

## Government Policies for Food Sovereignty: Disjunction between Ideality and Reality

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### ARTICLE INFO

**Keywords:**

Legal Policy; Government; Food Sovereignty

**How to cite:**

Patonangi, F., Ilmar, A., Irwansyah., and Sakharina, I.K. (2018). "Government Policies for Food Sovereignty: Disjunction between Ideality and Reality," *Hasanuddin Law Review*, 4(3): 377-382

**DOI:**

10.20956/halrev.v4i3.1282

### ABSTRACT

The conceptualizes food security and food sovereignty as fluid and changing discourses that define the problem of hunger. The discursive geohistories of food security and food sovereignty in order to identify oppositions and relationalities between them. I argue that the interpretations of, and relations between, food security and food sovereignty vary by geography and scale, as well as by the conceptual and theoretical differences within the discourses themselves. When and where these discourses develop and emerge is central to understanding their oppositions and convergences. How scale is constructed within particular discourses is also important to understanding how they co-exist relationally or in opposition. Food security and food sovereignty discourses are tied to distinctive political and economic histories, ecologies, and identities at the national and local levels. They are differentially deployed depending upon geographic context and the political economy of development and underdevelopment. Both discourses are dynamic and changing in relation to the wider political and cultural economies of food system dynamics across scale. Uniform definitions of each term should be resisted. The point is to understand the geographies of their relational overlap and their continual difference.

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### 1. Introduction

Food is a basic need for human life, so everyone needs to be guaranteed in acquiring quality and safe food. Food security exists when all people, at all times, have physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life. Food production which not manufactured properly can be a source of microorganisms and chemical contaminants, which can be dangerous and cause disease to humans. Food poisoning cases in the community should not be the case if the food product can be processed in accordance

with the procedure correct processing. Hence, organizing a food system should be able to provide protection for both the producers and consumers.<sup>1</sup>

The concept of food security can be applied to measure government's performance in assuring the people's access to food; however, it is not always positively correlated with national sovereignty. As cited in Hariyadi's report,<sup>2</sup> There are four aspects of food security; (i) food availability, (ii) stability of supplies, (iii) access to supplies, and (iv) food utilization, which eventually leads to the embodiment of healthy and active individual.

For this reason, in producing adequate food to be released or traded in a whole community, businesses should pay attention to the interests of the public as consumers. Consumers have rights which should not just be ignored by businesses such as the right to be a safety, the right be informed, the right to be heard, as well as the right to a good environment and healthy.

In this regards, the Indonesian authority have been asserted the right to the consumer in the Law No. 18 of 2012 concerning Food. This act is a legal basis in the implementation of food that includes; food planning, availability, affordability, consumption and food nutrition, food safety, labeling and advertising of food, supervision, information systems Food, food research and development, institutional and public participation, including investigation. In addition, this act has been adapted to the development of the organization of food in Indonesia, such as democratization, decentralization, and globalization principles, as well as the actual conditions of Indonesian society.

Unfortunately, reality is often in contradiction with the rules. As it turns out in practice, however, it has certain weaknesses, particularly in view of the accountability and legitimacy aspects of its establishment. Based on information from the Indonesian Food and Drug Monitoring Agency (BPOM)<sup>3</sup> has been found about 35% of processed foods that are not marketable. This information is obtained from the test results BPOM to 3,037 processed food distribution facilities such as shops, supermarkets, and traditional markets. In his observations, the BPOM also found 1844 expired products with economic value of IDR 1 billion.

Events such as these show that the food products circulating in the community, especially in the city of Kendari, Southeast Sulawesi potentially cause problems, so it is important to do research so that these problems can be well understood and can be solved. The question that arises from the events mentioned above, among others, whether the local food production in Kendari already unfit for consumption and whether the food product has been produced with the notice of consumer rights?

## 2. Method

The type of research used in this paper is a socio-legal research,<sup>4</sup> reviewing the local food production in Indonesia from the perspective of food sovereignty. The data being used include secondary data consisting of primary law materials in the form of laws and

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<sup>1</sup> Suryana, A. (2003). *Kapita Selektta Evolusi Pemikiran Kebijakan Ketahanan Pangan*, BPFE. Yogyakarta, p., 211.

<sup>2</sup> Hariyadi, P. (2011). "Riset dan Teknologi Pendukung Peningkatan Kedaulatan Pangan". *Jurnal Diplomasi Pusdiklat Kementerian Luar Negeri*, 3(3): 90-105.

<sup>3</sup> Commonly known in Indonesia as Badan Pengawasan Obat dan Makanan (BPOM)

<sup>4</sup> Irianto, S., and Shidarta (ed). (2011). *Metode Penelitian Hukum: Konstelasi dan Refleksi. Second editions*. Jakarta: Yayasan Pustaka Obor Indonesia. pg.14

regulations, tertiary law materials in the form of reference books, opinion of experts, and the outcomes of previous research, as well as legal facts about the responsibility of businesses towards consumers in order to produce food products that are safe and feasible to be consumed as expected.

### 3. Food Sovereignty in Terms of National and International Legal Relations

The concept of legal status contains a mean as legal capacity as capacity to do something, capacity to act or briefly the capacity to possess rights and duties. The legal status that implies this legal capacity is closely related to the subject of law and legal personality, or in other words there is a close relationship between legal status consisting of 2 (two) forms, namely legal capacity with legal personality.<sup>5</sup>

In this context, *legal personality* is a characteristic for an institution to have rights and obligations in the law and submit claim *legal personality* can be seen in the statutes of the establishment of an institution that explicitly said its rights and obligations. However, often this is not explicitly stated so that it requires further search to determine its personal legality.<sup>6</sup>

The hierarchical level of the sub-system includes an economic sub-system that functions as adaptation, a political sub-system that functions to achieve goals, a legal sub-system (social) that functions to integration, and a cultural sub-system that functions to maintain patterns. The legal status comes from the theory of Sibernetica as proposed by Talcott Persons was developed by legal expert Harry C. Bredemeier with a legal function theory that views *a law as an integrative mechanism*. He built his analysis about the legal function as a mechanism of integration or integrator where the main functional observed in a social system, consisting of adaptation as an economic process, goal pursuance as a political process, pattern maintenance simply as a process socialization, and integration as a legal process.<sup>7</sup>

The legal status is related to orderliness and order which is raised by the existence of the norms or provisions that govern them, among them are legal norms, so that social relations can take place in an orderly and orderly manner.<sup>8</sup> Therefore, order is conditions for the ongoing relationship between fellow members of society in living life. The legal status is not only a tool used as an integration of power by the authorities. Likewise, political power is also needed to support the realization of legal functions. Understanding of this theory will be a reference to the status of foreign banks whether they have been able to realize the achievement of development objectives.

One sector governed by national and international law is the regulation of foreign banks. The existence of foreign banks in Indonesia is one of the realities of international civil law<sup>3</sup> where the issue of international civil law related to foreign banks when viewed from: *First*, aspects of the business sector. The problem of International Civil Law of Foreign banks in terms of business aspects can arise when foreign banks have customers from various citizens who are subject to different laws.

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<sup>5</sup> Ilmar, A. (2004). *Hukum Penanaman Modal di Indonesia*. Prenada Media: Jakarta.

<sup>6</sup> Waxman, M. (1998). *A legal framework for systemic bank restructuring*. Available at SSRN 172984 or <http://dx.doi.org/10.2139/ssrn.172984>

<sup>7</sup> Zaidun. (2008). *Kebijakan Hukum Investasi Indonesia*. Bagian I. Suarabaya; Universitas Airlangga.

<sup>8</sup> Miru, A. (2011). *Prinsip-prinsip perlindungan hukum bagi konsumen di Indonesia*. RajaGrafindo Persada, pg. 31-32

Another problem is when an international trade transaction occurs where the parties involved originate from different countries with which laws are different which ones will be used in terms of business sector. The answer is the bank usually uses a certain standard form that includes the clause of the legal designation explicitly and usually applies the law of the country where the head office is located. However, if the bank does not use certain forms, the law will apply from the country where the branch office is located. The problem of collateral in the banking sector can lead to problems of International Civil Law but in this case the principle of *Lex Rei Sitae* applies which will determine which law applies. The principle of *Lex Rei Sitae* means that the law that applies to an object is the law of the place where the object is located or is in the form of tangible and intangible objects.

The second, in terms of employment aspect. The problem of International Civil Law will arise from aspects of labor, for example in a foreign bank there are Indonesian and foreign labor, law which will apply? the answer to the work agreement will apply law from the country where the work must be done. The applicable law is the place where the contents of the agreement are implemented, which will be the basis of International Civil Law especially labor if a foreign bank whose place of operation in Indonesia employs workers from Indonesia and must apply the law of the country of origin of the foreign bank, then the agreement must be declared null and void by the judge. Because Indonesian law must be applied, in this matter law or regulation concerning labor law.

Last but not least, in terms of capital aspect. The issue of International Civil Law will arise when the capital structure of a national bank is dominated by foreign banks. Several above matters indicate that the existence of foreign banks in Indonesia cannot be separated from the relationship between national and international laws, in this case International Civil Law. This principle means that an agreement that is an International Civil Law applies legal norms from the place of agreement or the place where the agreement is signed. Thus, if there is a dispute between a national party and a foreign bank or a country with a foreign citizen, in this case national law is used, namely Indonesian law but does not reduce the possibility of this dispute can be under arbitration seen from its position.

In an era of increasingly rapid globalization, the flow of movement experiences very rapid dynamics from one place to another supported by the flow of transportation and information.<sup>9</sup> The speed of capital movements through investment is not only supported by easier and more global access to information, supported by reasons for investors to invest their capital and investment recipients to receive the investment. To this, various theories about investment, who argued that in investment legal science the variant of thinking in understanding investment policies that could be chosen as basis for investment legal considerations/policies in terms of host country interests, namely *Neo-Classical Economic Theory*, *Dependent Theory* and the *Middle Path Theory*.

#### **4. Implementing Food Sovereignty in Indonesia: Disjunction between Ideality and Reality?**

The economic development of a country cannot be separated from its involvement in the global economy. The industry, both domestic industries (*home industry*) and medium scale industries, further processing raw materials into food products ready for

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<sup>9</sup> Irwansyah., Hakim. W., and Yunus, A. (2017). "Environmental Audit as Instrument for Environmental Protection and Management". *The Business and Management Review*, 9(2), 228-232

consumption. Products from the processing industry and then distributed by the distributor or agent to the marketers, either through wholesalers or directly prior to the retailers or traders. In every stage of the production process, there is always the involvement of the carrier, ranging from transportation of raw materials to industry or manufacturer, to the transportation of the production to be marketed to consumers (Figure 1).

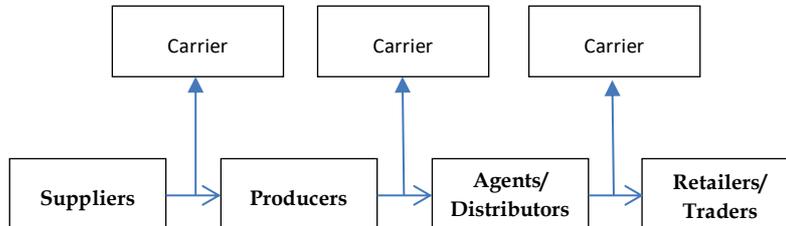


Figure 1. Parties involved in food production activities

In accordance with the provisions of Article 1(39) of the Law No. 18 of 2012 concerning Food, that food business operators is any person engaged in one or more subsystems agri-food, are providers of production inputs, process of production, processing, marketing, trade, and support. Under these provisions, it can be understood that the production process starts from the inputs of production, the production process to the input processing production by food business operators so as to produce a particular food product.

Furthermore, the responsibility of business operators in the distribution and marketing is linked to the provision of information about the product, it is correctly and completely to all parties, especially on consumers. This labeling provision setting is done by including it in the packaging or labeling of products, as well as delivery in the form of advertising. The term of the food label is any information about the food in the form of images, text, a combination of both, or other forms that are included in food, is inserted into the package, affixed, or a part of food packaging.

As a result, it is safe to say that in relation to the responsibility of food business operators, there are still many aspects that have not been fully implemented well, ranging from administrative permission to establish a business, responsibility in the production, as well as responsibility in providing correct information and complete the product. The aspects in question include those relating to licensing in setting up a business, there are many businesses that do not have permission to sample completely.

Actions that do not include the true and complete information about the products traded, either on the label or in the packaging, is a form of violation of the law as it has been mandated in the Law No. 18 of 2012 concerning Food and Law No. 8 of 1999 concerning the Consumer Protection, as well as the Indonesian Civil Code. Furthermore, it's more likely to happen because the level of government supervision is also still relatively low. Efforts supervision of the relevant agencies has not been fully carried out routinely and periodically. Besides supervision of food business operators have not done evenly and thoroughly.

## 5. Conclusion

The discursive of food security and food sovereignty in order to identify oppositions and relationalities between them. I argue that the interpretations of, and relations between, food security and food sovereignty vary by geography and scale, as well as by the conceptual and theoretical differences within the discourses themselves. When and where these discourses develop and emerge is central to understanding their oppositions and convergences. How scale is constructed within particular discourses is also important to understanding how they co-exist relationally or in opposition. Food security and food sovereignty discourses are tied to distinctive political and economic histories, ecologies, and identities at the national and local levels. They are differentially deployed depending upon geographic context and the political economy of development and underdevelopment. Both discourses are dynamic and changing in relation to the wider political and cultural economies of food system dynamics across scale. Uniform definitions of each term should be resisted. The point is to understand the geographies of their relational overlap and their continual difference.

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