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Protection and Empowerment of Farmers: Legal Policy Framework Beyond Farmer Insurance

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ABSTRACT

The welfare paradigm for the community is always related to the policy model that will be issued by the government and local governments. Legal policy is an instrument in an effort to provide justice, legal certainty and benefits for the community. Indonesia as an agrarian country needs protection for the development of the farming system for farmers by providing welfare guarantees for farmers. This is inseparable from the legal instruments that must be owned by the state in order to encourage concrete protection to farmers in the event of crop failure. Law of the Republic of Indonesia No. 19 of 2013 on the Protection and Empowerment of Farmers is a basic instrument in an effort to provide protection to farmers, especially on farmer insurance and the existence of the Minister of Agriculture Regulation No. 40 of 2015 on the Facilitation of Agricultural Insurance is a derivative of the protection of farmers. But the current problem is needed to strengthen the understanding of farmers to be part of the legal policy efforts of farmers in order to provide protection to farmers. This research uses a qualitative method with a normative approach and analyzes in depth the existing conditions.

Keywords: Policy, Law, Insurance and Farmers

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INTRODUCTION

Food security exists when all people at all times have physical, social and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life (Declaration of the World Summit on Food Security, 2009).

¹ Pancasila and the 1945 Constitution of the Republic of Indonesia mandate that the State has the responsibility to protect the entire Indonesian nation and promote public welfare, educate the nation's life and realize social justice for all Indonesian people. In the fifth principle of Pancasila and the preamble of the 1945 Constitution of the Republic of Indonesia, it is clearly stated that social justice for all Indonesian people is the basis of one of the nation's development philosophies, so that every Indonesian citizen is entitled to welfare. Therefore, every Indonesian citizen is entitled and obliged according to their ability to participate in business development to improve welfare, especially in the field of Agriculture.

In line with the mandate of Pancasila and the 1945 Constitution of the Republic of Indonesia, one of the objectives of Agricultural development is directed at improving the welfare of Farmers. Farmers have contributed significantly to agricultural development and rural economic development. Farmers as actors of agricultural development need to be given protection and empowerment to support the fulfilment of food needs which are the basic rights of everyone in order to realize food sovereignty, food independence and food security in a sustainable manner.

In organizing agricultural development, farmers have a central role and make a major contribution². The main actors of agricultural

¹ Margret Vidar, *Soil and agriculture governance and food security*, *Soil Security* 6 (2022), p. 3. <https://doi.org/10.1016/j.soisec.2021.100027>

² Porth, Lysa and Porth, Lysa and Tan, Ken Seng and Zhu, Wenjun, *A Relational Data Matching Model for Enhancing Individual Loss Experience: An Example from Crop Insurance* (July 24, 2019). *North American Actuarial Journal*, 23(4), 551-572., Available at SSRN: <https://ssrn.com/abstract=2784735> or <http://dx.doi.org/10.2139/ssrn.2784735>

development are farmers, who generally operate on a small scale, with an average farm size of less than 0.5 hectares, and some farmers do not even own their own farmland or are called tenant farmers, or even farm laborers. Farmers generally have a weak position in obtaining production inputs, farm business financing, and market access.

Government policies that have been pursued are generally limited to solving the problem of capital shortages. Various (subsidized) credit schemes have been pursued and various improvements have been made on an ongoing basis. Some of these problems have been solved. But it is also undeniable that the scarcity of capital to apply more productive technologies is still a routine problem faced by most farmers. To solve the problem of the absence of effective protection, the strategy that has been pursued is indirect and ad hoc. To illustrate, for farmers who experience a crop failure³, the policy is to provide free seeds, irrigation pumps, or loan forgiveness. However helpful this may be, it does not constitute a systematic and systemic protection system. Meanwhile, the informal protection system based on local wisdom, which is generally an integral part of the social safety net traditionally developed by farming communities, is currently increasingly less effective. This is because its pillars are increasingly fragile, eroded by modernization.⁴

As mandated by the law, the government must take an important role in the development of agricultural insurance⁵ as a form

³ Osgood, Daniel and Powell, Bristol and Diro, Rahel and Farah, Carlos and Enenkel, Markus and Brown, Molly E and Husak, Gregory and Blakeley, S. Lucille and Hoffman, Laura and McCarty, Jessica, Farmer Perception, Recollection, and Remote Sensing in Weather Index Insurance for Agriculture in the Developing World: An Ethiopia Case Study (August 31, 2018). Available at SSRN: <https://ssrn.com/abstract=3242142> or <http://dx.doi.org/10.2139/ssrn.3242142>

⁴ Andi Amran Sulaiman et.al. *Asuransi Pengayom Petani Pembelajaran dan Arah Pengembangan*, Jakarta: Penerbit IAARD PRESS Badan Penelitian dan Pengembangan Pertanian 2018, p. 4.

⁵ Baumgärtner, Stefan and Quaas, Martin F., *Agro-Biodiversity as Natural Insurance and the Development of Financial Insurance Markets* (September 1, 2008). *AGROBIODIVERSITY, CONSERVATION AND ECONOMIC DEVELOPMENT*,

of protection for farmers. In a market mechanism with economic principles that prioritize profits, farmers often do not receive protection. This is where the government plays a role, from policy-making to operational support in the field⁶, to protect farmers. For implementation in the field, the government needs to anticipate various obstacles that arise. One that needs to be considered is systemic risk, which is the risk arising from the failure of the agricultural sector, causing disruption to other sectors. The impact of losses from these risks can be substantial, justifying the need for the government to directly control agricultural insurance. The social purpose of agricultural insurance is to ensure a level of economic security for all agricultural producers⁷. In particular, those involved in most subsystems of agricultural production. ⁸

Law No. 19 of 2013 on Farmer Protection and Empowerment regulates agricultural insurance as one of the instruments to protect farmers. The Ministry of Agriculture has piloted an indemnity-based agricultural insurance program for rice production (AUTP) since 2011. Considering the RPJMN 2020-2024, it is requested to review the pilot experience of AUTP rice insurance scheme and learn from other countries' experiences to reform the current agricultural insurance scheme to make it more sustainable in the future.

Against this backdrop, the Government of Indonesia, represented by the Ministry of National Development Planning/National Development Planning Agency (BAPPENAS), Ministry of Agriculture, Ministry of Finance, Meteorology

Routledge, A. Kontoleon, U. Pascual, M. Smale, eds., pp. 293-317, 2008, Available at SSRN: <https://ssrn.com/abstract=1013549> or <http://dx.doi.org/10.2139/ssrn.1013549>

⁶ Bhattacharya, Sanjukta, Access to Crop Insurance as a Vital Risk Management Tool in Indian Agriculture: Addressing Challenges and Ensuring Future Promise for Better Solution (February 19, 2012). Available at SSRN: <https://ssrn.com/abstract=2007903> or <http://dx.doi.org/10.2139/ssrn.2007903>

⁷ Mahul, Olivier and Verma, Niraj and Clarke, Daniel, Improving Farmers' Access to Agricultural Insurance in India (March 1, 2012). World Bank Policy Research Working Paper No. 5987, Available at SSRN: <https://ssrn.com/abstract=2016752>

⁸ Andi Amran Sulaiman et.al. *Ibid.*, p. 17.

Climatology and Geophysics Agency (BMKG), PT Asuransi Jasa Indonesia (*Jasindo*) (Program Implementing Agency), and Japan International Cooperation Agency (JICA) embarked on the Capacity Building Project for Agricultural Insurance Implementation in the Republic of Indonesia.

The 5-year project started in October 2017 and aims to enhance the capacity of key ministries in promoting the implementation of sustainable agricultural insurance in Indonesia. The Agro Insurance team was asked to provide recommendations to the Government of Indonesia to improve the existing insurance program or/and launch a new insurance program, based on the concept of yield index insurance to generate better insurance coverage for wet rice in the period 2020-2024.

The Indonesian Ministry of Agriculture has been piloting an indemnity-based agricultural insurance program for paddy rice production (AOTP) since 2015. During the National Medium-Term Development Plan (RPJMN) 2015-2019, MOA expanded the pilot activities to 23 rice-producing provinces, with an annual target of 1 million hectares of insured paddy fields. Despite its limited coverage, the AOTP program has achieved some success in eliminating the financial impact for farmers affected by several hazards through insurance payments and increasing the willingness to pay of AOTP beneficiaries.⁹

⁹Ian Shynkarenko, et. al, *Survei Skema Asuransi Pertanian Berkelanjutan Di Indonesia*, Penerbit: Kementerian Perencanaan Pembangunan Nasional / Badan Perencanaan Pembangunan Nasional (BAPPENAS) dan Japan International Cooperation Agency (JICA), 2019, p. 1

LEGAL POLICY ON FARMER INSURANCE

Farmer Protection and Empowerment includes planning, Farmer Protection, Farmer Empowerment, financing and funding, supervision, and community participation, which are organized based on the principles of sovereignty, independence, usefulness, togetherness, integration, openness, efficiency-justice, and sustainability. Forms of policies that can be provided to protect the interests of Farmers include regulation of imports of Agricultural Commodities¹⁰ in accordance with the harvest season and/or domestic consumption needs; provision of Agricultural production facilities that are on time, of the right quality, and at affordable prices for Farmers, as well as subsidies for production facilities; determination of import duty rates for Agricultural Commodities, as well as determination of the place of entry of Agricultural Commodities from abroad in customs areas.

In addition, there is also the establishment of Farming Business areas based on the conditions and potential of natural resources, human resources, and artificial resources; facilitation of Agricultural Insurance to protect Farmers from crop failure losses due to natural disasters, outbreaks of infectious animal diseases, climate change; and/or other types of risks determined by the Minister; and can provide compensation assistance for crop failure due to extraordinary events in accordance with the financial capacity of the state. In general, agricultural productivity is as follows:

¹⁰ Marzen, Chad G. and Ballard, Grant, Climate Change and Federal Crop Insurance (October 2, 2015). Boston College Environmental Affairs Law Review, Volume 43, Issue 2, pgs. 387-410 (2015), Available at SSRN: <https://ssrn.com/abstract=2668426>

TABLE I Agricultural Productivity 2021-2022
(Central Bureau of Statistics)¹¹

Province	Harvest Area, Production and Paddy Productivity (as per Province)					
	Harvested Area		Productivity		Production (ton)	
	2021	2022	2021	2022	2021	2022
Aceh	297058.38	271750.20	55.03	55.55	1634639.60	1509456.00
Sumatera Utara	385405.00	411462.10	52.00	50.76	2004142.51	2088584.00
Sumatera Barat	272391.95	271883.10	48.36	50.52	1317209.38	1373532.00
Riau	53062.35	51054.04	40.98	41.83	217458.87	213557.20
Jambi	64412.26	60539.59	46.29	45.88	298149.25	277743.80
Sumatera Selatan	496241.65	513378.20	51.44	54.06	2552443.19	2775069.00
Bengkulu	55704.69	57151.84	48.67	49.27	271117.19	281610.10
Lampung	489573.23	518256.10	50.77	51.87	2485452.78	2688160.00
Kep. Bangka Belitung	18278.27	15107.80	38.57	40.66	70496.25	61425.07
Kep. Riau	270.16	179.48	31.65	28.24	855.01	506.91
DKI Jakarta	559.97	477.25	58.03	48.98	3249.47	2337.77
Jawa Barat	1604109.31	1662404.00	56.81	56.75	9113573.08	9433723.00
Jawa Tengah	1696712.36	1688670.00	56.69	55.41	9618656.81	9356445.00
Di Yogyakarta	107506.16	110927.20	51.77	50.64	556531.03	561699.50
Jawa Timur	1747481.20	1693211.00	56.02	56.26	9789587.67	9526516.00
Banten	318248.46	337240.70	50.38	53.04	1603247.00	1788583.00
Bali	105201.31	112320.60	58.83	60.59	618910.81	680601.60
Nusa Tenggara Barat	276211.88	270092.90	51.39	53.79	1419559.84	1452945.00
Nusa Tenggara Timur	174900.07	183092.00	41.85	41.29	731877.74	756049.90
Kalimantan Barat	223165.74	241478.60	31.90	30.28	711898.01	731225.80
Kalimantan Tengah	125870.05	108226.80	30.28	31.78	381189.55	343918.80
Kalimantan Selatan	254263.59	214908.90	39.97	38.13	1016313.55	819419.20

¹¹ Area of Harvest, Production, and Productivity of Rice According to Provinces based on data from the Central Statistics Agency experienced significant development in 2021 and 2022, so that the productivity of farmers is quite high and the government must encourage farmers through strategic policies, so that farmers participate in farmer insurance.

Kalimantan Timur	66269.46	64970.01	36.92	36.85	244677.96	239425.30
Kalimantan Utara	8880.83	8604.19	33.74	35.49	29967.31	30533.59
Sulawesi Utara	59182.52	58195.56	39.35	41.88	232884.76	243730.30
Sulawesi Tengah	182186.62	168993.20	47.59	44.05	867012.77	744408.70
Sulawesi Selatan	985158.23	1038084.00	51.67	51.64	5090637.23	5360169.00
Sulawesi Tenggara	127517.29	118258.80	41.57	40.50	530029.08	478958.00
Gorontalo	48713.50	46823.47	48.12	51.29	234392.86	240134.50
Sulawesi Barat	59763.18	69323.95	52.05	50.99	311072.46	353513.30
Maluku	28319.75	23987.82	41.24	38.60	116803.67	92601.06
Maluku Utara	7781.96	6416.45	36.05	38.16	28050.80	24486.03
Papua Barat	6414.94	5460.59	41.98	43.89	26926.93	23963.92
Papua	64984.90	49741.91	44.05	38.99	286279.80	193943.50
Indonesia	10411801.22	10452672.00	52.26	52.38	54415294.22	54748977.00

In addition to Farmer Protection policies, Empowerment efforts also have an important role in achieving better Farmer welfare¹². Empowerment is carried out to advance and develop the mindset of Farmers, improve Farming Business, and grow and strengthen Farmer Institutions to be able to be independent and highly competitive in Farming business. Some activities that are expected to stimulate Farmers to be more empowered¹³ include education and training, counseling and mentoring, development of systems and facilities for marketing Agricultural products; prioritization of domestic Agricultural products to meet national food needs; consolidation and guarantee of Agricultural land area; provision of

¹² Kumari, Mrinali and Singh, Krishna M. and Mishra, Rewati and Sinha, Dhruv and Ahmad, Nasim, Role of Socio-Economic Variables on Adoption of Crop Insurance Schemes (October 13, 2017). Available at SSRN: <https://ssrn.com/abstract=3052120> or <http://dx.doi.org/10.2139/ssrn.3052120>

¹³ Bozzi, Claudio, Dilan Thampapillai, Claudio Bozzi, Vivi Tan, and Anne Matthew. "Insurance." Chapter. In *Australian Commercial Law*, 297-344. Cambridge: Cambridge University Press, 2015.

financing and capital facilities; easy access to science, technology, and information; and strengthening Farmer Institutions.

The targets of Farmer Protection and Empowerment are Farmers, especially tenant Farmers with a maximum area of 2 (two) hectares (not owning land whose main livelihood is conducting Farming Business); Farmers who own land and conduct food crop cultivation business on a maximum area of 2 (two) hectares; Small-scale horticultural farmers, planters, or breeders in accordance with statutory provisions.

Efforts to protect and empower farmers have not been supported by comprehensive, systemic, and holistic laws and regulations, thus providing less assurance of legal certainty and justice for farmers and business actors in agriculture. The existing laws are still partial and have not regulated the Protection and Empowerment efforts clearly, firmly, and completely. This, among others, can be seen in:

- 1) Law No. 5/1960 on the Basic Regulation of Agrarian Principles;
- 2) Law No. 56 PRP of 1960 on the Determination of Agricultural Land Area;
- 3) Law Number 12 of 1992 concerning Plant Cultivation System;
- 4) Law Number 7 of 1994 Concerning the Ratification of the Agreement Establishing the World Trade Organization;
- 5) Law Number 18 of 2004 concerning Plantations;
- 6) Law No. 16 of 2006 on Agriculture, Fisheries and Forestry Extension System;
- 7) Law No. 20 of 2008 on Micro, Small and Medium Enterprises;
- 8) Law No. 18 of 2009 on Animal Husbandry and Animal Health;
- 9) Law No. 41 of 2009 on the Protection of Sustainable Food Agricultural Land;
- 10) Law No. 13 of 2010 on Horticulture; and
- 11) Law No. 18/2012 on Food.

Forms of policies¹⁴ that can be provided to protect the interests of Farmers include the regulation of imports of Agricultural Commodities in accordance with the harvest season and/or domestic consumption needs¹⁵; the provision of Agricultural production facilities that are on time, of the right quality, and at affordable prices for Farmers, as well as subsidies for production facilities; the determination of import duty rates for Agricultural Commodities, and the determination of the place of entry of Agricultural Commodities from abroad in the customs area.

In addition, there is also the establishment of Farming Business areas based on the conditions and potential of natural resources, human resources, and artificial resources; facilitation of Agricultural Insurance to protect Farmers from crop failure losses due to natural disasters, outbreaks of infectious animal diseases, climate change; and/or other types of risks determined by the Minister; and can provide compensation assistance for crop failure¹⁶ due to extraordinary events in accordance with the financial capacity of the state.

Based on Article 48, the Government and Regional Governments in accordance with their authority shall empower farmers through the development of marketing systems and facilities for agricultural products. The development of marketing systems and facilities is organized as follows:

¹⁴ Lin, Jolene, and Jacqueline Peel. "The Farmer or the Hero Litigator?: Modes of Climate Litigation in the Global South." Chapter. In *Litigating the Climate Emergency: How Human Rights, Courts, and Legal Mobilization Can Bolster Climate Action*, edited by César Rodríguez-Garavito, 187–205. *Globalization and Human Rights*. Cambridge: Cambridge University Press, 2022.

¹⁵ Dudek, Daniel J., and P. Geoffrey Allen. "Estimating Crop Yield Insurance Premium Rates." *Journal of the Northeastern Agricultural Economics Council* 13, no. 1 (1984): 119–27. <https://doi.org/10.1017/S0163548400004179>.

¹⁶ "Royal Farmers' Insurance Company." *The Assurance Magazine* 1, no. 3 (1851): 250–250. <https://doi.org/10.1017/S2046164X00055976>.

- 1) Realizing agricultural product markets that meet food safety, sanitation, and public order standards;
- 2) Realizing agribusiness and sub-agribusiness terminals to market agricultural products;
- 3) Realizing supporting facilities for agricultural product markets;
- 4) Facilitating the development of agricultural product markets owned and/or managed by farmer groups, farmer group associations, cooperatives, and/or other farmer economic institutions in the production areas of agricultural commodities;
- 5) Limiting modern markets that are not owned and/or not cooperating with farmer groups, farmer group associations, cooperatives, and/or other farmer economic institutions in the production areas of agricultural commodities;
- 6) Developing farmer business partnership patterns that are mutually needy, trusting, strengthening, and profitable;
- 7) Developing a marketing and promotion system for agricultural products;
- 8) Developing an auction market
- 9) Providing market information; and
- 10) Developing hedging.

In the agricultural insurance agreement there are the parties who sign the agreement are insurance companies and farmers/groups of peasants. The insurance company as the insured party is the BUMN insurance company designated by the government namely Jasindo, whereas the liable party is a farmer who joins the peasant group to become a participant in agricultural insurance. The deal between the parties is poured into the agricultural insurance policy.¹⁷ Farmer protection and empowerment policies also play an important role in achieving better farmer welfare.

¹⁷ Zahry Vandawati, et.al, *Perjanjian Asuransi Pertanian Pada Program Ketahanan Pangan Oleh Pemerintah*, Jurnal Hukum & Pembangunan 49 No. 3, 2019, p. 604. DOI: 10.21143/jhp.vol49.no3.2189

The purpose of empowerment is to advance and develop farmers' thinking, develop agricultural businesses, and grow and strengthen farmers' institutions to be independent and competitive in agricultural businesses. A number of activities are expected to empower farmers, including training, extension and guidance, as well as the development of agricultural systems and marketing opportunities; prioritizing domestic agricultural products to meet national food needs; strengthening and securing agricultural land; providing financing and capital arrangements; easy access to science, technology and information; and strengthening farmer institutions.

IMPLEMENTATION LEGAL POLICY FOR FARMER INSURANCE MODEL

The agricultural sector is one of the sectors that plays an important role in the national economy, one of which is as a supplier of food to the people. The sources of risk that affect production come from weather changes, pest attacks and diseases.¹⁸ The Ministry of Agriculture's efforts to achieve food self-sufficiency targets have become a determination that must be achieved. In this regard, starting in 2015, the Government implemented rice self-sufficiency with a rice production target for 2021 reaching 63.5 million tons.

Businesses in the agricultural sector, especially rice farming, are faced with the risk of uncertainty as a result of the negative impacts of climate change that is detrimental to farmers. To overcome the losses of farmers, the Government helps provide farming protection in the form of Agricultural Insurance, as stated in Law No. 19 of 2013 concerning Farmer Protection and Empowerment, which has been

¹⁸ Luh Wiweka Laksmiyunita Dewi and I Ketut Suamba, *Manfaat Asuransi Usahatani Padi dalam Menanggulangi Risiko Usahatani Krama Subak di Kecamatan Penebel Kabupaten Tabanan Jurnal Agribisnis dan Agrowisata*, Vol. 9, No. 2, Juli 2020, p. 221-222.

followed up with the issuance of Minister of Agriculture Regulation No. 40 of 2015 concerning Agricultural Insurance Facilitation.

Agricultural Insurance is very important for farmers to protect their farms. Agricultural Insurance is a transfer of risk that can provide compensation for farm losses so that the sustainability of the farm can be guaranteed. Agricultural Insurance is a form of risk management where the participation of a large number of farmers generates a lot of funds to reserve compensation payments for farmers affected by disasters. Through the Rice Farming Insurance Program (AUTP), guarantees can be given against losses due to crop damage caused by floods, droughts, and attacks by pests and plant diseases or plant pest organisms (OPT). With AUTP, farmers can file a claim (demand) to obtain compensation so that they are able to carry out or continue their farming activities because they already have working capital obtained, namely compensation for the farming risks they experience. With regard to the above, the Ministry of Agriculture will continue to implement the AUTP program in 2021 and provide Premium Assistance to participating farmers.¹⁹

Regulation of the Minister of Agriculture of the Republic of Indonesia No. 40/Permentan/SR.230/7/2015 on Agricultural Insurance Facilitation that Article 4 Insurance companies implementing agricultural insurance must have an agricultural insurance product license authorized by the Financial Services Authority (OJK). Agricultural Insurance is carried out to protect Farmers from losses due to crop failure:

- 1) Natural Disaster;
- 2) Attack of Plant Disturbing Organisms;
- 3) Outbreak of Infectious Animal Diseases
- 4) Impact of Climate Change; and/or
- 5) Other Types of Risks.

¹⁹ Keputusan Menteri Pertanian Republik Indonesia Nomor :01/Kpts/SR.230/B/01/2021 TANGGAL : 04 Januari 2021 Pedoman Bantuan Premi Asuransi Usahatani Padi

- 6) Self-Help Insurance Pattern Includes:
- 7) Self-Help or Independent;
- 8) Partnership or Cooperation; And
- 9) Banking.

In order to carry out the authority exercised to maintain the continuity of agriculture, the farmer insurance program is an effort to maintain the continuity of agriculture.

TABLE II Provincial and District Government Authorities

Provincial Government Authority	District Government Authority
<p style="text-align: center;">Article 13</p> <p>(1) Ease of registration as referred to in Article 9 letter a is carried out through data collection/inventory of Farmer prospective insurance participants by the district/city Service Office.</p> <p>(2) The results of the inventory as referred to in paragraph (1) by the district / city Office are verified and then submitted to the provincial Office to propose the determination of insurance participants.</p> <p>(3) The provincial Service Office has received the proposal as referred to in paragraph (2) to determine the prospective recipients and propose to the Ministry of Agriculture through the Directorate General.</p> <p>(4) The filling out of the registration form for prospective insurance participants is accompanied by officers of the district/city Service Office.</p> <p>(5) Verification of prospective recipients is carried out in stages by regencies/cities, provinces and the center.</p>	<p style="text-align: center;">Article 14</p> <p>(1) Ease of access to insurance companies as referred to in article 9 letter b is carried out by the district / city Service by:</p> <p>encouraging understanding and benefits of agricultural insurance participation; bringing together Farmers who are prospective agricultural insurance participants with insurance companies; and encouraging the formation of agricultural insurance binding.</p> <p>(2) Data collection or inventory as referred to in article 13 is financed.</p>

The State Budget (APBN) is carried out in stages at the proposal of the regent/mayor to the governor, and then submitted to the Minister. Socialization of the insurance program to Farmers and insurance companies is carried out by the Directorate General, provincial offices, and/or district/city offices.

Based on Article 17, the requirements for Farmers participating in agricultural insurance who receive premium assistance as referred to in Article 9 letter d are as follows:

- 1) Food crop tenant farmers who do not own farmland and cultivate a maximum area of 2 (two) hectares;
- 2) Farmers who own land and carry out food crop cultivation business on a maximum area of 2 (two) hectares; and/or
- 3) Small-scale horticultural farmers, planters, or breeders in accordance with the provisions of laws and regulations.
- 4) Based on Article 21, the implementation stage of agricultural insurance is carried out:
- 5) Nomination of Prospective Participant Candidates (CPCL) from the District/City Office;
- 6) Socialization of insurance to prospective participants
- 7) Feasibility assessment of the object of insurance
- 8) Registration as a participant by filling out the registration form and paying the premium;
- 9) Issuance of an insurance policy is carried out after registration and premiums are received from farmers; and
- 10) Submission of Claims is made after the Farmer reports damage or loss according to the results of the inspection and gets approval from the insurance company.

Indonesia is an agricultural country where around 28.79% of the Indonesian population works in the agricultural sector as their main occupation. Indonesia is also a country rich in natural resources because it is a tropical country, but because it has a tropical climate, this can also cause crop failure in the agricultural sector. Flooding in

the rainy season, drought in the dry season, apart from being caused by seasonal changes, the potential for crop failure can also be caused by pest attacks, plant disruptors, and diseases. When the business fails, it is not only the farmers who lose money, the community can also be affected. The number of failed crops triggers price increases and scarcity of goods. That is why the government needs to step in to reduce the risk of crop failure. Agriculture is a sector that deserves more attention, this is then the basis for the issuance of Agricultural Insurance for farmers to protect their businesses. Participation in the Agricultural Insurance program provides an alternative funding scheme that will protect participants so that they can re-finance agricultural businesses in the following season in the event of crop production failure.²⁰

The Ministry of Agriculture's efforts to achieve food self-sufficiency targets have become a determination that must be achieved. In this regard, starting in 2015, the Government implemented rice self-sufficiency with a rice production target for 2021 reaching 63.5 million tons. Businesses in the agricultural sector, especially rice farming, are faced with the risk of uncertainty as a result of the negative impacts of climate change that are detrimental to farmers.

To overcome the losses of farmers, the Government helps provide farming protection in the form of Agricultural Insurance, as stipulated in Law No. 19 of 2013 on Farmer Protection and Empowerment, which has been followed up with the issuance of Minister of Agriculture Regulation No. 40 of 2015 on Agricultural Insurance Facilitation. Agricultural Insurance is very important for farmers to protect their farms. Agricultural Insurance is a transfer of risk that can provide compensation for farm losses so that the sustainability of the farm can be guaranteed.

²⁰ *Asuransi Pertanian Sejahterakan Petani Kini Dan Nanti*, dikases melalui <https://sikapiuangmu.ojk.go.id/FrontEnd/CMS/Article/10525>

Agricultural Insurance is a form of risk management where the participation of a large number of farmers generates a lot of funds for reserves to pay compensation for farmers affected by disasters. Through the Rice Farming Business Insurance (AUTP) program, guarantees can be given against losses due to crop damage caused by floods, droughts, and attacks by pests and plant diseases or plant pest organisms (OPT). With AUTP, farmers can file a claim (demand) to obtain compensation so that they are able to carry out or continue their farming activities because they already have working capital obtained, namely compensation for the farming risks they experience. With regard to the above, the Ministry of Agriculture will continue to implement the AUTP program in 2022 and provide Premium Assistance to participating farmers.²¹

The agricultural sector is unique compared to other insurance markets in that many forms of agricultural risk are highly correlated among insured farms. For example, commodity price risk affects most farms simultaneously. When the price of a commodity is low, prices are generally low for all producers of that commodity. A downward trend in the price of one agricultural commodity often coincides with a similar downturn for many other commodity prices.

While some natural disasters such as cold or hail are generally localized, others such as droughts and floods can spread and impact the production of many insured farmers at the same time. Agricultural production is highly technical and specialized, susceptible to weather, pests and diseases, impacted by the international trading environment, and dependent on the management techniques employed by each individual producer (e.g. seed bed preparation, seeding, fertilizer application, and use of hybrid seeds, water and manure management, etc.). The underwriting provisions and loss adjustment techniques are unique

²¹ Keputusan Menteri Pertanian Republik Indonesia Nomor : 01/Kpts/SR.210/B/01/2022 Tentang Pedoman Bantuan Premi Asuransi Usahatani Padi

to the agricultural industry and are not easily adapted from other insurance markets.²²

These unique aspects of agricultural risk impact the way the insurance industry views its participation in this market, which can be due to a variety of factors, including the following:²³

- 1) The nature of risk in the agricultural sector and the need for capacity to bear widespread and accumulated losses;
- 2) The role of the public sector in risk management in the agricultural industry, both in a planned manner and in ad hoc assistance;
- 3) The ability to secure adequate and consistent premium income over time commensurate with risk exposure; and
- 4) The ability to spread risk outward, to the reinsurance industry, to reduce risk exposure.

This modern development encourages people to think about how to meet the needs of life more effectively and efficiently. Everyone has the right to obtain protection for themselves, family, property, and protection from the threat of damage or loss. Public awareness of the importance of protection for various kinds of risks that occur and befall themselves at any time is one of the causes of the high number of insurance users. This is an advantage for insurance companies that provide insurance services and products because there will be a wider market share that can be processed and used as a sales target for insurance companies.²⁴

In addition to acting as a subsidizer of agricultural insurance premium payments, Law No. 19 of 2013 Concerning the Protection and Empowerment of Farmers also specifically mandates that both central and regional governments participate as insurance companies

²² Ian Shynkarenko, et.al, *Op. Cit*, p.1.

²³ Ian Shynkarenko, et.al, *Op. Cit*. p. 1

²⁴ Zahry Vandawati, et.al, *Perjanjian Asuransi Pertanian Pada Program Ketahanan Pangan Oleh Pemerintah*, *Jurnal Hukum & Pembangunan* 49 No. 3 (2019), p. 593. DOI: <http://dx.doi.org/10.21143/jhp.vol49.no3.2189>

in the event of crop failure losses. Article 37 paragraph (1) of Law No. 19 of 2013 Concerning the Protection and Empowerment of Farmers explains that the Government and Regional Governments in accordance with their authority are obliged to protect farming businesses carried out by farmers as referred to in Article 12 paragraph (2) in the form of agricultural insurance.

So that in the case of crop failure losses in Article 37 paragraph (2) of Law Number 19 of 2013 concerning Protection and Empowerment of Farmers, namely due to natural disasters, attacks of plant disrupting organisms, climate change and other types of risks, the government is mandated to provide protection to farmers who experience losses. Insurance policies are generally limited or controlled by the provisions of the Civil Code or *Burgelijk Wetboek* as follows:²⁵

Article 1337 BW "a causa is forbidden, if the causa is prohibited by law or contrary to morals or public order". Article 1338 paragraph (3) BW "all agreements made by parties must be carried out in good faith" Article 1339 BW "agreements are not only binding for things that are expressly stated in them, but also for everything that by the nature of the agreement is required by decency, custom, or law".

The above provisions explain that to determine the clauses or terms in a standard agreement can apply and bind the parties, the benchmarks are the law, morals, public order, decency and custom and good faith. The insurer as the party who accepts the transfer of risk, which means binding himself to compensate if the agreed risk occurs a fact of loss or loss. The obligation to compensate for this loss makes the insurance company entitled to receive premiums from the insured, especially because as an insurance company premium are needed for the healthy running of the company.²⁶ The objectives of

²⁵ Zahry Vandawati, et.al, *Ibid.*, p 596.

²⁶ Zahry Vandawati, et.al, *Ibid.*, p. 596.

the agricultural insurance program can be divided into several target groups, as follows: ²⁷

a. The target group for farmers are:

- 1) Make farmers aware of the risk of crop failure or business failure.
- 2) livestock farming.
- 3) Encourage farmers to increase their skills and improve
- 4) farm business management.
- 5) Reduce farmers' dependence on capital from other parties and help farmers provide production costs or capital.
- 6) other parties and help farmers provide production costs or capital for their
- 7) livestock business.
- 8) Increase farmers' income from the success of their agricultural/
- 9) livestock business on an ongoing basis.

b. The target groups for local governments are:

- 1) Increase the awareness and responsibility of local government officials about the importance of anticipating agricultural business risks in their area.
- 2) Help provide facilities and access to capital for farmers if they experience agricultural business risks or crop failure/livestock business failure.
- 3) Assist regional economic development through the insurance business branch.
- 4) Improve the success of agricultural/livestock businesses, as well as regional food security and safety.
- 5) Open up new employment opportunities.

c. For the target group of insurance companies:

²⁷ Sahat, M. Pasaribu, *Penerapan Asuransi usahatani Padi di Indonesia: Alternatif Skenario Melindungi Petani dan Usahatani*, <http://www.litbang.pertanian.go.id/berita/one/1539/>. Diakses pada tanggal 27 Mei 2017. Dalam Zahry Vandawati, et.al, *Ibid.*, 596.

- 1) Open new business branch opportunities in the form of agricultural business risk protection with farmers/ranchers as customers.
- 2) Improve the ability of insurance company employees in risk coverage management in the agricultural sector.
- 3) Improve the insurance business climate regionally.
- 4) Encourage the increase of insurance business activities with an agricultural base
- 5) that can create new jobs.

The various risks faced by the agricultural sector can have an impact on the stability of farmers' income. Therefore, one of the important challenges of the agricultural sector is how to increase the income of farmers who mostly own less than 0.5 ha of land per capita. In this context, the state through the government is expected to be present to provide protection and empowerment to farmers who play a role in the development of the agricultural sector in order to realize food sovereignty, food independence and food security in a sustainable manner. One form of protection for farmers' income or welfare is agricultural insurance.²⁸

In general, based on article 7 paragraph (2) of Law of the Republic of Indonesia Number 19 of 2013 concerning Protection and Empowerment of Farmers, that the Farmer Protection Strategy is carried out through:

- 1) Agricultural production infrastructure and facilities
- 2) Business certainty
- 3) Price of agricultural commodities
- 4) Elimination of high-cost economic practices;
- 5) Compensation for crop failure due to extraordinary events;
- 6) Early warning system and handling of climate change impacts; and

²⁸ Praptono Djuned, *Analisis Asuransi Pertanian Di Indonesia: Konsep, Tantangan Dan Prospek*, Jurnal Borneo Administrator/Volume 12/No. 1/2016, p. 11.

7) Agricultural Insurance.

Sustainable agricultural development has been promoted worldwide, as stated in the goals of the United Nations Sustainable Development Goals. The main principle of this goal is to increase production while preserving the ecosystem through environmentally friendly agricultural practices.²⁹ Since the 1950s, agriculture has been considered a relatively underdeveloped sector as its main focus has been on the production of raw materials using traditional methods employed by small family farms in rural areas.³⁰ Therefore, the provisions of these laws and regulations encourage the strengthening of farmers.

²⁹ Tomy Perdana, et.al, *Circular supply chain governance for sustainable fresh agricultural products: Minimizing food loss and utilizing agricultural waste*, Sustainable Production and Consumption 41 (2023), p. 391. <https://doi.org/10.1016/j.spc.2023.09.001>

³⁰ Can ATI K, *Horizontal intervention, sectoral challenges: Evaluating the data act's impact on agricultural data access puzzle in the emerging digital agriculture sector*, Computer Law & Security Review Volume 51, November 2023, p. 3. <https://doi.org/10.1016/j.clsr.2023.105861>

CONCLUSION

Agriculture is one of the drivers of the community's economy as an agrarian region. Developments in the agricultural sector encourage the growth of the business climate. The rice production target for 2021 reaches 63.5 million tons. This is an effort to achieve food self-sufficiency in Indonesia. With programs owned by the community, the biggest hope is the legal policy factor of farmer protection to achieve welfare for farmers, especially through farm insurance. Law of the Republic of Indonesia Number 19 of 2013 concerning Protection and Empowerment of Farmers, encourages the existence of farmers and the existence of agriculture in Indonesia to be sustainable. In addition, through the Regulation of the Minister of Agriculture No. 40 of 2015 concerning Facilitation of Agricultural Insurance is a derivative of the protection of farmers, it is hoped that community farming can be protected and the community actively participates in the farming program in Indonesia

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