

THE SOVEREIGNTY, INDEPENDENCE AND FOOD SECURITY POST THE OMNIBUS LAW ON JOB CREATION

¹Suryani, S.H., M.Hum. ²Ir. Ari Handriatni, M.P.

¹Bachelor of Laws, Pekalongan University

²Bachelor of Agrotechnology, Pekalongan University

Abstract

Food is the most important basic human need guaranteed in the 1945 Constitution of the Republic of Indonesia. The existence of the law on Job Creation will allegedly move Indonesia away from the goals of food sovereignty, independence and national food security. This research examines further the extent of legislation in the field of food and agriculture in order to realize food sovereignty, independence and food security as state goals. The research method used in this research is normative juridical research, namely research intended to study the application of rules or norms in positive law. The research approach used is a statutory approach. The results of this research are: 1) Food sovereignty, independence and food security as the embodiment of the constitutional mandate to achieve state goals, namely the welfare and prosperity of the people; 2) The existence of the Job Creation Law which encourages economic growth through easy investment policies to encourage the creation of jobs, has degraded food sovereignty and independence and placed greater emphasis on aspects of food security through food imports; 3) Control over the conversion of sustainable agricultural land and spatial planning policies as mandated by law is distorted by the presidential decree on national strategic projects which are hierarchically under the law.

Keywords: Omnibus Law on Job Creation, Food Sovereignty, Food Independence, Food Security

Abstrak

Pangan merupakan kebutuhan dasar manusia yang paling utama yang dijamin di dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Keberadaan undang-undang tentang Cipta Kerja disinyalir akan menjauhkan Indonesia dari tujuan kedaulatan pangan, kemandirian dan ketahanan pangan nasional. Penelitian ini menelisik lebih jauh tentang sejauh mana perundang-undangan di bidang pangan dan pertanian dalam rangka mewujudkan kedaulatan pangan, kemandirian, dan ketahanan pangan sebagai tujuan negara. Adapun metode penelitian yang digunakan dalam penelitian ini adalah penelitian yuridis normatif yakni penelitian yang dimaksudkan untuk melakukan kajian terhadap penerapan kaidah-kaidah atau norma-norma dalam hukum positif. Pendekatan penelitian yang digunakan adalah pendekatan perundang-undangan (statute approach). Hasil penelitian ini, yaitu : 1) Kedaulatan pangan, kemandirian dan Ketahanan pangan sebagai perwujudan amanat konstitusi guna mencapai tujuan negara yaitu kesejahteraan dan kemakmuran rakyat; 2) Keberadaan Undang-Undang Cipta Kerja yang mendorong pertumbuhan ekonomi melalui kebijakan kemudahan investasi untuk mendorong terciptanya lapangan kerja, telah mendegradasi kedaulatan dan kemandirian pangan dan lebih menekankan pada aspek ketahanan pangan melalui impor pangan; 3) Pengendalian alih fungsi lahan pertanian berkelanjutan dan kebijakan tata ruang sebagai amanat undang-undang terdistorsi oleh Keputusan presiden tentang proyek strategis nasional yang secara hirarkhi berada di bawah undang-undang.

Kata kunci : UU Cipta Kerja, Kedaulatan Pangan, Kemandirian Pangan, Ketahanan Pangan

A. Introduction

Food is the most important basic human need guaranteed in the 1945 Constitution of the Republic of Indonesia as the basis for creating the quality of human resources. Because the fulfillment of food is part of human rights, the state is obliged to realize the availability, affordability and fulfillment of sufficient, safe, high quality and nutritionally balanced food consumption evenly throughout the territory of Indonesia.¹

¹ For further information, see the Precautions for Considering Law No. 18 of 2012 concerning Food

Thus, the fulfilling food is a constitutional obligation of a country, including Indonesia, as stated in the constitution, the opening of the 1945 Constitution, in the fourth paragraph.

“Subsequent thereto, to form an Indonesian State Government that protects the entire Indonesian nation and all of Indonesia's blood and to promote public welfare, to educate the life of the nation, and to participate in implementing world order based on freedom, perpetual peace and social justice.”

Food has a very important meaning and role in the life of a nation. Unavailability of food can create economic instability and a decline in human health levels and can also cause social and political unrest if food security is disrupted. This was also emphasized by President Soekarno (Bung Karno)² “The food problem is a matter of life and death for the nation.” The minutes of the speech were delivered in 1952, seven years after the proclamation of independence, when the population was still around 82.9 million people. This treatise then becomes increasingly relevant to today's and future conditions, when the population is projected to increase by 282 million people, in 2025.³

Based on the constitutional mandate as described above, the state or government has established a policy of food sovereignty, food independence, and food security as a follow-up to the intended constitutional mandate in the form of statutory regulations. These laws include Law Number 18 of 2012 concerning Food and Law Number 41 of 2009 concerning The Protection of Sustainable Food Agricultural Land). The two laws mentioned above, in substance, especially norms relating to national food policy, and The Protection of Sustainable Food Agricultural Land) as pillars of national food development.

These two laws are two inseparable sides of a coin, because being able to realize food sovereignty, food independence, and food security is not possible if the limited availability of food agricultural land is able to produce food production that is sufficient for the needs of the population.

The SDGs agenda has included the right to food as a separate goal, namely Goal 2: “Eradicating hunger, achieving food security and improving nutrition, and promoting sustainable agriculture”. When a country is unable to meet the food needs of its people, of course it will be difficult to develop other sectors, otherwise it will be called a "failed

² When laying the first stone for the campus building of the Faculty of Agriculture, University of Indonesia (now the Bogor Agricultural Institute), in 1952

³ Central Statistics Agency, "Indonesian Population Projections 2015-2045: Results of the Inter-Census Population Survey", (Jakarta: BPS, 2018), p. 2.

state".⁴ The collapse of food sovereignty, food independence and food security, starting with people who feel more honored to buy and consume food from other countries compared to food produced by farmers from their own nation, this can be the beginning of food imperialism.

The existence of laws regarding Job Creation (UU Number 11 of 2020 in conjunction with Perpu Number 31 of 2022 and finally Law Number 6 of 2023 hereinafter referred to as the Omnibus Law on Job Creation) especially those that regulate the Food cluster, which amends several provisions of Law Number 18 of 2012 Concerning Food and Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land, it is alleged that this will move Indonesia away from the goals of food sovereignty, food independence and national food security. This weakening is related, among other things, to the provisions of the food import policy which are considered to be more relaxed than the provisions of the previous regulations and the potential for increased conversion of agricultural land due to the introduction of a new paradigm, namely "National Strategic Projects".⁵

Based on the background above, the author is interested in conducting a study that will answer the question "to what extent is legislation in the food and agriculture sector in order to realize food sovereignty, food independence, and food security after the Omnibus law on Job Creation as a state goal?"

B. Research methods

The research method used in this research is normative juridical research, namely research intended to study the application of rules or norms in positive law. The research approach used is a statute approach. The legislative approach is carried out by reviewing laws that are relevant to the topic being researched. The nature of the research used is analytical descriptive, namely research that describes the events being researched and

⁴ According to Daron Acemaglu and James A. Robinson, a country's prosperity and poverty can be caused by complex variables, such as cultural factors, geographical location, quality of education and health, etc. However, countries that are able to develop political and economic institutions that are inclusive, democratic, have strong rule of law and are not corrupt tend to become prosperous countries, and vice versa. See Daron Acemaglu and James A. Robinson, *Mengapa Gagal: Awal Mula Kekuasaan, Kemakmuran, dan Kemiskinan*, (Jakarta: Elex Media Computindo, 2017), p. xvi.

⁵ National Strategic Projects are projects implemented by the Government, Regional Government, and/or business entities that have a strategic nature to increase growth and equitable development in order to improve community welfare and regional development. Read article 1 point 1 of the Presidential Regulation of the Republic of Indonesia number 3 of 2016 concerning the acceleration of the implementation of national strategic projects in conjunction with Presidential Decree No. 56 of 2018 in conjunction with Presidential Decree No. 109 of 2020.

carries out the analysis based on facts in the form of secondary data obtained from primary legal materials and secondary legal materials. Data collection techniques are carried out by conducting literature studies related to the topic being researched. The data analysis used is qualitative descriptive.

C. Discussion

1. The Concept of Food Sovereignty, Food Independence, and Food Security

Food is the most important basic human need and its fulfillment is part of human rights guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component for creating the quality of human resources. Because the fulfillment of food is part of human rights, the state is obliged to realize the availability, affordability and fulfillment of sufficient, safe, high quality and nutritionally balanced food consumption evenly throughout the territory of Indonesia.⁶

The government as the holder of sovereignty has the authority to determine all policies to ensure that people's food needs can be achieved. This is also a form of implementation of one of the state's goals stated in the constitution, namely advancing general welfare.⁷ The existence of this goal in the state constitution implies that Indonesia is a country that uses the concept of a welfare state.

As a welfare state, it is implied in the preamble to paragraph 4 of the 1945 Constitution of the Republic of Indonesia which is a noble agreement (*modus vivendi*) of the founders of the Indonesian nation that one of the ideals of Indonesian state law (*rechtside*) is to promote social welfare.⁸ Furthermore, to concretize this, article 33 (3) of the 1945 NDRI Law states that all natural resources within the territory of the Indonesian state belong to the Indonesian state and are used as much as possible for the prosperity of the Indonesian people. This is what proves that the Indonesian state adheres to the concept of a welfare state because all the potential natural resources of the Indonesian state are directed at improving the welfare of the Indonesian people.

The Law on Food is the legal basis for Food Administration which includes Food planning, Food Availability, Food Affordability, Food consumption and Nutrition, Food Safety, Food labels and advertising, supervision, Food information systems, Food research and development, Food institutions, role of society, and investigations.

⁶ For further information, see the Precautions for Considering the Food Law.

⁷ See 4th paragraph of the Preamble to the 1945 Constitution 10 See Law Number 18 of 2012 concerning Food, Article 1 Number 4

⁸ Moh Mahfud MD, *Perdebatan Hukum Tata Negara*, LP3ES, Jakarta, 2007, p. 3.

In relation to legal sovereignty in the food sector in the global context, Indonesia as a member of the UN has a strong foundation in the context of the international legal regime, namely the recognition of the rights possessed by every country and nation in terms of managing natural resources in the form of full and complete sovereignty. This sovereignty is explicitly recognized in several international documents in the form of United Nations (UN) General Assembly Resolutions regarding permanent control over natural resource wealth to be used and exploited freely by the country concerned. One of them is contained in UN General Assembly Resolution Number 1803 of 1962 which confirms that a nation's national natural resources are owned on the basis of permanent sovereignty over its natural resource wealth.⁹

Based on this sovereignty, the legislation on food includes: a) Law Number 18 of 2012 concerning Food, as an embodiment of three of the eight principles in food law, these three principles are: food sovereignty, independence and food security; Law Number 41 of 2009 concerning The Protection of Sustainable Agricultural Land, this law is an area of agricultural land that is determined to be protected and developed consistently in order to produce staple food for national food independence, resilience and sovereignty.

As a country with a large population and on the other hand, it has diverse natural resources and food sources, Indonesia is able to fulfill its food needs in a sovereign and independent manner, therefore strategic policies are needed in order to meet food needs to achieve people's welfare as mandated by the constitution. Food sovereignty is the upstream food policy which increasingly gives rise to food independence and Food Security as the downstream food policy. In this way, these three principles have an inseparable relationship, because to achieve food security, the prerequisites for food independence and sovereignty are required, and the availability of sufficient agricultural land is required for the cultivation of the necessary food crops.

This functional relationship between Sovereignty, Independence and Food Security is reflected in the definition or understanding of the three pillars in question, namely as follows:

⁹ UN General Assembly Resolution Number 1803 of 1962 concerning *Permanent Sovereignty Over Natural Resources*

5 Antony Anghie, 2007, *Imperialism, Sovereignty and the Making of International Law*, Cambridge: Cambridge University Press, p. 211.

Table 1. Comparison between Sovereignty, Independence and Food Security ¹⁰

Food Sovereignty	Food Independence	Food security
a. the rights of states and nations to independently determine Food policies; b. Community rights determine the food system according to local potential	a. The ability of the state and nation to produce food b. Utilize natural resources, human, social, economic and local wisdom resources in a dignified manner	a. the conditions for fulfilling food for the state and individuals, b. the availability of sufficient food, both in quantity and quality, safe, diverse, nutritious, equitable and affordable and not in conflict with the religion, beliefs and culture of the community, to be able to live a healthy, active, and productive life in a sustainable manner.

Based on the table above it can be explained as follows:

- a. Food sovereignty emphasizes legal regulations related to the process of forming and food systems independently without any intervention from any country, or in other words, Indonesia has legal sovereignty.
- b. Food independence emphasizes aspects of the ability to produce food (downstream and upstream) based on natural resources, humans and local wisdom;
- c. Food security is achieved if pillars one and two are implemented well then food security will be achieved both in quality and quantity.

Thus, Food Sovereignty, Independence and Food Security, these three have an inseparable relationship, this functional relationship can be explained as follows:

- a. Food sovereignty is the main pre-requisite policy for achieving food independence which will ultimately achieve food security;
- b. Food independence will be achieved if support for food sovereignty policies supports the capabilities and competencies of human resources and support for infrastructure, especially in utilizing natural resources to grow crops for food needs, which will ultimately achieve food security.

¹⁰ Article 1 numbers (2,3 and 4 of Law no. 18 of 2012 concerning Food.

- c. Food security can be achieved if food sovereignty is based on Pancasila values and oriented towards people's welfare and justice, supported by competent and skilled human resources in the field of agricultural sector management in accordance with the potential and carrying capacity of natural resources;

Based on the explanation above, to achieve food independence and security the main requirement is food sovereignty which takes the form of an established legal policy. If the legal policy has certainty, usefulness and justice as its core then efforts to achieve food independence are based on human resources who are competent and skilled in managing natural resources will be able to produce agricultural food cultivation with optimal and high-quality harvests so that it can meet food needs both in terms of quantity and quality, so food security can be achieved.

2. Food Imports and Land Conversion Degrade Food Security

Indonesia is a country with a relatively high population growth rate, and there is a threat of a global food crisis. The country must take concrete steps to meet food demand. This is related to the state's philosophy of food and food independence with the ability to manage natural resources and human resources to produce food productivity that meets the needs of the people. It plays a role in meeting the needs of quality food and meeting its quantity.¹¹

Indonesia's efforts to fulfill food security as an upstream policy of food sovereignty and food independence have been promulgated by several laws, among others:

- a. Law Number 17 of 2007 concerning the National Long Term Development Plan (Indonesian abbreviation is RPJPN) for 2005-2025 and
- b. Law Number 18 of 2012 concerning Food,
- c. Law Number 41 of 2009 concerning Sustainable Agricultural Land Protection;
- d. Presidential Regulation Number 18 of 2020 concerning the National Medium Term Development Plan (Indonesian abbreviation is RPJMN) for 2020-2024,
- e. Presidential Regulation (Perpres) SDGs Number 59 of 2017 concerning Implementation of the Achievement of Sustainable Development Goals (Perpres SDGs);

¹¹ At the global level, the SDGs Agenda has included the right to food as a separate goal, namely Goal 2: "Eradicate hunger, achieve food security and improved nutrition, and promote sustainable agriculture".

The laws and regulations mentioned above are a consequence of the rule of law as described by Aristotle,¹² is a state that is based on law (standing above the law) and guarantees justice to its citizens. Good laws and regulations are regulations that reflect justice. "This thinking points to two important things, namely, a state based on law and a state that guarantees justice. Therefore, good laws and regulations are regulations that are able to fulfill a sense of justice and guarantee legal certainty and meet the expectations and demands of society¹³. On the other hand, according to Hans Kelsen, the law applies without waiting for acceptance from the people because it is imperative¹⁴

The emergence of the Omnibus Law on Job Creation, with the spirit of economic growth through: a. improving the investment ecosystem and business activities; b. increasing worker protection and welfare; c. convenience, empowerment and protection of The Cooperatives and MSMEs; and d. increasing government investment and accelerating national strategic projects.¹⁵

Based on this spirit, the state has made changes to sector laws that have not supported the realization of synchronization in ensuring the acceleration of job creation, so that breakthroughs and legal certainty are needed to be able to resolve various problems in several laws (especially in this study related to the Agricultural Law and Food) into one law comprehensively using the omnibus method.

Of the various laws that were amended, including the food law cluster, namely Law Number 18 of 2012 concerning Food, and Law Number 41 of 2009 concerning The Protection of sustainable agricultural land. The changes to the two laws mentioned above show that there has been incoherence between food sovereignty initiated by the government and legislative regulations in the agricultural sector. This change also has the potential to have an impact on the welfare of farmers.¹⁶ The impact of the omnibus law on job creation in this study focuses on aspects of regulating legal norms related to food imports and protecting sustainable agricultural land.

¹² Ibid 24

¹³ Yohanes Usfunan, 2004. *Dalam Pidato Pengukuhan Jabatan Guru Besar tetap dalam bidang hukum tata Negara*, Udayana University law faculty, p.10

¹⁴ Anwar, 2008, *Teori dan Hukum Konstitusi*, Cetakan I, In-Trans Publishing, Malang, p. 40

¹⁵ Read the considerations and general explanation of Law No. 11 of 2020 concerning job creation.

¹⁶ Demson Tiopan, Kevin Alim Rabbanie-*quo vadis peraturan perundang-undangan di bidang pertanian: tercapainya kedaulatan pangan sebagai negara agraris* Journal Komunikasi Yustisia Ganesha University of Education on Legal Studies Program (Volume 5 Number 1 Maret 2022)

Based on studies on food imports and sustainable land conversion, it can be described as follows:

a. Food Imports

In essence, a country's resilience means discussing how to meet domestic food needs. More than that, food sovereignty says about the right of the state to independently determine food policies that can guarantee the right to food for the people and give the community the right to determine a food system that is in accordance with the potential of local resources.¹⁷ This means that the state has sovereignty to determine the direction of national food policy.

In order to meet these food needs, especially the provision of five strategic food commodities, namely rice, corn, soybeans, sugar and beef, some of which are still obtained from the international market. Dependence on imports (on average above 50% of needs) in the long term can threaten food independence and sovereignty.¹⁸ In addition, food imports have harmed farmers and drained the country's foreign exchange, and national stability is vulnerable to price fluctuations at the international level which are more often than not beyond the reach and ability of the Indonesian Government to intervene.

Indonesia's food security index, based on 2019 Global Food Security Index (GFSI) data, released by The Economist Intelligence Unit (EIU), out of 147 countries, Indonesia is ranked 62nd with a score of 62.6. This ranking is better compared to the position in 2015 which was in 74th position. The improvement in the value of Indonesia's food security index is due to the improvement in the value of the three northern pillars, namely the pillars of affordability, availability, and quality and safety.

Realizing the importance of food for the progress of a nation, the state plays a strategic role in providing food needs for the people of Indonesia which has very

¹⁷ See Law Number 18 of 2012 concerning Food, Article 1 Number 2,

¹⁸ Based on data from the Central Statistics Agency (Indonesia abbreviation is BPS), Indonesia's rice imports weighed 114.45 thousand tonnes worth US\$ 51.76 million for the September-December 2021 period. This value increased 24.4% compared to the previous quarter of only 92 thousand tons with a value of US\$ 40.38 million. When compared with the fourth quarter of 2020, the volume of Indonesian rice imports in the fourth quarter of this year only increased slightly by 0.31%, while the value actually fell by 11.49%. In accumulation for the January-December 2021 period, the volume of Indonesian rice imports reached 407.74 thousand tons. This figure grew 14.44% compared to the same period the previous year. Meanwhile, the value of rice imports recorded a decline of 5.94 to US\$ 183.8 million last year compared to the previous year. Indonesia recorded the largest rice imports, reaching 981.99 thousand tons with a value of US\$ 401 million in the first quarter of 2016. See databoks.katadata.co.id

fertile natural resources and quite a lot of human resources. It is estimated that by 2050, Indonesia's population will reach 322 million people, the fifth largest in the world after China, India, Nigeria and America. The right strategy is needed to maintain sustainable food sovereignty because Indonesia's population growth is relatively high, namely 1.25% per year.¹⁹

The irony is, in the last eleven years, the Indonesian people have spent US\$84.8 billion or the equivalent of IDR 1.272 trillion to only buy six of the nine basic necessities food items - rice, milk, onions, salt, meat and sugar from the international market. This huge amount of money spent on people's kitchens is sad when compared with a number of data about how Indonesia is a *Gemah Ripah Loh Jinawi Toto Tentrem Kerto Raharjo* country – meaning the condition of a prosperous, orderly, peaceful, prosperous society and region with plenty of everything.²⁰

The emergence of the Omnibus Law on Job Creation which amends Law Number 18 of 2012 concerning Food, and Law Number 41 of 2009 concerning The Protection of sustainable agricultural land, is an irony for the State of Indonesia which has legal sovereignty as recognized by UN resolutions, the General Declaration of Human Rights in the human rights covenant which confirms the principle of the right to self-determination (The Right of Self-Determination) of every country to manage natural resources independently without any interference from other parties or countries. In this regard, Antony Anghie stated that:²¹

“Indeed, the idea of permanent sovereignty over natural resources was closely tied to the concept of self-determination, which in itself suggests the close links between political sovereignty and economic sovereignty”.

Based on the Covenant, Indonesia should be able to determine laws based on legal sovereignty, however, ironically, the emergence of the omnibus law on job creation is alleged to contain ideas about liberalization and capitalism. This becomes ambiguous between fulfilling the policy of food sovereignty, independence and national food security.

¹⁹ Central Statistics Agency, Statistics for 70 Years of Independent Indonesia, (Jakarta: BPS, 2015), p. 21.

²⁰ <https://www.cnbcIndonesia.com/research/20230704185303-128-451320/Indonesia-negara-darurat-impor-pangan>

²¹ 6 Ibid., hlm. 211.

To provide a concrete illustration of this ambiguity, a comparison can be made between the norms in Law Number 18 of 2012 and the Omnibus Law on Job Creation, as follows:

Table 2. Comparison of Law No. 18 of 2012 with the Omnibus Law on Job Creation

Description	Law Number 18 of 2012	Omnibus Law on Job Creation
a. Food Availability	Article 1 Number 7 Food Availability is the condition of the availability of Food from domestic production and National Food Reserves as well as imports if the two main sources cannot meet needs.	Article 64 in Law No. 12 of 2012, article 1 Number 1 Food Availability is the condition of the availability of Food from domestic production, National Food Reserves, and Food Imports.
2. Food Imports	Article 36 of Food Law (1) Food imports can only be carried out if domestic food production is insufficient and/or cannot be produced domestically. (2) Staple Food Imports can only be carried out if domestic Food Production and National Food Reserves are insufficient. (3) The adequacy of domestic Staple Food Production and Government Food Reserves is determined by the minister or government agency which has the task of carrying out government duties in the Food sector.	in Article 36: (1) Food imports are carried out to meet domestic needs. (2) Staple Food Imports are carried out to meet consumption needs and national food reserves. (3) Food Imports and Staple Food Imports as intended in paragraph (1) and paragraph (2) are determined by the Central Government taking into account the interests of Farmers, Fishermen, Fish Cultivators, as well as micro and small Food Business Actors.

Based on the changes in the table above, it can be said:

1. Food imports in the Omnibus Law on Job Creation are positioned parallel to production results and national food reserves. Meanwhile, Law No. 18 of 2012 states that food imports are positioned as the last alternative to meet food availability;
2. Food imports in the Omnibus Law on Job Creation, the authority to determine it is determined by the central government, whereas in Law No. 18 of 2012, the

determination of food imports is determined by the Minister or government agency that has duties in the food sector.

In a contrario, positioning imported food ingredients is no longer as a last alternative or complement if national production and national food reserves are insufficient by eliminating the word "can", bringing juridical consequences, the loss of the word "can" provides freedom for the central government to:

- a. Importing food without having to pay attention to production results and sufficient food reserves;
- b. Food imports are in the same position as production results and national food reserves, this is confirmed by the national food policy which is not included in the list of national strategic projects.²²

Sustainable Development Goals (SDGs) related to Eradicating Hunger by 2030, are stated in number 2.4, namely: guarantee a sustainable food production system and implement sustainable agricultural practices that increase productivity and production, which helps maintain ecosystems, which strengthens the capacity to adapt to climate change, extreme weather, drought, floods and other disasters and which progressively improves land and soil quality. Based on a study by the Human Rights Commission, regarding sustainable development as stated in the Presidential Regulation of the Republic of Indonesia Number 111 of 2022 concerning the implementation of achieving sustainable development goals in the attachment there are no national targets and indicators,²³

Meanwhile, in the presidential regulation regarding National Strategic Projects, among others:

1. Presidential Decree Number 3 of 2016 is in letter W: Agricultural and Marine Projects, in its sub-projects there are only "Food Estate" projects in West Kalimantan, Central Kalimantan, East Kalimantan, Maluku and Papua;
2. Presidential Decree No. 56 of 2018: the agricultural and marine projects disappear, replaced by the Fisheries and Marine projects in letter V with the sub-

²² National Strategic Projects are projects and/or programs implemented by the Government, Regional Government, and/or business entities that have a strategic nature to increase growth and equitable development in order to improve community welfare and regional development. (article 1 number 1 Presidential Decree no 109 of 2020.)

²³ Analytical Framework for Integrating Sustainable Development Goals (SDGs) with the Obligation to Fulfill Human Rights in Indonesia Ibid hal 9<https://sdg.komnasham.go.id/sdg-content/uploads/2017/04/Tujuan-2.pdf>

project Development of the Talaud Integrated Marine and Fisheries Center in North Sulawesi, and the "Food Estate" project becomes non-existent;

3. Presidential Decree Number 109 of 2020 has no projects related to food. Strangely, in the program in attachment II in number 8 there is a program for Increasing National Food Supply (Food Estate).²⁴

The three Presidential Regulations mentioned above are dominated by infrastructure projects, one of which is building dams, and ironically the program to increase food supply is not consistently included in the presidential regulations, except that Presidential Decree Number 3 of 2016 is included in the list of national strategic projects, while in Presidential Decree 56 of 2018 there are no national strategic projects related to food, and in Presidential Decree Number 109 of 2020, no food security projects are found on the list of national strategic projects, but strangely in attachment II there are eight programs, one of which in number 8 is a program food provision²⁵.

Based on the description above, it proves that food sovereignty and food independence have less of a place in national strategic project policies, and place more emphasis on food security even by importing food. The orientation of the omnibus law on job creation which emphasizes food security through imports, and pays less attention to food sovereignty and self-sufficiency policies, has serious implications in a country blessed with abundant and fertile natural resources.

Mahfud MD indicated that there are serious problems plaguing the formation and enforcement of law in Indonesia, laws are made and enforced as if they are losing lives, laws are easily possessed by momentary interests which actually conflict with the ideals and objectives of the law (Pancasila).²⁶ In a more specific sense, food sector law has not yet fully become the guardian and protector of

²⁴ Read presidential regulation Number 3 of 2016 concerning the Acceleration of Implementation of National Strategic Projects in conjunction with Presidential Regulation Number 56 of 2018 concerning the Second Amendment to Presidential Regulation Number 3 of 2016 concerning Acceleration of Implementation of National Strategic Projects (State Gazette of the Republic of Indonesia 2018 Number 107) Jo Presidential Decree No. 109 of 2020 presidential regulation concerning the third amendment to presidential regulation number 3 of 2016 concerning the acceleration of the implementation of national strategic projects.

²⁵ Rizqha Sepriyanti, 2027, *burano pengembangan kawasan pedesaan berkelanjutan berbasis pertanian lahan basah*, Jurnal Pertanian Faperta UMSB ISSN : 2527-3663 Vol.1 No.1 Juni 2017, p :25

²⁶ Mahfud MD, *Pancasila Sebagai Tonggak Konvergensi Pluralitas Bangsa*, Sarasehan Nasional 2011 "Impelementasi Nilai-Nilai Pancasila Dalam Menegakkan Konstitusionalisme Indonesia, Yogyakarta dan Jakarta: UGM dan MKRI, 2011, p 17

society, Pancasila as a *rechtsidee* has not been fully positioned as a legal ideal that directs laws to fulfill the substantive justice that society aspires to.

From the perspective of Charles Sampford's chaos theory, it describes the existence of complex power relations which give rise to a situation where society cannot be seen as something systematic or mechanistic. In society, according to Charles Sampford, citing the views of Denis Wrong, it is full of unequal power relations where one power clashes with another power, making society asymmetrical.²⁷

b. Land Conversion and Spatial Planning

Indonesia is an archipelagic country that is rich in natural resources, both on land, sea and in the air. These natural resources are then utilized for the benefit of the welfare of the community as stated in the preamble to the 1945 Constitution, namely "Advancing the general welfare". In order to implement the mandate for the opening of the 1945 Constitution, it is further regulated in Article 33 paragraph (3) of the 1945 Constitution, namely: "The land, water and natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people."

Indonesia as an agricultural country needs to guarantee the provision of sustainable food agricultural land as a source of work and a decent living for humanity by prioritizing the principles of togetherness, fair efficiency, sustainability, environmental awareness and independence, as well as by maintaining balance, progress and unity of the national economy.

The existence of Sustainable Food Agricultural Land is an area of agricultural land that is determined to be protected and developed consistently to produce staple food for national food independence, resilience and sovereignty.²⁸ UNDP's targets in the SDGs by 2030, ensure sustainable food production systems and implement resilient agricultural practices that increase productivity and production, help maintain ecosystems, strengthen adaptive capacity to climate change, extreme weather, drought, floods and other disasters, and progressively improve land and soil quality.²⁹

²⁷ Gufroni. 2019. *Pemberantasan Tindak Pidana Korupsi Hukum Non Sistemik dan Hukum Profetik*.ll *Progresif: Jurnal Hukum* 13, no. 1: 23–40. <https://doi.org/10.33019/progresif.v13i1.1030>.

²⁸ Read article 1 number 3 of law no. 41 of 2009

²⁹ <https://www.undp.org/sustainable-development-goals/zero-hunger>. In the second goal, one of the targets is thing of 4

One of the triggers for high food imports of the five commodities mentioned above is the reduction in agricultural land due to conversion or conversion of agricultural land be an industrial or residential area. Sitorus and Wiradi³⁰ stated that agricultural land conversion is part of the critical land paradigm that is occurring in Indonesia. The land conversion process is often marred by land disputes between small farmers and large investors. The current land paradigm in Indonesia is a land paradigm for the state and the private sector, so that the people and sharecroppers have very little access to land.

Indonesia currently has a land cover of 190 million hectares consisting of natural resources in the form of forests and non-forests used for agriculture, plantations, shrubs and other uses. If viewed from the area of land cover, Indonesia has great potential to meet and support national food needs. However, this geographical location does not stand-alone as an element of state strength without being supported by other elements of strength, such as supporting the capacity of the Indonesian population to manage natural resources optimally in accordance with developments in science and technology, local wisdom and the concept of sustainable development.³¹

To reduce the depreciation of productive agricultural land, Law Number 41 of 2009 concerning The Protection of Sustainable Food Agricultural Land (The Agricultural Land Protection Law) was issued. Clearly, the preamble to the law states that, as an agricultural country, Indonesia needs to guarantee the provision of sustainable food farming land as a source of work and a decent living for humanity. In addition, the state guarantees the right to food as a human right of every citizen so that the state is obliged to guarantee food independence, security and sovereignty.

Based on the principles of agrarian reform as regulated in Decree Number : IX /MPR-RI/ 2002 which concerns the restructuring of control, ownership, use and utilization of agrarian resources requires sustainable protection of food agricultural land.³² Sustainable Food Agricultural Land Protection is carried out with the aim of:

- a) Protecting food agricultural areas and land in a sustainable manner;
- b) Ensure the availability of food agricultural land in a sustainable manner;

³⁰ Sitorus, M. T. F., dan Wiradi, G. (1999). *Sosiologi Agraria: Kumpulan Tulisan Terpilih*. Bandung: Yayasan Akatiga.

³¹ Ibid hal 87

³² Article 1 number 3 Law 41 of 2009: Sustainable Food Agricultural Land is an area of agricultural land that is designated to be protected and developed consistently to produce staple food for national food independence, resilience and sovereignty.

- c) Realizing food independence, resilience and sovereignty;
- d) Protecting farmers' ownership of food agricultural land;
- e) Increasing prosperity and welfare of farmers and society;
- f) Increasing protection and empowerment of farmers;
- g) Increasing the provision of employment opportunities for a decent life;
- h) Maintaining ecological balance; And
- i) Realizing agricultural revitalization.³³

The aim of protecting sustainable agricultural land has become counter-productive with the establishment of the Omnibus Law on Job Creation which changes several articles, especially those that regulate agricultural land conversion or conversion of sustainable agricultural land in Law No. 41 of 2009.

Several articles in the Sustainable Food Agricultural Land Protection Law have been amended and deleted based on Article 124 of the Omnibus Law on Job Creation. Changes to the Law, namely: articles that were changed: 2 articles; there are no additions to articles or deletions of articles. Referring to the changes to the Sustainable Food Agricultural Land Protection Law by the Omnibus Law on Job Creation, it can be seen in the comparison of two related laws, namely as follows:

Table 3. Land Conversion

Law Number 41 of 2009	Omnibus Law on Job Creation
Part Three Land Conversion Article 44	Part Three Protection of Sustainable Food Agricultural Land Article 124 The provisions of Article 44 are amended to read as follows:
(1) Land that has been designated as Sustainable Food Farming Land is protected and prohibited from being converted.	(1) Land that has been designated as Sustainable Food Farming Land is protected and prohibited from being converted.
(2) In the event that it is in the public interest, Sustainable Food Farming Land as intended in paragraph (1) can be converted, and implemented in accordance with the provisions of statutory regulations.	(2) In the event that it is for the public interest and/or a National Strategic Project, Sustainable Food Farming Land as intended in paragraph (1) can be converted and implemented in accordance with the provisions of statutory regulations.
(3) The conversion of land that has been designated as Sustainable Food Agricultural Land for public purposes as intended in paragraph (2) can only be carried out on the	(3) The conversion of land that has been designated as Sustainable Food Agricultural Land for public purposes

³³ Read article 3 of law no. 41 of 2009

following conditions: a. a strategic feasibility study was carried out; b. a land conversion plan is drawn up; c. the ownership rights are released from the owner; and d. providing replacement land for the converted Sustainable Food Farming Land. (4) In the event that a disaster occurs so that the land conversion for infrastructure cannot be postponed, the requirements as intended in paragraph (3) letters a and b do not apply.	as intended in paragraph (2) can only be carried out on condition that: a. a strategic feasibility study was carried out; b. a land conversion plan is drawn up; c. the ownership rights are released from the owner; and d. providing replacement land for the converted Sustainable Food Farming Land. (4) In the event that a disaster occurs so that the land conversion for infrastructure cannot be postponed, the requirements as intended in paragraph (3) letters a and b do not apply. (5) Provision of replacement land for millions of Sustainable Food Agricultural Lands converted for infrastructure due to disasters as intended in paragraph (4) shall be carried out no later than 24 (twenty-four) months after the conversion is carried out. (6) The release of ownership of rights to land that is converted as intended in paragraph (3) letter c is carried out by providing compensation in accordance with the legislation.
--	---

Based on the comparison above, it can be concluded as follows:

- a) In principle, the two laws in question contain a prohibition on the conversion of sustainable agricultural land;
- b) Conversion of sustainable agricultural land functions can be carried out on condition that Law No. 41 of 2009 is for the public interest, while the Omnibus Law on Job Creation adds conditions in the form of public interest and/or national strategic projects;
- c) The conditions for sustainable conversion of agricultural land in the two laws in question are the same, namely a. a strategic feasibility study was carried out; b. a plan for land conversion is prepared; c. the ownership rights are released from the owner; and d. providing replacement land for the converted Sustainable Food Farming Land;
- d) In the event of a disaster, sustainable conversion of agricultural land can be carried out for infrastructure development. The two laws in question have similarities;

e) Meanwhile, regarding the requirements: replacement land and release of land rights, there are differences between Law Number 41 of 2009 which only stipulates that ownership rights are released from the owner; and provided replacement land for Sustainable Food Farming Land that is converted, without any time limits or compensation norms (read article 44 paragraph (3) letters c and d). Meanwhile, in the same article in the Omnibus Law on Job Creation, there is an addition, namely: for the provision of replacement land there is a time limit of 24 months after the conversion of land is carried out. To regulate the release of land rights to the owner, compensation is given. (read article 44 paragraph (5) and the Omnibus Law on Job Creation.

In connection with the land conversion of sustainable agricultural land as stipulated in article 44 of the Omnibus Law on Job Creation which regulates the ability to land conversion of sustainable agricultural land which adds requirements for public interest and/or national strategic projects, this raises the issue of consistency of legal norms related to public interest and the definition of national strategic projects.³⁴. The implementation of National Strategic Projects needs to be further optimized to maximize the impact of National Strategic Projects for accelerating development, job creation and national economic recovery;

Based on consideration of letter (a) of the Presidential Decree on National Strategic Projects as above, the Government can easily make changes to Regional Spatial Plans, Detailed District Spatial Plans, or Zoning Plans, including the allocation of sustainable agricultural land for conversion according to the needs of national strategic projects, this is as stated in article 19 paragraph (2) of the Presidential Regulation concerning the acceleration of the implementation of national strategic projects, namely: In the event that the location of a National Strategic Project is not in accordance with the Regional Spatial Plan, Detailed District Spatial Plan, or Coastal Area and Small Island Zoning Plan and it is not technically possible to move it from the planned location, adjustments to the spatial

³⁴ National Strategic Projects are projects and/or programs implemented by the Government, Regional Government, and/or business entities that have a strategic nature to increase growth and equitable development in order to improve community welfare and regional development. read article 1 point 1 of Presidential Decree no 109 of 2016 concerning

layout can be made in accordance with the provisions laws and regulations in the field of spatial planning.

Thus, judicially it can be said that changes to the Spatial Planning Plan, Detailed District Spatial Planning Plan, or Zoning Plan based on the presidential regulations mentioned above can be easily changed to facilitate the needs of national strategic projects that have been determined. In this condition, it confirms that the level of national strategic projects is higher than spatial planning which is mandated by law which is higher in level than presidential regulations.

Based on this, the reverse logic means that national strategic projects should be adapted to spatial planning, but instead spatial planning must follow national strategic projects. In this context, there is uncertainty in spatial planning law, because changes to spatial planning can be made at any time as long as fulfill national strategic projects.

Likewise, regarding the protection of sustainable agricultural land, there will be a conflict of interest between fulfilling food security with the availability of fertile agricultural land and national strategic projects which are intended for the public interest and private interests. This raises major legal problems, the National Food Law as described above confirms that there is legal chaos in the food sector, which is characterized by instability and randomness of the legal process in its various dimensions. The chaos that the author means here is chaos which is negative, because there is also chaos which is positive. It is even possible to change negative chaos into positive chaos ³⁵

D. Conclusion

1. Food sovereignty, independence and food security as the embodiment of the constitutional mandate to achieve state goals, namely the welfare and prosperity of the people;
2. The existence of the Omnibus Law on Job Creation which encourages economic growth through easy investment policies to encourage job creation, has degraded food

³⁵ Sudjito, 2006 : *Chaos theory of law : penjelasan atas keteraturan dan ketidakteraturan*, in Media Hukum Volume 18, Number 2. 168 and 172).

sovereignty and independence and placed more emphasis on aspects of food security through food imports;

3. Control over the conversion of sustainable agricultural land and spatial planning policies as mandated by law is distorted by the presidential decree on national strategic projects which are hierarchically under the law.

BIBLIOGRAPHY

- Acemaglu, D, dan Robinson, J. A. 2017. *“Mengapa Gagal: Awal Mula Kekuasaan, Kemakmuran, dan Kemiskinan”*, Jakarta : Elex Media Computindo
- Anghie , A. 2007. *“Imperialism, Sovereignty and the Making of International Law”*. Cambridge : Cambridge University Press
- Anwar. 2008. *“Teori dan Hukum Konstitusi”*. Malang : In-Trans Publishing
- Badan Pusat Statistik. 2015. *“Statistik 70 Tahun Indonesia Merdeka”*. Jakarta : BPS
- Badan Pusat Statistik. 2018. *“Proyeksi Penduduk Indonesia 2015-2045: Hasil Survei Penduduk antar Sensus”*, Jakarta : BPS
- Badan Pusat Statistik. 2021. Jakarta : BPS
- Konsideran dan Penjelasan Umum UU No 11 Tahun 2020 Tentang Cipta Kerja
- Gufroni. 2019. *Pemberantasan Tindak Pidana Korupsi Hukum Non Sistemik dan Hukum Profetik. II Progresif*. Jurnal Hukum. 13(1)
- Soekarno, Ir. 1952. Pidato pada batu pertama bangunan kampus Fakultas Pertanian Universitas Indonesia (sekarang Institut Pertanian Bogor)
- Konsideran UU Tentang Pangan Tahun 2018
- Mahfud, MD. 2007. *“Perdebatan Hukum Tata Negara”*. Jakarta : LP3ES
- Mahfud MD. 2011. *“Pancasila Sebagai Tonggak Konvergensi Pluralitas Bangsa, Sarasehan Nasional 2011 “Impelementasi Nilai-Nilai Pancasila Dalam Menegakkan Konstitusionalisme Indonesia, Yogyakarta dan Jakarta: UGM dan MKRI*
- Pembukaan UUD 1945
- Peraturan Presiden Nomor 109 Tahun 2016
- Peraturan Presiden Nomor 3 Tahun 2016 tentang Percepatan Pelaksanaan Proyek Strategis Nasional
jo Peraturan Presiden Nomor 56 Tahun 2018 tentang Perubahan Kedua atas Peraturan Presiden Nomor 3 Tahun 2016 tentang Percepatan Pelaksanaan Proyek Strategis Nasional (Lembaran Negara Republik Indonesia Tahun 2018 Nomor 107) *jo* Perpres No 109 tahun 2020 Peraturan Presiden tentang perubahan ketiga atas Peraturan Presiden Nomor 3 Tahun 2016 tentang percepatan pelaksanaan proyek strategts nasional

Peraturan Presiden Nomor 109 Tahun 2020

Resolusi Majelis Umum PBB Nomor 1803 tahun 1962 tentang *Permanent Sovereignty Over Natural Resources*

Sepriyanti, R. 2017. ‘*Burano Pengembangan Kawasan Pedesaan Berkelanjutan Berbasis Pertanian Lahan Basah*’. Jurnal Pertanian Faperta : UMSB. 1(1)

Sitorus, M. T. F. dan Wiradi, G. (1999). *Sosiologi Agraria: Kumpulan Tulisan Terpilih*. Bandung: Yayasan Akatiga

Sudjito, 2006. “*Chaos theory of law : Penjelasan Atas Keteraturan Dan Ketidakteraturan*”. Media Hukum. 18(2)

Tiopan, D. Rabbanie , K.A. 2022. “*Quo Vadis Peraturan Perundang-Undangan Di Bidang Pertanian: Tercapainya Kedaulatan Pangan Sebagai Negara Agraris*”. Journal Komunikasi Yustisia : Universitas Pendidikan Ganesha. 5(1)

Usfunan, Y. 2004. *Dalam Pidato Pengukuhan Jabatan Guru Besar tetap dalam bidang hukum tata Negara*, Fakultas Hukum Universitas Udayana

Undang-Undang Nomor 18 Tahun 2012 tentang Pangan

UU Nomor 41 Tahun 2009

<https://www.undp.org/sustainable-development-goals/zero-hunger>

<https://www.cnbcindonesia.com/research/20230704185303-128-451320/indonesia-negara-darurat-impor-pangan>

<https://sdg.komnasham.go.id/sdg-content/uploads/2017/04/Tujuan-2.pdf>