with what they want, without having to join an insurance program. Most farmers who join the insurance program are farmers whose land is endemic which often results in crop failure.

Based on the results of previous research conducted by Praptono Djunedi, the application of Agricultural Insurance in Indonesia needs full support from the government for various subsidies for the ongoing implementation of agricultural insurance. Identify the parties involved and what their respective roles are. Provides a database of farmers, data on agricultural production, and mapping of disaster risk and crop failure. Prepare planning documents, including a reliable and valid roadmap for developing agricultural insurance programs. Develop governance and monitoring guidelines for evaluating the implementation of agricultural insurance programs. Providing premium subsidy funds, reinsurance support and prudent program socialization funds. Extensively disseminating agricultural insurance programs. Gives an assignment to state-owned enterprises (BUMN) insurance to distribute agricultural insurance based on the database of farmers above. With the above steps, it is expected that the application of agricultural insurance in Indonesia will further develop and increase the penetration of the agricultural insurance market <sup>[4]</sup>.

Some supporting factors in the agricultural insurance program are the interest of some farmers to participate in the agricultural insurance program so that it is very supportive of the implementation of the insurance program. Even though only a few farmer groups have been registered as members of insurance, they will continue to do socialization in order to increase the interest of farmers to take part in agricultural insurance programs. Next is the existence of premium assistance from the government paid by farmers when they become agricultural insurance participants. The self-help premium paid by farmers is basically Rp.180,000 per hectare in each growing season. However, because the government provides premium assistance charged to the State Budget (APBN) of Rp.144,000 per hectare, farmers only need to pay Rp.36,000 per hectare at each planting season. Insurance claims that can be obtained by farmers if they experience crop failure of Rp. 6,000,000 per hectare. Insurance premium is a sum of money paid as a fee to get insurance protection. If the insured land area is less than or more than 1 (one) hectare, then it is issued for one planting season with a coverage period starting on the estimated planting date and ending on the estimated harvest date <sup>[5]</sup>. Next is the easy requirements so that it is very easy for farmers to follow the insurance program. Only submit a photocopy of Identity Card (KTP) and registered as a

member of the farmer group. However, there are several inhibiting factors in the implementation of agricultural insurance programs, which include the mindset of farmers who are very diverse, so to instill in farmers about the importance of agricultural insurance programs for farmers requires a long and difficult time. According to them most insurance actually harms themselves because the insurance will disburse the insurance funds if something happens that is required at the beginning of the agreement, and if there are no problems or circumstances where the insured suffered a disaster, then the insurance can not be disbursed. Such is the case with agricultural insurance that will be insured if only Crop Failure occurs or crop failure occurs on insured paddy fields. Based on the results of previous research conducted by Praptono Djunedi, the challenges in implementing the Agricultural Insurance program in Indonesia faced by the Government include four challenges: the first institutional challenge, the first is how to strengthen the institutional framework, whether insurance provided by State Owned Enterprises will be assigned as insurance providers and suppliers, how to encourage private insurance companies to play a role in the development of agricultural insurance, how to coordinate the distribution of portions related to premium payment assistance between the central government and local governments, the second is how to strengthen the legal framework adequately, for example what type of agricultural insurance and what types of crops are prioritized to get premium assistance, how long the premium subsidy assistance is given, how is the nature of membership to farmers, the third need the government to integrate the agricultural insurance program with other products and services received by farmers (subsidized products, seed subsidies, and social assistance). The second challenge is financial challenges including how the central government provides various financial support to develop agricultural insurance. The third challenge is the technical challenge faced in relation to the assessment of risk exposures in the agricultural sector and how to design risk models to determine maximum losses. The fourth challenge is operational challenges which include the development of complex agricultural insurance operational procedures and the need for special expertise. The various challenges as outlined above, then require a quick and careful solution. Quick in the sense that the mandate of RI Law No. 19 of 2013 concerning the Agricultural Insurance Program can be implemented immediately in order to protect farmers' incomes. Careful in the sense that each of the challenges above is also important to be classified in terms of the time dimension of its completion (short, medium and long term) so that the implementation of the agricultural insurance program can continue <sup>[6]</sup>. That the reality is even today, farmers do not participate in many agricultural insurance programs, for several reasons, namely: farmers have never heard or are not even aware of the existence of agricultural insurance, farmers are reluctant to participate in agricultural insurance because of the premium costs that still burden farmers, and most importantly is the insurance cost (compensation) stated at Rp. 6,000,000 (six million rupiah) per hectare, and even then can be claimed if extinct 75% and above. When compared with the costs incurred by

<sup>3</sup> Kementerian Pertanian Republik Indonesia Nomor 15 Tahun 2017 tentang Pedoman Bantuan Premi Asuransi Usahatani Padi, p. 3

<sup>4</sup> Praptono Djunedi, "Analisis Asuransi Pertanian Di Indonesia: Konsep, Tantangan, dan Prospek", Jurnal Ilmiah Borneo Administrator, Vol. 12, No. 1 (2016).

<sup>5</sup> Kementerian Pertanian Republik Indonesia Nomor 15 Tahun 2017 tentang Pedoman Bantuan Premi Asuransi Usahatani Padi, p. 9

<sup>6</sup> Praptono Djunedi, "Analisis Asuransi Pertanian Di Indonesia: Konsep, Tantangan, dan Prospek", Jurnal Ilmiah Borneo Administrator, Vol. 12, No. 1 (2016)

farmers, the figure is insufficient. The cost of crop operations in 2014 for lowland rice was Rp.12,700,000 (twelve million seven hundred thousand rupiahs) while for field rice was Rp.7,800,000 (seven million eight hundred thousand rupiahs). Whereas farmers also not only need capital to be able to return to farming, but also need funds to meet the needs of their own lives and their households until the next harvest. This figure will of course differ in each region and is likely to be relatively more expensive outside Java which incidentally has inadequate infrastructure, high input prices and limited supply. Low compensation rates will reduce the interest of farmers to participate in this program, despite the low premium costs because they are subsidized by the government.

## A. Weaknesses of farmer protection and empowerment in practice seen from the aspects of legal substance, legal structure and legal culture

### 1. Land Identity

Land ownership and control are important factors for rural populations whose livelihoods depend on the agricultural sector. Land ownership is not only important for agriculture, but also for determining various other needs in social life. So that the land not only functions as a productive asset, but can also function as a commodity that can be traded. This makes land an asset as well as a commodity that can change hands at any time or change the status of its ruler. In this study, in regard to RI Law No. 19 of 2013 concerning Protection and Empowerment of Farmers found that the law does not address the issue of agrarian inequality (ownership and control of land) as a consideration, makes lease rights a mechanism for providing land to farmers, and does not include the land redistribution agenda as part of the empowerment agenda farmers, and the scope of objects provided to farmers is very limited (free land and used land abandoned) which causes poverty. In the judicial review session at the Constitutional Court Usep Setiawan (Expert Council for Agrarian Reform Consortium) highlighted the falsity of RI Law No. 19 of 2013 concerning Protection and Empowerment of Farmers, among others<sup>[7]</sup>:

#### a. Regarding Land / Agraria

Questioning the right to lease land which is regulated in Article 59 of RI Law No. 19 Year 2013, namely :

*" Facility for Farmers to acquire land Agriculture as referred to in Article 58 paragraph (3) letter a is given in the form of the right to lease, license concession, license management, or permit the use, "*

#### Contains four issues fundamental:

1. Not in line with the spirit and content of the Basic Agrarian Law No. 5 of 1960;
2. Deviates from the conception of HMN which places farmers as tenants ( not owners ) and the state ( rents as owners );
3. Encourage feudalism in the agrarian field ; and
4. Triggering speculation and commercialization on the control and management of land.

## B. Land Consolidation

Article 55-65 of Law No. 19 of 2013 which regulates " Consolidation and Guaranteed Farmers Land Extensions", but farmers are not given the opportunity to have " ownership rights" over land. The sovereignty of land management has also vanished. Farmers only given a " right to rent " and permits limited on the ground state free or land abandoned. Farmers do not have collective ownership rights and find it difficult to manage land independently.

The provisions regarding consolidation of land is not to be effective throughout not no correction on this contrast ownership, possession, use and users of early land through redistribution as the core of the reform ( reformation of agrarian ). Provisions concerning guarantee extents of land for farmers is not meaningful because "pedestal rights " are granted is the right to lease that does not make farmers dignity (as the owner of the land).

## C. Land Object Restrictions

UU no. 19 Year 2013 also organize and hold a permit certain that given above the ground state free or land abandoned. The provisions of this narrows the object / ground which can be accessed by farmers for the welfare of his life, and no implications for the improvement of the structure of agrarian were crippled as a source of injustice for this. Therefore, the object /ground that is potential and is legally possible, for example :

1. Land of production forest area that can be converted ; and
2. Soil from sources other, such as :
  - a. State land formerly western rights ;
  - b. State land originates from arising land ;
  - c. Ex - swapraja state land ;
  - d. Land countries originated former mining minerals, coal, and the heat of the earth ;
  - e. State land originates from the release of forest areas;
  - f. Soil state derived from exchange to exchange or acts of law civil more in order Reforma Agraria ;
  - g. Land that has been surrendered by the right- holders to the state for Agrarian Reform ) has not been legally facilitated by this Law.

## 2. Determination of Premium Fees

Sources of financing premiums of insurance by farmers can be obtained from any one or a combination of sources as follows :

- a. Government (APBN or APBD);
- b. Partnership (BUMN and private company );
- c. Banking, if farmers get financing from banks or institutions finance other ; and
- d. Self-help (by the farmers themselves ).

Conditions of payment of premiums on insurance of agriculture which the insurer is obliged to pay compensation damages from the results of the farm who failed harvests were caused by events beyond the ordinary suit that contained in the policy of insurance. Where farmers pay a premium of 20%, namely Rp.36. 000, - / ha.

Premium insurance is some money which is paid as fees to obtain protection insurance. Total premium of insurance amounted to Rp.180. 000, - / Ha / Planting Season. The amount of premium assistance from the government is Rp. 144. 000, - / Ha and the remaining farmers are self-supporting Rp.36,000, - / Ha. If the area of land that is

<sup>7</sup> Nurmanaf, A. Rozany, *et al.*, 2007. Analisis Kelayakan Dan Perspektif Pengembangan Asuransi Pertanian Pada Usahatani Padi Dan Sapi Potong. Makalah. Disampaikan pada Seminar Hasil Penelitian T.A. 2007, Jakarta.

insured is less or more than 1 ( one ) ha, then the amount of premiums (and replace loss ) is calculated as proportionate. Suppose, if farmers insuring the land area of 0.5 hectares of the premiums are paid as much as Rp.18. 000, - and if the land area is 0.25 hectares, the premium is paid Rp. 9,000 / ha.

Seeing some cases in Indonesia, where the farmers, especially the business of farmers of rice, many who have not followed the program of insurance of agriculture. It is caused by one is the only issue premiums are recognized society of farmers are still quite expensive, even though the government has been giving a subsidy amounting to 80% of the premium Rp.180. 000, - / hectare. Farmers only need to pay for Rp.36. 000, - as a self-help.

Chairperson of the Indonesian General Insurance Association Yasril Y. Rasyid <sup>[8]</sup> said, farmers are still reluctant to buy agricultural insurance products despite having a myriad of benefits, especially as compensation when crop failure. "Farmers are still difficult. Whereas 80% of the government has provided premium subsidies of Rp. 180,000 per hectare. "Most farmers are still reluctant to participate in this agricultural insurance program. "Paying 20% for them is still too expensive, objected. Moreover, the guarantee ceiling is Rp. 6,000,000, - it is considered still lacking. At most it only costs seed or fertilizer. But at least this compensation money can help them replant rice fields damaged by flooding <sup>[9]</sup>. The reason for farmers who continue to object to the premium problem is that the insurance premium will increase farmers' production costs, even though it has been subsidized by the government by 80%. This reason is often raised especially for rice farmers who rent land for rice farming. When viewed from the socio-economic conditions of rice farmers, the conditions of residence of the owner, tiller farmers and farm laborers there are very different differences in terms of buildings and the conditions of the houses they own. Where the conditions of residence of the land owner are better and more luxurious compared to the residence of the sharecroppers and farm laborers. The condition of the residence of the landowner is in accordance with the income from their daily work; there are those who work as teachers, lecturers and housewives, whose children have a regular income every month. Whereas the conditions of residence of sharecroppers and burh peasants each depend on income from rice fields from each harvest and irregular side jobs.

Cultivating farmers and farm laborers who have permanent residences and own the vehicles because they have been saving little by little for decades and are helped by the work of their income-earning children. In general, household consumption needs in the form of food and non-food needs, where the needs of the two are different. In conditions of limited income prior to prioritizing food consumption needs, so that it can be seen in the community with low income most of the income is used to meet food needs. However, as the shift in income increases, the proportion of expenditure patterns for food will decrease and increased spending for non-food needs, one indicator of the welfare level of lowland rice farmers is the area of land cultivated by farmers, if the area owned by farmers is smaller than the

standard land area, farmers still not able to meet their needs. The income of rice farmers for the welfare of their families and to meet the needs of clothing, food and shelter, is the income generated by rice farmers in every harvest, and other work that is done when the planting and harvest season does not arrive. Side businesses carried out by the wives and children of rice farmers can also support the economic needs of their families.

Income obtained by owners and smallholders as well as farm laborers at each harvest varies greatly and depends on yields that produce satisfactory quality and income of rice. And that's not all can produce more profit. Therefore, the tiller farmers have side jobs outside working in the fields, and their work varies but does not generate much income. They do work in accordance with their abilities and need more income to meet their daily needs as well as the school fees of their children who go to school, also for the cost of building a house that is still modest. So that the reasons for rice farmers who are not interested in agricultural insurance, especially rice farming insurance programmed by the government, that the reasons for objection to the high amount of premiums paid by farmers can make sense, then the payment of premiums for agricultural insurance will increase the production costs of farmers.

### 3. Supervision

Whereas in RI Law No. 19 of 2013 concerning Protection and Empowerment of Farmers, in Chapter VII concerning Supervision, namely in Article 92 which states :

1. To guarantee the achievement of the objectives of Farmer Protection and Empowerment, supervision is carried out on the performance of planning and implementation.
2. Supervision as referred to in paragraph (1) includes monitoring, reporting and evaluation.
3. Supervision as referred to in paragraph (1) and paragraph (2) shall be carried out by the Government and Regional Government in accordance with their authority.
4. In carrying out supervision as referred to in paragraph (3) the Government and Regional Government can involve the community in monitoring and reporting by empowering the existing potential.

Based on the Article, the authors can conclude that the function of oversight that is in the law is very instrumental important in the program insurance of agriculture against the performance of planning and implementation, which includes monitoring, reporting and evaluation. So that in the Supervisory this, the government should it regulate more clearly again about supervision are referred to in Article 92. Supervision as referred to in Article 92, Article 93 and Article 94, according to the author is as assessors to the failure or success of a farmer who follow the program of insurance of agriculture, so that the insurance of agriculture as a guarantee for the results of the farm who failed harvests for farmers actually measured and appropriate that is expected.

### 4. Determination of Cost of Insurance (Change Losses )

As has been referred to by the author, the determination of the amount of the cost of coverage (compensation losses) to claim the insurance of agriculture for farmers who failed harvest is at Rp.6.000. 000, - / ha, but with Crop Failure damage, what can be claimed is 75% to above is not

<sup>8</sup> Pasaribu, Sahat M., *et al.* (2010). Pengembangan Asuransi Usahatani Padi untuk Menanggulangi Risiko Kerugian 75% Akibat Banjir, Kekeringan dan Hama Penyakit. Jakarta: Pusat Analisis Sosial Ekonomi dan Kebijakan Pertanian Kementerian Pertanian

<sup>9</sup> *Ibid.*

relevant and does not indicate that Law No. 19 of 2013 as legal protection for farmers. And the value of the insured tesebut away from the words of justice for farmers. It is due to that when compared with the cost that incurred the farmer, the figures are less than sufficient. The cost of effort crops to rice paddy is amounted Rp.12.700. 000, - (two twelve million seven hundred thousand rupiah) whereas for rice fields is at Rp.7.800.000, - (seven million eight hundred thousand rupiah). Though farmers are also not only need capital to be re-grow crops, but also in need of funds to meet the needs of living her own as well as the home ladder until time of harvest next.

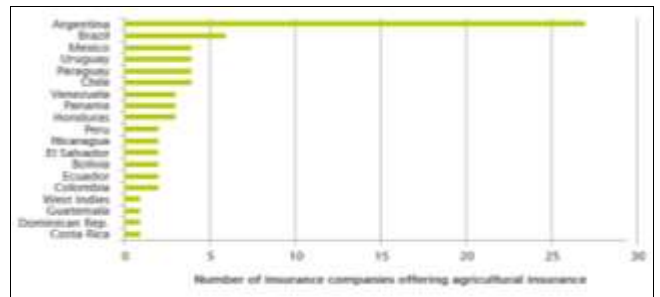
Figures are of course only be different in each region and the possibility of large relatively more expensive in outside Java, which incidentally has the infrastructure that is less than adequate, the price of inputs high and supply is limited. Figures replace losses are low will reduce the interest of the farmers to participate in the program is, in spite of the cost of premiums are lower for subsidized by the government.

**A. The Reconstruction of Farmers Protection And Empowerment**

Agricultural insurance is currently being applied in various countries, not only in developed countries such as America, France, Japan but also in developing countries such as in Taiwan, agricultural insurance is developing well, while in India, Bangladesh and the Philippines the development is still slow. Mexico currently also applies agricultural insurance. The agricultural insurance system in France was developed more than forty years ago under state supervision [10]. Agricultural insurance in France has considerably grown since the 2004 reforms. Compared to those from Western Europe, in France more than 60% of the agricultural area is insured. It is different in Germany that more than 80% of the agricultural area is insured [11].

Agricultural insurance in Latin America is relatively developed compared to other regions such as Africa and many Asian countries. Agricultural insurance in Latin America has grown in recent years, but agricultural insurance is not distributed evenly between countries in Latin America. The supply of agricultural insurance products in this region is relatively growing compared to other regions in terms of the number of companies offering insurance [12].

The following figure explains agricultural insurance has developed and applied to various countries in Latin America. The number of insurance companies offering agricultural insurance products varies from country to country. In the Latin American region, agricultural insurance between countries has not grown evenly, this can be seen from the number of companies offering international agricultural insurance. Argentina is a country in the Latin American region that offers the greatest agricultural insurance than other Latin American countries such as Uruguay, Panama, Venezuela, Bolivia, Costa Rica, and so on.



Source: World Bank. 2010. Agricultural Insurance in Latin America, Developing the Market. Report no. 61963-LAC.

Fig 1: Insurance company offering agricultural insurance in Latin America

In the United States 2003 premium subsidies, for example, amounted to 38-67% of the total premiums that must be paid by farmers. Then for administrative costs and total agricultural insurance premiums subsidized by the United States government reaches 70-75%. One form of agricultural insurance that is currently being developed is the weather-index insurance (weather index insurance-AIC) developed by the International Finance Corporation (IFC). This type of insurance has been applied in several countries such as Thailand, India, Mexico, Kenya and Malawi [13]. In developing countries it is still under-represented in insurance coverage even though the agricultural sector in developing countries is relatively large compared to manufacturing and services [14].

Based on the above, so that the implementation of agricultural insurance in Indonesia is realized as referred to in RI Law No. 19 of 2013 concerning Protection and Empowerment of Farmers, based on the value of justice, then the Law RI No. 19 of 2013 concerning the Protection and Empowerment of Farmers must be reconstructed, for the sake of justice and welfare of farmers. The important points that must be reconstructed are:

**1. Land Identity**

As has been mentioned in the discussion earlier that Law No. 19 Year 2013 does not answer the question of the inequality of the agrarian ( ownership and control of land ) as a preamble, making the right call as a mechanism of providing land for farmers, and does not include the agenda of redistribution of land as part of the agenda of empowerment of farmers, as well as the scope objects that are provided to the farmers is very limited (the land of the free and the land of the former displaced) that cause poverty.

According to researchers, the land Availability must be guided by the Plan Rules of Space Region. While the fact that land farming has been a lot of air over the functions into the housing, industry and so forth. And then the provision of agricultural insurance premium subsidies, given to :

- a. Farmers-owning tenants, namely farmers who own their own business land and the land is cultivated or cultivated by themselves and the status of the land is called owned land.

<sup>10</sup> Nicola Mary Shadbolt, et al., 2010, Risk- an Opportunity or Threat for Entrepreneurial Farmer in Global Food Market. *International Food and Agribusnisse Management Riview*. Vol. 13, Issue 4.

<sup>11</sup> Narcis Edward Mitu, 2007, Agricultural Insurance in Romania: Present and Future Aspect. *MPRA. University of Craiova, Faculty of Economics and Business Administration*.

<sup>12</sup> World Bank, *Agricultural Insurance in Latin America, Developing The Market*, Report No. 61963-LAC, 2010.

<sup>13</sup> Departemen Keuangan, 2010, *op.cit*.

<sup>14</sup> National Rural Advisory Council (NRAC), 2012. *Feasibility of Agricultural Insurance Product in Australia for Weather Related Production Risk*.

- b. Farmers Tenants are farmers who work on the land of another person or farmer others with the status of the lease.
- c. Farmers Cultivator ( tenants ) are farmers who work on land belonging to the farmers another with the system for results.

It is given by the condition of the economy are in need, and supported by capital production agriculture are large ( fertilizers, irrigation, energy work, etc. ) are also supported with no presence system market certainly that resulted in price results harvests continue to experience fluctuations, the landless farmer or cultivator should get the portion to get help in financing.

## 2. Arranging The Premium Price

Speaking of the issue of insurance premiums for rice farming for rice farmers, it is fitting to not be reimbursed insurance premiums even though they are self-supporting. However, the government provides full subsidies to the insurance premium, as a responsibility for economic sustainability and food security in Indonesia. Food security is closely related to agricultural production, which causes the State is still difficult to realize food security is a result of the decline in the amount of agricultural land, due to farmers who have agricultural land prefer to convert their agricultural land into production land and other non-agricultural land. This is due to the fact that the profession of farmers is underestimated by the people and the State. Why not? That the profession of farmers, especially rice farmers, if seen from their socio-economic aspects, is not prosperous. The disadvantage is that the cost of rice production from the preparation of planting media to harvest is a big expense, while when the harvest comes, the market price of dry rice can drop, which escapes the government's responsibility. The problem of rice farmers is complex when where farmers experience crop failure due to outside the control of farmers or due to natural causes, for example natural disasters, pest attacks and drought. Farmers who have spent expensive production costs have ended up not getting anything from their businesses due to crop failures. While the cost of living of farmers' households is not only the costs of agricultural production, but like the lives of other households, who have to think about primary and secondary needs, children's education costs, health costs and other costs. Therefore, farmers prefer to leave the profession of rice farming by diverting their land to other non-agricultural production land, which according to the farmers is considered more beneficial for the needs of farmer households. Farmers who continue to carry out their profession as farmers are small land farmers (small farmers), whose rice production is carried out entirely by farmers for personal household food needs (personal consumption). These small farmers continue to produce rice even though they know it is most likely the result if they fail to harvest. From this problem, the government which has been heralding national-based food sovereignty is considered merely a figment, although in fact the government has tried to be responsible for agriculture by assisting farmers in subsidizing seeds, fertilizers and business credit through banks, and now the government has also help farmers through agricultural insurance programs, especially insurance for rice farming. However, the government's responsibility is considered to have less

impact on the lives of farmers. Speaking of the issue of seed subsidies, where government seedlings are not available in Indonesia, this is suitable, so that crop failures due to mismatches of seeds occur, and when that happens, the government is out of responsibility, by blaming the pattern / mechanism of farmers in the production period. When talking about fertilizer subsidies, even farmers do not fully taste the subsidies, this is due to the difficulty in getting fertilizer subsidies from the government. And to be honest, there are many cases that occur in Indonesia related to the issue of subsidized fertilizers, in which some individuals are involved in selling subsidized fertilizers to companies by simply exchanging bags of fertilizer from the subsidized label to no subsidized label. And this is also caused by the lack of monitoring from the government. When talking about the issue of business credit subsidies from banking to farmers, this also does not have a positive effect on farmers, which is the obstacle for farmers to carry out business loans in the banking sector is collateral. The condition of agricultural land, especially in the villages, is the land owned by the community which is inherited, customarily, or the right of lease (profit sharing), so there is no written identity on the land. Not to mention access to banks appointed by the government in terms of People's Business Credit far from the countryside, so that the benefits of KUR are less attractive to farmers, especially rice farmers. The government program that issues agricultural insurance, especially rice farming, whose premiums are subsidized by the government by 80%, amounting to Rp.144,000, - from a premium of Rp.180,000, - per hectare per one planting season, is also considered not wholeheartedly helping farmers Because 20% of the cost of the premium is still charged to the farmers, which is Rp. 36,000, independently. It is considered that farmers still incur production costs against these premiums. What is burdensome for farmers is the problem of claims against agricultural insurance, where claims will be paid if the damage is Crop Failure 75%, with compensation of Rp.6,000,000 per hectare. The claim mechanism makes it seem that the government does not side with farmers, because for farmers production costs for one hectare alone is more than the compensation rate, so farmers can only benefit from the remaining 25% damage from one hectare that is not damaged. While these benefits are not enough to cost farmers the needs of their households. Therefore, for the sake of the realization of national food sovereignty and farmers' protection and empowerment programs according to the mandate of the law, it is appropriate for the government to pay full attention, to farmers, especially in this agricultural insurance program, by not burdening farmers against insurance premiums, but the premium is the responsibility full by the government, so that a sense of justice and prosperity towards farmers is realized.

## 3. Supervision

Responding to Article 92, Article 93 and Article 94 of RI Law No. 2013 About the Protection and Empowerment of Farmers regarding Supervision originating from internal (government), the construction of the Supervisor according to the author is from an independent, whose work can assess the failure and success of the farmer, because if the farmer fails because of his mistakes according to insurance law this frees the guarantor for provide compensation. Furthermore, farmers will obey the cropping patterns carried out by the

government. Because if the cropping patterns have been followed by farmers and farmers fail then this is no longer the fault of the farmers. Thus the planting pattern becomes orderly, justice is realized both on the part of farmers side, the government and the insurance.

**4. Determining the insurance cost (compensation)**

As has been explained in the discussion earlier, the drip emphasis on problem determination of premiums and compensation losses, ie with a premium Rp.180.000, - per hectare per one season of planting, with damage to land farming Crop Failure up to 75%, the government will replace the loss of farmers amounting to Rp.6.000.000, - per hectare per one season planting.

It mentioned by the researchers is not ethically even government help farmers not with all my heart. Because when calculated from farmers' income from the results of all production for one hectare is as follows :

- 1 Kg of Dry Rice = Rp.5.000,-
- Rp.5.000,- (Dry Rice) Multiplied
- 11 Kg (1 Can) = Rp.55.000,-
- Rp.55.000,- multiplied by 25 can
- (1 Rante) = Rp.1.375.000,-
- Rp.1.375.000,- Multiplied by 25 Rante
- (1 Hectare) = Rp.34.375.000,-

That is based on the calculation at the top, then the income of a farmer's rice fields in one hectare per season planting, the advantages are obtained ( not the cost of production ) is at Rp.34.375.000, - and when farmers experienced failed harvests due to disasters of nature, drought and or organisms bullies plant, which can be claimed is damage Crop Failure 75% to over = Rp.6.000.000, - When the calculated values are not comparable with the loss of absolute of farmers who failed to harvest it. Because when the calculated damage to land farming Crop Failure 75%, should the value is

$$\frac{75}{100} \times \text{Rp.34.375.000,-} = \text{Rp.25.781.250,-}$$

And the rest that can be harvested is:

$$\frac{25}{100} \times \text{Rp.34.375.000,-} = \text{Rp.8.593.750,-}$$

Based on the above calculation, the authors argue that what needs to be reconstructed is the damage tolerance limit that cannot be compensated, which is 1% - 10%, not the Crop Failure limit of 75% and above to be compensated.

**Conclusion**

1. That Act Protection and Empowerment of Farmers Act is, does not provide an adequate protection nor Empowerment to farmers.
2. When viewed weaknesses Act Protection and Empowerment of Farmers who apply when this, the community of farmers do not will never feel what it was justice that brings prosperity.
3. In order for Law Protection and Empowerment of Farmers that, in accordance with its contents and name, as well as a sense of justice can be realized felt farmers, reconstruction of the Act are to be done : the identity of the land in order to refer to the plan layout of space and territory, payment of premiums to subsidize full of

government, oversight of the failure and success of the farmers must be the institution that is independent, as well as the cost of insurance as compensation losses that need to be regulated is the limit of tolerance of damage were not able to replace the loss.

**Suggestion**

1. Governments need to hold regulatory changes to the Law of the Republic of Indonesia Number 19 Year 2013 on Protection and Empowerment of Farmers to make Rule Government in setting Protection and Empowerment of farmers, especially in the field of identification of land in order to refer to the plan layout of space and territory, payment of premiums to subsidize full of government, oversight of the failure and success of the farmers must be the institution that is independent, as well as the cost of insurance as compensation losses that need to be regulated is the limit of tolerance of damage were not able to replace the loss.
2. Need to do socialization on the Law of the Republic of Indonesia Number 19 Year 2013 on Protection and Empowerment of Farmers to the entire farmers especially Farmers attempt rice in Indonesia by the government in terms of these institutions are in charge of agriculture, at the same time working together with the insurance executive who has dihunjuk by the government.
3. Government central and local allocate funds to facilitate the process of pengasuransian agriculture especially businesses farmer rice, provide education agriculture, education, supervision up to the stage of harvest, to avoid and overcome the farmers failed to harvest good it is because disasters natural, drought, and organisms inhibiting plant.

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