

The Role of Regional Governments in Local Wisdom-Based Water Resources Management Policy for Sustainable Food Sovereignty in Lumajang Regency

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ABSTRACT: This research was conducted on water user farmer communities in Lumajang Regency, particularly Sukodono and Lumajang Districts. This study uses qualitative-constructivist research with a socio-legal approach to the antro. This research uses primary and secondary data. The problem faced by the Lumajang Regency Government, particularly Sukodono and LumajangSubdistricts, is that the HIPPA is still ineffective, resulting in uncontrolled land conversion which is a threat to the achievement of food security and sovereignty in the future. This is because food sovereignty can be realized if there is a role of the regional government to fully recognize the local irrigation management institution as a form of recognition of legal pluralism, with cooperative management. Therefore the need for water management is carried out jointly between the local community and the government to realize food sovereignty. Also, it is necessary to have good communication and cooperation from HIPPA as the water provider and Farmer Group and related agencies related to agricultural issues and land conversion to maintain the protection of sustainable agricultural land by Law No. 41 of 2009.

Keywords: the role of local government, policy settings on resource management, water resources, local wisdom, sustainable food sovereignty

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I. INTRODUCTION

Water resources are a gift of God that must provide benefits to realize the welfare of the people by Article 33 paragraph (3) of the 1945 Constitution. State interference with shared ownership in the form of water through local institutions by Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia through the obligation of regional governments to recognize and respect the unity of customary law communities and various rights. The implementation of the constitution in the management of water resources through legislation underneath is greatly influenced by the legal paradigm adopted by the state. According to Nonet and Selznick (2013) the character of authoritarian politics was born in the rule of law promoting a repressive law and vice versa democratic politics that promotes responsive law.

The legal paradigm is closely related to development policies and models during the Indonesian government from the old order to the present (Safa'at, 2016). It is even more interesting to examine in depth the role of the state in regulating policies related to water resources. This policy is related to the existence of hereditary irrigation management institutions with a new form of government that requires legal entities and agricultural institutions in the same social area towards food sovereignty. Applicability of Law No. 17 of 2019 concerning Water Resources is expected to occur a shift in the prevailing legal paradigm. Previous Paradigm always ignored local institutions to be in line with the goals of national law development to accommodate written and unwritten laws. The existence of this law for regulating irrigation water is not regulated by the recognition of local institutions managing irrigation (BPK RI, 2019).

Juridically, the role of the state in maintaining the existence of local institutions managing irrigation especially in East Java by the technical part according to Law No. 17 of 2019 there was ambiguity. The law does not explicitly regulate the existence of local institutions, it is only stated based on the principle of local and sustainable wisdom (BPK RI, 2019). As a result, changes to the law do not necessarily lead to changes to the laws and regulations below it. Even in East Java still using the legal basis in Article 3 of East Java Governor Decree Number 77 of 1995 concerning the Establishment and Development of East Java Province HIPPA stated that HIPPA (Association of Water User Farmers) as a social organization that aims to improve the welfare of its members by paying attention to traditional water management which already exists.

Factually, local institutions are still alive and developing up to now, but state law does not fully recognize the existence of local institutions in Lumajang and Sukodono Districts. The recognition model as

weak legal pluralism states that there is legal pluralism. State law is still seen as superior (Huma, 2005). Ironically, Lumajang Regency Regulation Number 10 of 1997 jo. The Lumajang Regency Regulation No. 10/1999 adopted the East Java Governor Decree No. 77/1995 in which the formation of the HIPPA had to be formalized as a non-personal social organization, consequently the irrigation technical section as a non-formal institution was made merely as a member (Nugroho, 2018). State law and local wisdom interact in social locale alike giving birth to integration, incorporation, conflict, and avoidance (Saptomo, 2010). The choice of water user farmers in both Sukodono and Lumajang Districts chose the technical part of irrigation in resolving conflicts between farmers rather than the HIPPA office-holders.

On the other hand the performance slices of HIPPA and the Farmers Group support each other for food sovereignty in supporting the national food security law politics towards food sovereignty. Its basic principles are regulated in Article 27 paragraph (2), Article 28 A paragraph (1), Article 33 of the 1945 Constitution of the Republic of Indonesia in its realization is more oriented to the fulfillment and dependence on the needs and mechanisms of a very liberal and capitalistic global market and denies the existence of the system local wisdom owned by indigenous people.

Lumajang is currently one of the national food barns (Walad, 2020). The Agricultural and Sustainable Food Land (LP2B) owned reaches 3,232 hectares with a yield of 6.11 tons / ha. These results must be consistent with Law No. 41 of 2009 concerning Protection of Sustainable Food Agricultural Land (PLP2B) and Perda No. 7 of 2018 concerning Protection of Sustainable Food Agriculture Land for Lumajang Regency. Food sovereignty is realized if there is good communication and cooperation from HIPPA as the water provider and Farmer Groups related to agricultural problems. The ineffectiveness of HIPPA results in uncontrolled land conversion which becomes a threat to the achievement of food security and sovereignty in the future. An active role is needed among village government officials, sub-district heads, including relevant local government organizations (Irrigation and Agriculture Services), the National Land Agency, Farmer Groups and HIPPA (Water User Farmers' Association). From the description that has been delivered, the problems faced are: 1) why there is a degradation of the role of the local government in the regulation of water resources management policies based on local wisdom for sustainable food sovereignty in Lumajang Regency; 2) what efforts the local government should play in the regulation of water resources management policies based on local wisdom for sustainable food sovereignty in Lumajang Regency.

II. RESEARCH METHODS

This research was conducted on water user farmer communities in Lumajang Regency, particularly Sukodono and Lumajang Districts. This study uses qualitative - constructivistic research with a socio legal anthropology approach. Search and interpretation of data follows the flow of hermeneutic and phenomenological research used to collect data, reduce, and verify and present data. This study uses primary data obtained from the results of in-depth interviews, life history, and observations involved as well as with selected key informants and officials of the Irrigation Service, Agriculture and HIPPA Offices as well as the Farmer Groups of Lumajang and Sukodono Districts. Secondary data was obtained from the literature search results and documents consisting of various laws and regulations related to the research problems studied, various documents in the form of Sukodono and Lumajang Subdistrict Profile, regulations relating to irrigation management and food security. Data analysis in this research, secondary data was carried out using content analysis using the interpretation of legal hermeneutics. Meanwhile, primary data were analyzed using qualitative descriptive analysis.

III. RESULTS AND DISCUSSION

Degradation of the Government's Role in Setting Local Wisdom-Based Water Resources Management Policies for Food Sovereignty in Lumajang Regency

Water resources management paradigm with the enactment of Law No. 17 of 2019 is to improve the previous paradigm that is not by the expectations of the people. That was as a correction to the existence of Law No. 7 of 2004 before, although actually in the implementing regulations namely PP. 77 of 2001, the existence of traditional irrigation management institutions such as subak and irrigation technical sections (Nugroho, 2020). Become more recognized because it is stated explicitly in regulations. The existence of Law No. 17 of 2019 gave the authority of resource management in the hope that it would be realized in a system of resource management that was more effective and efficient, so the concept of cooperative management, water management was carried out jointly between local communities and the government (Nugroho, 2020). The legal paradigm of irrigation management in Indonesia had indeed been implemented, but had abandoned morality, meaning that the law had been divorced from morality. The current law is more in favor of the authorities, businessmen, and politicians, and increasingly marginalizes the people (Sudjito, 2011). Law No.17 of 2019 which is very capitalistic in the form of water privatization, in line with pressure from the World Bank. Thus this law is still based on market-based paradigm (MBRM or Market Based Resources Management) contrary to the Decision of the Constitutional Court Number 85 / PUU-XI / 2013.

The law has an indirect role in social change, providing an ideological framework for the desired changes in social change, ie guarantees that people will be treated openly (Sztompka, 1978). The substance of the law is the essence of the content contained in the legislation (Friedman and Ali, 2002). The legal building model recognizes pluralism through the role of the central and regional government in irrigation management by the mandate of Article 33 paragraph (3) of the 1945 Constitution aimed at providing justice in obtaining the right to water and all of its designation. Legal structure, legal substance and legal culture, should be built on the foundation of the values of Pancasila.

The relationship of HIPPA in irrigation management is closely related to the existence of a law governing villages. Article 1 of Law No. 6 of 2014 that villages have the authority to regulate and manage government affairs, the interests of local communities based on community initiatives, original rights, and / or traditional rights that are recognized and respected in the system of government of the Unitary Republic of Indonesia. But from the substance of irrigation arrangements through Law No. 17 of 2019, the legal paradigm of resource management returns to uniformity, which is carried out by the Government up to the local government and village government. The local wisdom is structurally that is the structural irrigation technical part is only taking care of irrigation by carrying out HIPPA management orders with the structure of chair, deputy chairman, secretary, treasurers, technical implementers and tertiary bloc chairmen are a form of co-optation of state law to local wisdom.

This was confirmed in the East Java Province Regulation No. 6 of 2003, that the Governor of East Java determined the formation of the Water User Farmers' Association (P3A) under the name HIPPA (Water User Farmers Association). HIPPA as an organization that is organizationally, technically and financially maintains an irrigation network. Governor Decree No. 77 of 1995 concerning the Formation and Development of East Java Province HIPPA, it was stated that HIPPA was formed by and for water-using farmers and there was an obligation to have a HIPPA AD / ART then followed by Lumajang District Regulation No. 10 of 1997, through HIPPA.

Huda (2015) said that changes in the structure of the irrigation technical section in the village administration structure also said to occur in all villages. Sukodono District and Lumajang District) must become a communityUniformity is applied to a single water user farmer association (P3A) which is then based on Regent Decree No. 20 of 1981 concerning the Water User Farmers Association (HIPPA) in Lumajang Regency, which must be called the Water User Farmers Association (HIPPA).If in a society there are signs of instability, there will be a stage known as turbulence, that is "an intermediate state" or a boundary between chaotic and regular conditions. The results of the research in LumajangSubdistrict showed that the one who carried out the irrigation work was collaboration between the District Irrigation Office and the irrigation technical section even though it was in the HIPPA container, but because of its existence the HIPPA had never been in a meeting with other water user farmers so the path taken was still running according to its function as irrigation technical part.

In contrast to the District Sukodono make a new management. Lyotard (1990) suggests that each legal game, each has its play and language. The purity, autonomy and oneness of each legal game must always be upheld to avoid interventions by other more dominant games, which can lead to injustice. The legal game has been intervened by a political game that is by replacing the head of the HIPPA by the village head unilaterally (Mahfud, 1998).The degradation of the role of local government is evident from the aspect of regulations and aspects of the role. In the regulatory aspect, state law is used by the HIPPA in Ditotrunan Village, Jogotrunan, Blukon Village, Klanting Village, DawuhanLor Village and vertically oriented Kutorenon Village, namely officials, seniors or superiors who tend to dominate irrigation water management. As a result, local wisdom that has been passed down for generations is carried out by the technical section of irrigation and the guards are ignored about the management of HIPPA in general. In the aspect of role, what is being carried out by HIPPA in relations with the community in the interaction of state law and local wisdom appears to be the role of HIPPA and the irrigation engineering section. The Technical Section in LumajangSubdistrict and SukodonoSubdistrict managed irrigation in Jogotrunan, Blukon, Klanting, DawuhanLor and Kutorenonvillages shows disputes due to the inability of HIPPA in carrying out functions at the level of the pembanyon and irrigation engineering section.

Provisions in Article 39 paragraph (2) of the Lumajang Regency Regulation No. 10 of 1999 requires HIPPA to appoint one or more irrigation water management officers who in carrying out their duties must follow the instructions from the Head of Service in their duties to pay attention to the management of existing traditional water. Ironically in Perda No. 10 of 1997 concerning the Establishment of HIPPA also did not mention the existence of ulu-ulu as traditional water management. Whereas the irrigation engineering section compared to HIPPA in detail understands what is best and can be done by the community so that the law applies philosophically and sociologically, not merely applies formally.As a result, Regional Regulations in general in East Java and specifically for example Lumajang Regency through Regional Regulation Number 10 of 1997 concerning Formation and Development of HIPPA in Lumajang Regency adopted the provisions in by law of East Java Province Number 6 of 2003 and Decree of East Java Governor Number 77 1995, which requires the

formation of HIPPA must meet the following requirements: 1) formed by and for water-use farmers (owners, tenants, fishpond pond ponders or ponds or business entities that receive irrigation services, 2) have a Statute and Bylaws (AD / ART), 3) legal entity status, and 4) determined by Decree of the Regent. The existence of the Water User Farmer Association (HIPPA) of Ditotrunan Village, Jogotrunan Village, Boreng Village, Klanting Village, DawuhanLor Village and Kutorenon Village, in general, the members are in a simple community group because both the irrigation and pembanyon technical part are the trustees of the land owner/tenant with the level of cooperativeness is quite high.

Water-using peasant communities are essentially groups of people who prioritize togetherness, meaning a form of shared life in which the members are bound by a pure and natural and eternal inner relationship with cooperation as a basic joint in working based on the relationship of love and a sense of inner unity. it was predicated (Wignjosoebroto, 2002). The unique thing that can be stated here is that the form of the Water User Farmers Association (HIPPA) which was built based on social capital turned out to have dimensions of the type of community embodiment of *patembayan* because it was bound by provisions to be a legal entity while the irrigation engineering and *gemeinschaft* embodiment construction part. The pattern of relations between the management and members is built based on mutual relations based on mutual agreement as outlined in the Statutes / By-Laws. The synthesis of the HIPPA model between the *gemeinschaft* (traditional-agrarian) and the *Gesellschaft* (modern nuanced) societies is an indirect consequence of the way society is in transitional-middle society. The elements of affection, continuity, and mutual need from the irrigation, pembanyon, irrigation and watergate officers are realized because they can partner with the government and local wisdom that has been formed for generations as a culture of irrigation management. Even so, the resistance through the absence of cooperation between the technical department and the management of HIPPA in Ditotrunan and JogotrunanKelurahan, Boreng Village, Klanting Village, DawuhanLor Village and Kutorenon Village indicated that there was disharmony in irrigation water management.

Recognition and respect for legal pluralism is still limited to "weak pluralism", the national irrigation management law is seen as superior (Ichromi, 2001). The traditional local irrigation management law in Jogotrunan Village, Boreng Village, Klanting Village, DawuhanLor Village and Kutorenon Village are under the national irrigation management hierarchy. Thus state legal intervention in regulating irrigation water management institutions through HIPPA makes it less effective when dealing with local wisdom. As a result the distribution of water becomes the full responsibility of the irrigation engineering section. The politics of national food security law whose basic principles are regulated in Article 27 paragraph (2), Article 28 A paragraph (1) and Article 33 of the 1945 Constitution of the Republic of Indonesia in its realization is more oriented to the fulfillment and depends on the needs and mechanisms of a very liberal global market and deny the existence of a local wisdom system owned by indigenous peoples (Safa'at, 2013).

National food needs continue to increase in line with population growth, thus requiring agricultural production to be increased. The paradigm of agricultural development in the context of national food sovereignty needs to be emphasized more environmentally friendly sustainable agriculture (Widayanti, 2012). Law Number 41 of 2009 concerning Protection of Sustainable Agricultural Land to protect agricultural land in the context of sustaining national food security, but encountered obstacles including government policies related to the preparation of Regional Spatial Plans (RTRW) and the low guidance and supervision of Sustainable Agricultural and Food Land (LP2B). Whereas Article 16 paragraph (1), Article 17 and Article 19 paragraph (1) of Law no. 41 of 2009 emphasized that the determination of the area of Sustainable Food Agriculture (P2B) is part of the determination of the spatial plan for rural areas in the regency.

The relationship between HIPPA and the Farmers Group occurs because these two community group organizations are both engaged in agriculture. Farmer groups can realize their goals in increasing productivity and yield quality and bargaining position of farmers if the availability of sufficient water. The main problems faced by the agricultural sector are: a) there is a mutation from productive agricultural land to non-agricultural land, b) the high level of water loss in the village irrigation channel as a result of the lack of HIPPA contributions, c) Poor functioning of the HIPPA, e) Lack of coordination from related elements such as KUD, PPL, District, Village and Irrigation Committee (Indonesian Supreme Audit Board, 2014). There are 15 farmer groups in LumajangSubdistrict divided into 6 villages (Lumajang Regency Irrigation Network, 2018). The pattern used by the farmer groups by equalizing the number of HIPPA irrigation techniques based on the number of farmer groups and the head of the farmer group is considered effective in irrigation management, although both are different from the agency that oversees it (the farmer group becomes the authority of the Agriculture Service, while HIPPA becomes the authority of the Irrigation Service). Developing this concept with a number of considerations in the construction of the legal system within these three types of society also has significant differences. Whereas farmer groups in Sukodono District are 27 farmer groups consisting of 10 villages.

It is known that the area of paddy land as large as 1,713 hectares compared to the non-paddy land area of 208.50 hectares means that even though in Sukodono District the paddy land area is broader than the non-paddy land area. Soil conditions from SukodonoSubdistrict villages namely Klanting, Kebonagung, Karang Sari,

DawuhanLor, BesokSelok, Sumberrejo, Uranggantung, and SelokGondang villages indicate that there are still many fertile paddy soils because they are drained in Bulk Menjangan and in Selokkambang which are the largest springs in Lumajang used. primary irrigation for villages that are under the authority of the Irrigation, Bina Marga, and Public Housing Subdistricts of Sukodono, Padang, and Gucialit. In its performance, HIPPA, which is played by the ulu-ulu, shoulder to shoulder with the Farmers Group in order to create sustainable food sovereignty.

On the other hand, Lumajang as one of the national food barns, with Sustainable Agricultural and Food Land (LP2B) must still be consistent. The occurrence of uncontrolled land conversion becomes a threat to the achievement of food security and sovereignty in the future (conveyed by the Head of Bappeda in Lumajang Regency on August 12, 2020, during the Raperda Public Discussion on Housing and Settlement Areas in the LumajangGadjahmada Hotel). The success of establishing Local Regulation No. 7 of 2018 concerning the Protection of Sustainable Food Agricultural Land (LP2B) is intended for an area of 3,232 hectares.

The problem of land that has been included in LP2B can no longer be converted into functions, let alone become housing, buildings, and others. There has been 199 ha of land proposed for conversion but the Lumajang Regency Government is acknowledging that this will damage irrigation water management which has caused HIPPA and Farmer Groups to experience water scarcity. The main thing is for the construction of new housing and land plots that are increasingly rife.

Local Government's Efforts in Managing Water Resources Management Policies for Food Sovereignty in Lumajang Regency

By observing the form of participation of peasant communities governed by state law, norm conflicts occur through the Water User Farmers Association (P3A) institution that accommodates local wisdom as a form of false recognition because state recognition requires local institutions to be incorporated. The affair between the state and the capital owner who marginalizes the people. Efforts that must be made so that the performance of HIPPA and Farmers' Groups run optimally to support food sovereignty is that local governments must make regulations that favor the recognition of legal pluralism in the structure of HIPPA. Ignoring legal pluralism not only disrupts certainty, but justice based on local values is also disturbed. The existence of Law No.17 Year 2019 must be a guideline for changes in the legislation below. Regional policies relating to the By law of East Java Province No. 6 of 2003 and District Regulation No. 10 of 1999 relating to irrigation management must be replaced with recognition of legal pluralism by means of ulu-ulu not only as a technical implementer but also can be the chair of HIPPA. Legal pluralism as a new optical concept of irrigation management. Legal reform in the form of regional policies in the Lumajang regency, Pancasila must still be a framework of thought and sources of value that are clearly in accordance with the community of water-using farmers, based on the spirit of mutual cooperation.

In addition, strengthening the authority of HIPPA and Farmers Groups and cross-sectoral coordination related to land-use change. The authority of HIPPA in the joint irrigation management with the Farmer Groups in mutual cooperation is carried out by the irrigation engineering section in Ditotrunan, Jogotrunan, Blukon, Klanting, DawuhanLor and Klanting villages in supporting sustainable sovereignty. The management of agriculture in Lumajang to date is still problematic including First, the conversion of agricultural land into non-agricultural land. The data shows that agricultural land narrowing is increasingly widespread except on land that is used for farming in the fields. The majority of land-use change in the agricultural sector is used for the purpose of clearing residential land due to higher population growth. One reason for the decrease in agricultural land is none other. For this reason, local governments should strictly prohibit the conversion of agricultural land into non-agricultural land. Second, the welfare factor of farmers, agricultural land is sold by their owners with a reason to meet the necessities of life. For this reason, HIPPA and the Farmers' Group must be given the authority to prohibit their members from selling productive land that is used for housing, such as the authority of Subak to ban it from subak members in Bali. Third, the process of transferring land rights processed at the Office of the National Land Agency must be tightened so that the paddy land functions as a paddy field. Fourth, the Office of Public Works relating to Building Permits (IMB) is tightened considering that in 2019 there have been 199 hectares of productive land proposed for land use, especially housing and land plots. Principle compliance with Regional Regulation No. 7 of 2018, the Lumajang regency's sustainable food agricultural land can no longer be converted.

IV. CONCLUSION

Degradation of the role of local government in regulating water resources management policies is due to the existence of Law no. 17 of 2019 (including the previous law) which recognizes and respects the existence of the local wisdom of the irrigation management institution in its implementation at the local regulation level co-opts its existence by placing weak recognition of legal pluralism. Regional Regulation No. 10 of 1999 to date has not been amended to be optimal to adjust the legal character of the responsive reform period. Whereas the

social reality to achieve food sovereignty must begin with good irrigation management through the role of ulu-ulu as non-formal institutions rather than having to be formal in the form of HIPPA. Strong local institutions and farmer groups support each other in irrigation management to create sustainable food sovereignty. By law No. 7 of 2018 relating to food for the protection of agricultural land for sustainable food specifically irrigated paddy land with only the stipulation of 3,232 hectares Ha (or around less than 10% of the total area of 33,547 Ha of agricultural land in Lumajang Regency) is very less, moreover, there is evidence every year nearly 199 ha Productive land is proposed for land conversion. The weak role of the local government in making regulations that support sustainable food sovereignty because it has not been well coordinated inter-sectoral regulation and coordination in this case the Water Resources Office, Agriculture Office, Public Works Office, HIPPA, Farmer Groups with special arrangements relating to their respective authorities so as not to land conversion occurs.

The effort that must be played by the Lumajang regency government as one part of the food beetle by making regional regulations in favor of the recognition of legal pluralism in the structure of the HIPPA by placing the irrigation engineering section on equal footing with other HIPPA members. Strengthen the authority of HIPPA and Farmers' Groups in maintaining sustainable food sovereignty by giving the role of being the initial informant for the process of land conversion, which then becomes an input for local government organizations (Public Works Agency, Land Agency, village government, and sub-district government) related to land conversion so water management from HIPPA and cropping patterns of the Farmers Group are well maintained.

The Lumajang Regency Government must make a water resources management policy that is in line with Law No. 17 of 2019 (including the previous law) so that there is no legal ambiguity by recognizing and respecting the existence of the local wisdom of the irrigation management institution by revoking Regional Regulation No. 10 of 1999 in the form of Regional Regulations and Regents Regents with cooperative management, water management is carried out jointly between local communities and the government. The new irrigation management regulation policy should: place efforts that must be portrayed by the Lumajang district government as one part of food spoil by making regional regulations that favor the recognition of legal pluralism in the structure of HIPPA by placing efforts that should be played by the Lumajang district government as one part beetle food by making regional regulations that favor the recognition of legal pluralism in the structure of the HIPPA by placing the irrigation engineering section on the same level as other HIPPA members. Strengthen the authority of HIPPA and Farmers' Groups in maintaining sustainable food sovereignty by giving the role of being the initial informant for the process of land conversion, which then becomes an input for local government organizations (Public Works Agency, Land Agency, village government, and sub-district government) related to land conversion so the water management of the HIPPA and the cropping patterns of the Farmers are well maintained and have the same position as other HIPPA members. Strengthen the authority of the HIPPA and the Farmers Group in maintaining sustainable food sovereignty by giving the role of being the initial informant for the process of land conversion, which then keeps it well maintained and must be on a par with other HIPPA members. The new Regional Regulation will also have to regulate the functions of HIPPA and the Farmers' Group concerning their functions for sustainable food sovereignty such as input to the regional government regarding the mechanism of a land transfer function in certain articles.

Efforts must be played by the Lumajang district government by making regional regulations that strengthen the authority of the HIPPA and the Farmers' Group in maintaining sustainable food sovereignty with clear authority supporting the program. Besides, local governments must provide space so that HIPPA and Farmer Groups can coordinate and evaluate work together with local government organizations (Public Works Agency, Land Agency, village government, and sub-district government) related to optimizing roles in supporting food sovereignty and input to land-use change. So that water management from HIPPA and cropping patterns and agricultural production results are more leverage.

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