

RESPONSIBILITY OF LOCAL GOVERNMENTS IN FULFILLING THE RIGHT TO FOOD

[¹] Mulyani Zulaeha*, [²] Lies Ariany, [³] Nabilla Nurrosyifa Azzahra, [⁴] Rahmat Halim Sapetra

[¹],[²],[³],[⁴] Faculty of Law, Lambung Mangkurat University, Banjarmasin, Indonesia.
Email: mulyani.zulaeha@ulm.ac.id

* Corresponding Author

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Abstract: Government Regulation Number 17 of 2015 concerning Food Security and Nutrition states that the Provincial Government, Regency/City Government, and/or Village Government implement policies and are responsible for the implementation of food security in their respective regions. Food security must be prioritized, and support from the Local Government and the Central Government in maintaining food security is important to prevent food crises. This study aims to analyze the policy of the Regional Government in managing food needs and providing food reserves to protect the fulfillment of the right to food in South Kalimantan. Through socio-juridical research methods (socio-legal) using an interdisciplinary or "hybrid" approach between aspects of normative legal research through sociological approaches using qualitative analysis methods, it will be possible to observe the compatibility between *das sollen* and *das sein*, namely the integrity of a detailed and careful explanation of legal issues between law in book and law in action. As a form of responsibility, the Provincial Government of South Kalimantan has stipulated Regional Regulation and Regency/City Regulation as well as Regent/Mayor Regulation related to food as a legal basis in making policies/programs/activities related to food management and also providing food reserves so that communities are protected and the rights to their food are fulfilled both in quantity, quality, safe, diverse, nutritious, equitable and affordable. The regulation made is also should not contrary to the religion, beliefs, and culture of the community, so that the community and the individuals can live healthy, active, and productive sustainably. The government is also coordinating the agencies/SKPD Regional Government both vertically and horizontally, and carrying out cooperation about this matter with other regions.

Keywords: Local Government; Responsibility; Right to Food.

1. INTRODUCTION

The establishment of Law Number 18 of 2012 concerning Food considers that food is the most important basic human need and its fulfillment is part of the human rights

guaranteed in the 1945 Constitution of the Republic of Indonesia. As a human right, the State is obliged to realize the availability, affordability, and fulfillment of adequate, safe, quality, and nutritionally balanced food consumption, both at national and regional levels to individuals evenly throughout the territory of the Unitary State of the Republic of Indonesia at all times by utilizing local resources, institutions, and local cultures.

One form of protection provided is the guarantee of the right to food for all people, which is a fundamental human right, and this guarantee is the state's responsibility to fulfill. This matter is in line with the provisions in Article 28A and Article 28C of the 1945 Constitution of the Republic of Indonesia and also by Article 25 of the Universal Declaration of Human Rights Juncto Article 11 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR).

Food is one of the most essential needs that determines the quality of human resources and socio-political stability as a prerequisite to implementing development. Food security is increasingly important because food is not only a basic need but also a basic right for every human being that must be fulfilled. Since food fulfillment is a basic right, the state is obliged to ensure that all individual citizens have already earned their food rights (Wahono, 2011).

Law Number 18 of 2012 concerning Food confirms that the responsibility for food fulfillment is the responsibility of the government and the community. The government is tasked with regulating, fostering, controlling, and supervising the implementation of the national Local Government Food Reserves, which consist of the local government food reserves and the local government food reserves of the community. Local Government Food Reserves consist of local government food reserves, village government food reserves, district/city governments, provincial governments, and central governments whose realization requires an inventory of local government food reserves, estimating food shortages and emergencies so that the implementation of procurement in the management of local government food reserves can be successful.

Government Regulation Number 17 of 2015 concerning Food Security and Nutrition states that the Provincial Government, Regency/City Government, and/or Village Government implement policies and are responsible for the implementation of

food security in their respective regions, taking into account guidelines, norms, standards, and criteria set by the Central Government. Thus, it is necessary to provide local government food reserves as a part of the national reserve sub-system.

Important policies on food need to be taken by the government together with local governments as a form of responsibility since the food issue is multidimensional and very complex. This is a complex issue because it covers various aspects, such as social, economic, political, and environmental aspects.

2. METHODS

This research method uses a socio-juridical (socio-legal) approach using an interdisciplinary or "hybrid" approach between aspects of normative legal research and a sociological approach. This method is conducted through qualitative analysis, namely by analyzing data in-depth, holistic, and evaluative-analytical by providing a comprehensive conceptual assessment to examine and analyze the legal aspects of the responsibilities and authorities of the Government and Regional Governments in the fulfillment of human rights at the time of the disaster so that they can finally observe (*das sollen*) and (*das sein*). This method is applied to meet the need for a more detailed and careful explanation of legal issues meaningfully by comparing the law in the book with the law in action.

3. RESULTS AND DISCUSSION

3.1. Right to Food

The purpose of the Indonesian State is contained in the preamble of the Constitution of the Republic of Indonesia, one of which is to protect all nations. The protection of all nations can be interpreted as an effort by the state to protect all levels of society as mandated by Human Rights. In line with that, every development with a human rights perspective always makes human rights values and principles in every step and process. With this step, it is believed that the state still must respect, protect, and maintain the stability of its people through human rights. This is done to uphold justice and realize equal protection in every society in Indonesia.

The development of recognition and guarantee of human rights gave rise to the concept of rights that cannot be revoked/reduced in fulfillment under any circumstances (non-derogable rights) and rights that can be limited or reduced in fulfillment (derogable rights). The type of 'non-derogable' rights are absolute rights that are not reduced or limited in fulfillment, even in emergencies.

The government also strives to implement development with a human rights-oriented approach so that all changes do not harm the rights of its citizens. In other words, a rights-based approach is believed to lead the development process towards changes that are more effective, more sustainable, more rational, and more serious because it will increase participation, contribution and accountability, by identifying specifically the tasks and responsibilities of the State as a stakeholder of human rights to development. This right is then reduced to a basic right where this basic right is enforced and its fulfillment and protection must be handed over to the State. The state plays a role in regulating these basic rights in the lives of its citizens to ensure these rights can be fulfilled properly and there are no violations in it because it is made in legal instruments both international legal instruments and national legal instruments.

One of the most fundamental human rights is the right to food. The right to food is further affirmed in ICESCR Article 11 paragraph (1) as follows: "The States Parties to the Covenant recognize the right of everyone to a decent standard of living for himself and his family, including food, decent clothing and housing, and continuous improvement of living conditions. States Parties shall take the necessary measures to ensure the realization of this right, and recognize the importance of voluntary international cooperation to achieve this goal."

Then in the 1945 Constitution, Article 28 H states the right of every person to live in inner and outer well-being. This right is defined as the right to regular, permanent, and free access either directly or by purchasing, to adequate food qualitatively and quantitatively, which is directly related to the traditions of the society in which a consumption originates.

The general principle of the right to food is: First, the fulfillment of the right to food for the people is the responsibility of the state. Second, food security can only be

achieved if there is sufficient land for food production, good distribution, food production, and availability of food consumed. Meanwhile, food security is defined as the condition of fulfilling food for households which is reflected in the availability of adequate food, both quality and quantity, safe, equitable, and affordable.

There are three most important things in supporting human life which lie in the three degrees or three main elements of life, namely air, water, and food. The degree of importance of these three things can be inferred from the statement that a human being can survive three weeks without food, three days without water, and three minutes without air. The food issue is one of the most substantive things in Indonesia.

The fulfillment of the right to food must be realized by every country as a fundamental human rights principle because hunger is a serious human rights disaster, this is confirmed by the Presidential Commission on Hunger 1980, that "the fulfillment of the human right to food and nutrition is very important, without food the survival of individuals, communities, and nations cannot be realized". For the sake of the importance of food for humans and the existence of a country, because food is a basic need for the sustainability of human life, which if not available can create life-threatening conditions, and therefore the right to food is part of human rights. After Indonesia's independence, the problems and challenges to realizing sustainable Indonesian food security are multidimensional, covering economic, social, political, and environmental aspects. The identification of these problems and challenges can be done through the analysis of food supply and demand. In terms of supply, these challenges include competition for the use of natural resources, the impact of global climate change, and the dominance of small-scale farming. In terms of demand, among these challenges are high population growth along with the dynamics of demographic characteristics, changes in consumer tastes, and competition in the demand for food commodities for human consumption, feed, and energy raw materials. Accordingly, it is necessary to adjust the direction of food security development policies, especially in setting goals, choosing how to achieve goals, and determining national food security targets.

3.2. The Responsibility of Local Government in Fulfilling the Right to Food

The 1945 Constitution Article 28I paragraph (4) mandates, "Protection, promotion, enforcement, and fulfillment of human rights are the state's responsibility, especially the government." The position of state responsibility in fulfilling the right to food, as part of economic, social, and cultural rights.

The fulfillment of this right to food, so obligation to fulfill the right to food refers to the obligation of the State to take legislative action; and administrative, judicial, and practical policies to ensure the rights that are its obligations can be fulfilled to the maximum. Accordingly, 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 to realize quality human resources. For this reason, the obligation to fulfill the right to food includes the obligation to facilitate, provide, and provide protection for food. In this case, the fulfillment of the right to food requires the country concerned to take positive steps to ensure that food rights are protected, not only to ensure that they do not interfere with human rights or take steps to prevent other parties from interfering with the enjoyment of these human rights.

Based on Law Number 18 of 2012 concerning Food which was ratified through a plenary session of the House of Representatives of the Republic of Indonesia on October 18, 2012, food is everything derived from biological sources of agriculture, plantation, forestry, fishery, and livestock products, whether processed or unprocessed, intended as food or beverages for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing, and manufacturing food and beverages.

The fulfillment of this right to food, so obligation to fulfill the right to food refers to the obligation of the State to take legislative action; and administrative, judicial, and practical policies to ensure the rights that are its obligations can be fulfilled to the maximum. For this reason, the obligation to fulfill the right to food includes the obligation to facilitate, provide, and provide protection for food. In this case, the fulfillment of the right to food requires the country concerned to take positive steps to

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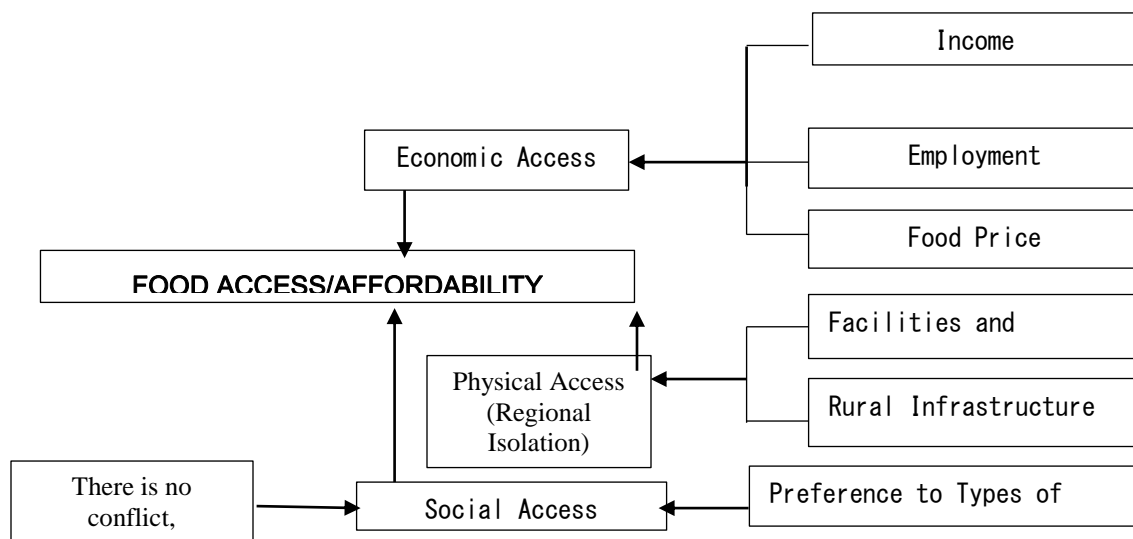
This right is defined as the right to regular, permanent, and free access either directly or by purchasing, to adequate food qualitatively and quantitatively, which is directly related to the traditions of the society in which a consumption originates (Mujib, 2011). In other words, a rights-based approach is believed to lead the development process towards changes that are more effective, more sustainable, more rational and more serious because it will increase participation, contribution and accountability, by identifying specifically the tasks and responsibilities of the State as a stakeholder of human rights to development (Firdaus, et al., 2007).

Law Number 18 of 2012 concerning Food not only regulates food security, but also clarifies and strengthens the achievement of food security by realizing food sovereignty with food resilience and food safety. "Food sovereignty is the right of states and nations that independently determine Food policies that guarantee the right to food for the people and that provide the right for the community to determine the Food system by the potential of local resources".

The food security sub-system consists of 3 (three) main sub-systems, namely availability, affordability and food utilization (Suryana, 2014). Meanwhile, nutritional status is an outcome of food security. Availability of affordability and absorption/utilization of food is a sub-system that must be fulfilled as a whole. One of the sub-systems is not fulfilled, so a country cannot be said to have good food security. Although food is available at the national and regional levels, if individual access to fulfill their food needs is unequal, then food security is still said to be fragile. There are four dimensions of food security, namely:

- 1) Physical food availability, which places more emphasis on aspects of availability such as levels of food production, stock and food trade;
- 2) Physical and economic access/affordability to food. Adequate food availability at the national or international level does not guarantee the adequacy of food at the household level. This is related to insufficient food access with indicators

production, purchase or through food aid. Household and individual access consists of economic, physical and social access. Economic access depends on income, employment opportunities and prices. Physical access concerns regional isolation (distribution facilities and infrastructure), while social concerns food preferences.



Source : Patrick Webb and Beatrice Rogers

Food utilization is the use of food for healthy living needs which include energy and nutrition needs, water and environmental health. The effectiveness of food absorption depends on household/individual knowledge, sanitation and water availability, health facilities and services as well as nutrition education and maintenance.

The three pillars of food security contained in the definition of Law No. 18 of 2012 include availability, *accessibility both* physically and economically, and stability that must be available and affordable at any time and any place. If the three pillars of food security are met, then the communities or households can fulfill their food security (Hafidah, Zulaeha, & Ariany, 2017). Then further in the Food Security System includes three subsystems, namely:

- a. Food availability with the main source of supply coming from domestic production and Food reserves;
- b. Food affordability by all communities, both physically and economically; and
- c. Utilization of Food to improve the quality of Food consumption and Nutrition,

including the development of Food safety.

The general principle of the right to food is: First, the fulfillment of the right to food for the people is the responsibility of the state. Second, food security can only be achieved if there is sufficient land for food production, good distribution, food production and availability of food consumed. Meanwhile, food security is defined as the condition of fulfilling food for households as reflected in the availability of adequate food, both quality and quantity, safe, equitable and affordable (Sakharina, 2020).

Fulfilling the population's right to food requires an in-depth study to obtain an effective and systematic solution from the regional government. Regional governments are considered to have an important role because the problem of regional disparities is ensured to be more widely known by regional governments than by the central government. The important role of Regional Government in supporting resilience. National food has also been regulated in Government Regulation Number 17 of 2015 concerning Food Security and Nutrition which states that Provincial Governments, Regency/ City Governments and/ or Village Governments implement policies and are responsible for implementing food security in their respective regions, taking into account guidelines and norms, standards and criteria set by the Central Government. Thus, it is necessary to provide regional government food reserves which are part of the national reserve sub-system.

Sustainable food security has become a priority issue and agenda. Important steps need to be taken by the government together with regional governments because food security is a multidimensional and very complex issue. After all, it includes various aspects such as social aspects, economic aspects, political aspects and environmental aspects. The Regional Government realizes that they cannot work alone in terms of fulfilling the community's right to food, especially in terms of providing food reserves, so support through well-established coordination from agencies/SKPD horizontally and vertically, is very helpful in implementing programs and taking policies. Policies that can be implemented by regional governments are to collaborate with other regional governments in terms of managing food shortages in the form of fulfilling food sources outside of the harvest period and also food sources for other regions that are not food

production centers (Hermanto, 2013). So there is a food crisis and food scarcity experienced by the community in an area or region caused by difficulties in food distribution, the impact of climate change, natural and environmental disasters, and social conflicts, including the consequences of war (Sunarso, 2005).

Food security policy as stated in the Regulation of the Minister of Agriculture No. 65/Permentan/OT.140/12/2010 Regarding Minimum Service Standards in the Field of Provincial and Regency/City Food Security, there are 4 Indicators of Minimum Service Standards for Provincial Minimum Service Standards, namely:

- a. Strengthening food reserves;
- b. Availability of price supply information and food access in the region;
- c. Supervision and development of food safety;
- d. Handling of Food Insecurity Areas

Then there are 7 indicators of Minimum Service Standards in the field of food security in the Regency/City, namely:

- a. per capita availability of energy and protein;
- b. Strengthening food reserves;
- c. availability of price supply information and food access in the region;
- d. price stability and food supply;
- e. improvement of Food Expectation Pattern (PPH) score
- f. supervision and development of food safety;
- g. handling of food insecurity areas.

To support the national food security development program through the independence of regional autonomy, the Provincial Government of South Kalimantan makes regional regulations. Regional-level laws and regulations are an inseparable part of the unity of the statutory system nationally. Therefore, there should be no regional-level laws and regulations that conflict with laws and regulations of a higher level or also conflict with the public interest. The public interest that must be considered is not only the interests of the people of many regions concerned, but also the interests of other regions and the interests of all Indonesian people (Latief, 2005).

South Kalimantan Provincial Government through South Kalimantan Provincial Regulation No. 2 of 2014 on the Protection of Sustainable Food Agricultural Land and

South Kalimantan Provincial Regulation No. 2 of 2020 on the Implementation of Food Security. Furthermore, Regional Regulation No. 12 of 2019 concerning the Implementation of Regional Food Reserves. The Regency/City Government in Selatan Kalimantan Province has also stipulated Regional Regulations and Regent/Mayor Regulations related to food as a legal basis in making policies/programs/ activities related to food management and also providing food reserves so that existing communities are protected and fulfilled the right to their food. All these policies are aimed at fulfilling the right to food.

Supporting the implementation of local government policies in managing food needs and providing food reserves as a form of responsibility, the Provincial Government of South Kalimantan makes policies by implementing programs that support the improvement of food crop production and the fulfillment of community food and increasing food security of the community funded from the Regional Government Budget and The Indonesian Budget.

The programs funded from Regional Government Budget funds are:

1. Agricultural facilities provision and development program;
2. Agricultural facilities provision and development program;
3. Agricultural disaster control and management program;
4. Agricultural counseling program;
5. Economic resource management program for food sovereignty and independence;
6. Program to improve the diversification and food security of the community;
7. Food insecurity management program;
8. Food safety supervision program

Through the above regulations, it is expected to be able to realize food security and fulfill the community's right to food, so that the community's right to food is protected and fulfilled both in quantity and quality, safe, diverse, nutritious, equitable and affordable and does not conflict with the religion, beliefs and culture of the community, to live a healthy, active and productive life sustainably.

However, there are obstacles in the implementation of policies related to regional food development in South Kalimantan that still do not meet 100% of the regional food

reserves that must be prepared because there are factors that are obstacles such as flooding, the impact of climate change, budget *refocusing*, fuel price fluctuations, and also the conversion of agricultural land.

South Kalimantan is one of the provinces in the lowlands, so during the rainy season it is very vulnerable to flood threats. Thus, food security in South Kalimantan has become threatened by disaster problems, which are in the form of floods and have become a threat to the agricultural sector, especially food crops, in the past few years. Floods hit almost all regencies/cities, especially in the Barito Kuala area and Banjar Regency which are the largest rice food crop producers in South Kalimantan in the form of rice crops. Floods that occur cause damage to infrastructure such as irrigation networks and water governance. So that the land cannot be planted within a certain period because the land was flooded during the flood, thus affecting the supply of food crops and also causing regional food reserves to become problematic.

South Kalimantan experiences wet drought weather/climate. Wet drought itself is a weather condition where rainfall is higher than in previous years. In these two years the wet drought in South Kalimantan caused the production of food crops to decrease in crop yields. Because rice grains that are in the mature phase should require more hot weather, what happens is that there is more rain due to the impact of wet drought.

Climate change due to global warming has changed global, regional and local climate conditions. Agriculture is one of the sectors that is greatly affected by this climate change, resulting in the impact of decreasing the productivity of food crops and even being very vulnerable to attacks by pests and diseases which in turn has an impact on food security because food availability is reduced so that regional food reserves are also reduced, besides that this also has an impact on farmers' income.

The Covid-19 pandemic several years ago has caused the collapse of the Indonesian economy and even the world economy, this is also the case in South Kalimantan. In the context of rescue due to Covid-19, this means that in Indonesia it is included in South Kalimantan. Carrying out a priority scale policy by making *refocusing* cuts, this budget is prioritized for handling COVID-19 and now Indonesia is facing a democratic party. So until now, the government through the Regional Government

Budget fund has not been able to budget 100% to meet regional food reserves, so this is what causes the regions as the results of the study to only target between 10% -12% of regional food reserves than the amount they should be.

Food distribution is currently constrained by the problem of Fuel Oil, food activity/distribution is supported by BBM. Fuel is a strategic material whose price is regulated by the government and at any time the price is adjusted to the development of world fuel prices. This fuel price adjustment is very influential on agriculture because the costs that must be incurred by farmers also increase and this also affects the welfare of farmers.

Changes in the function of productive agricultural land, of course, sooner or later greatly affect agricultural products, especially food crops, both in terms of quality and quantity. Whereas currently the agricultural sector is important in national, regional and local economic growth. Agricultural land is very important in supporting sustainable agriculture through a process that optimally utilizes agricultural resources to meet the needs and welfare of today's society without sacrificing the needs and welfare of future generations. Along with the rate of conversion of agricultural land to non-agricultural land, agricultural resources that need to get priority are agricultural land, especially food agricultural land.

4. CONCLUSIONS

Regional Regulations and Regent/Mayor Regulations related to food as a legal basis in making policies/programs/ activities related to food management and also providing food reserves so that existing communities are protected and fulfilled the right to food both in quantity and quality, safe, diverse, nutritious, equitable and affordable and not contrary to religion, beliefs and culture of the community, to live healthy, active and productive in a sustainable manner.

5. SUGGESTION

Local governments must strive to develop regional food reserves and overcome obstacles to the fulfillment of the right to food by coordinating both horizontally and vertically between agencies as well as cooperating with other regions.

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