



**RESPONSIVE LAW MODEL FOR REALIZING FOOD
SOVEREIGNTY REGENCY**

**MODEL HUKUM RESPONSIF UNTUK MEWUJUDKAN
KABUPATEN BERDAUAT PANGAN**

Ade Arif Firmansyah^{1*}, Yhannu Setyawan², Malicia Evendia³

^{1,2,3} Faculty of Law, University of Lampung,
Bandar Lampung City, Lampung Province, Indonesia

*Email : ade.firmansyah@fh.unila.ac.id

Received: August 20, 2021. Accepted: March 25, 2022. Online Published: April 2, 2022.

ABSTRACT

Data from the Ministry of Agrarian and Spatial Planning/National Land Agency in 2018 showed that the raw area of rice fields in Indonesia was only 7.1 million hectares (ha) or down compared to 2013 which was still 7.75 million hectares. This will of course have a negative impact on the achievement of national food sovereignty vsi, coupled with the condition of regional agricultural regulations which are still sectoral and not comprehensive. By using a doctrinal approach, this paper aims to develop a responsive legal model to create a food-sovereign district. The results of the study indicate that a responsive legal model to empower farmers and create food sovereignty districts is needed because so far regional regulations in the agricultural sector are still partial so that they have not fully supported the realization of the condition of food sovereignty. The targets to be realized, the scope of regulation, the scope, and direction of the regulation model of a responsive law-based food sovereignty district will contain three major parts, namely: the Agricultural Land Protection Division, the Farmer Protection and Empowerment Division, and the Irrigation Network Section, so that the realization of a sovereign district is realized. food can be achieved comprehensively.

Keywords : Food Sovereignty; Model; Responsive.

ABSTRAK

Data Kementerian Agraria dan Tata Ruang/Badan Pertanahan Nasional Tahun 2018 menunjukkan luas baku sawah di Indonesia hanya 7,1 juta hektar (ha) atau turun dibandingkan tahun 2013 yang masih 7,75 juta hektar.

Hal ini tentunya akan berdampak negatif terhadap pencapaian kedaulatan pangan nasional vsi, ditambah dengan kondisi peraturan daerah pertanian yang masih bersifat sektoral dan belum komprehensif. Dengan menggunakan pendekatan doktrinal, tulisan ini bertujuan untuk mengembangkan model hukum yang responsif untuk mewujudkan kabupaten berdaulat pangan. Hasil penelitian menunjukkan bahwa diperlukan model hukum yang responsif untuk memberdayakan petani dan mewujudkan kabupaten berdaulat pangan karena selama ini peraturan daerah di bidang pertanian masih bersifat parsial sehingga belum sepenuhnya mendukung terwujudnya kondisi kedaulatan pangan. Sasaran yang ingin diwujudkan, ruang lingkup pengaturan, ruang lingkup, dan arah model regulasi kabupaten berdaulat pangan berbasis hukum yang responsif akan memuat tiga bagian besar, yaitu: Bagian Perlindungan Lahan Pertanian, Bagian Perlindungan dan Pemberdayaan Petani, dan Bagian Jaringan Irigasi, sehingga terwujud kabupaten yang berdaulat. pangan dapat tercapai secara menyeluruh.

Kata Kunci : Kedaulatan Pangan; Model; Resposif.

I. INTRODUCTION

The team's research conducted in 2019 showed that regulations related to food sovereignty in the regions are still sectoral in nature between several regional regulations and there is a discrepancy between several content materials.¹The enactment of Law Number 19 of 2013 concerning the Protection and Empowerment of Farmers is expected to guarantee the protection and empowerment of farmers for the welfare of the people. Moreover, Nawacita itself has outlined food sovereignty as a model for agricultural and food development for 2014-2019. Food sovereignty changes the previous paradigm known as food security.

However, data from the Ministry of Agrarian and Spatial Planning/National Land Agency shows that in 2018 the raw area of rice fields in Indonesia was only 7.1 million hectares (ha) or down compared to 2013 which was still 7.75 million hectares.² On the other hand, the government's efforts through the Ministry of Agriculture for the rice field printing program are only able to produce around 60 thousand ha of rice fields each year. Thus, Indonesia has experienced a rice field deficit of almost 350 thousand ha in the last 5 years. In addition to the reduction in the number of rice fields, in recent times it has been widely reported that farmers in various places often experience difficulty in fertilizing. Inorganic fertilizers are becoming more and more expensive from time to time and often have inappropriate distribution/distribution, erratic weather, crop failures and fluctuations in crop prices. This kind of situation puts the farmers in a difficult situation.

These various conditions will have a negative impact on the survival of farmers and even more so on the vision of food sovereignty promoted by the

¹ Budiyo, Ahmad Saleh and Ade Arif Firmansyah, Design of Regional Regulations for the Protection of Sustainable Food Agricultural Lands to Support Food Sovereignty Policies, Research Report, LPPM Unila, 2019, page 57.

² Danang Sugianto. (2018) Retrieved from <https://finance.detik.com/berita-ekonomi-bisnis/d-4270821/pakai-metode-baru-bps-catat-luas-baku-sawah-turun-jadi-71-juta-ha>

government. Therefore, protection of sustainable food agricultural land and empowerment of farmers are important issues that need to be considered by the government and local governments. Protection of sustainable food agricultural land and farmer empowerment must be carried out through careful planning and determination, so that it must be stated in the RPJP, RPJM and district RKP. However, until now there are still many districts in Indonesia that have not integrated this into their development plans. In addition to development planning, it is no less important to put it in the form of a Food Sovereign Regency Regional Regulation which will serve as a trigger for other regions in the preparation of related legal products to realize food sovereignty in their regions.

The slow response of the local government in formulating policies related to the above issues is a form of the unresponsiveness of the legal character built by the local government. A responsive legal model is needed that can be used by local governments in empowering farmers and realizing food sovereignty districts. Based on the background that has been described, the problems to be solved in this research are: how is the responsive legal model to empower farmers and create a food sovereignty district?

II. METHOD

This paper is in the corridor of normative legal research (doctrinal research). which only uses secondary data. The legal research model is a comprehensive and analytical study of primary legal materials and secondary legal materials. The approach to the problem uses a statutory approach) and conceptual approach (conceptual approach).³ The data were analyzed qualitatively by describing the data generated from the research into a systematic explanation form so that a clear picture of the problem under study could be obtained. The results of the data analysis were concluded deductively.

III. ANALYSIS AND DISCUSSION

a. Food Sovereignty and Responsive Law District

The realization of the Food Sovereignty Regency in the context of government affairs is a derivation affair which is delegated by Law Number 41 of 2009 concerning Protection of Sustainable Food Agricultural Land and Law Number 23 of 2014 concerning Regional Government. In addition to these two laws, it is also necessary to pay attention to Law No. 26 of 2007 concerning Spatial Planning, which stipulates that one of the purposes of spatial planning in rural areas is the defense of the eternal land area for food agriculture for food sovereignty.

Food sovereignty, namely the ability of a country to provide, suffice, and determine food policy independently is very important. Food is not just an ordinary commodity but a commodity full of political and social nuances that lead to resilience, sovereignty, and the existence of a nation and state.⁴Therefore, the need for food sovereignty districts is important to realize.

³Peter Mahmud (2005). Legal Research, Kencana Prenada, Jakarta, page xx.

⁴U. Maman. (2013) Agricultural Land Conversion and Food Sovereignty Issues, Journal of Agribusiness, Vol. 7, No. 1, 80.

The regulatory model for the Food Sovereign Regency has an important meaning for local governments in order to control the activity of changing the function of food agricultural land to non-food agriculture which is not much more productive which ends up being protect the area and land for food agriculture in a sustainable manner, ensure the availability of land for food agriculture in a sustainable manner, realize self-reliance, food security and sovereignty, protect the ownership of food agricultural land owned by farmers, increase the prosperity and welfare of farmers and the community, increase the protection and empowerment of farmers, increase the provision of fields work for a decent life, maintain ecological balance, and realize agricultural revitalization. Therefore, the concept of responsive law from Nonet and Selznick, which views responsive law as a facilitator of various responses to social needs and aspirations, is important to be adopted in this paper.⁵

Based on the Preamble of the 1945 Constitution, one of the goals of the state is to realize the general welfare of the community, as contained in the concept of the Welfare State. One form of welfare is the existence of a social security system which in developing countries takes the form of a social protection system and in times of crisis it takes the form of a social safety net.

Departing from the philosophical foundation of the constitution, the administration of government is essentially obliged to provide services and welfare to the community. In realizing this spirit, both the central government and local governments must optimize development for the welfare of the community, including in carrying out regulations in the agricultural sector.

Furthermore, when it is associated with authority, according to Philip Selznick and Philippe Nonet in the theory of law and power, there are several stages of legal development, among others, from repressive legal stages to more autonomous laws and then towards responsive law. From these stages, it is clearly illustrated that the emergence of responsive law is more due to the reaction and will of the community caused by the rigidities that occur in repressive modern law, and on the basis of reactions from the community who want change, finally there is a shift to become more autonomous law and then towards responsive law. For further details⁶, (2) law as a separate institution capable of taming repression and protecting its integrity, and (3) law as a facilitator of various responses to social needs and aspirations.⁷ Furthermore, Nonet and Selznick explained the repressive, autonomous and responsive character of the law as quoted below:

In its clearest and most systematic form, repressive law exhibits the following characteristics:⁸

- 1) Legal institutions are directly accessible to political forces; law is identified with the State and is placed under the objectives of the State.

⁵ *Ibid.* 87.

⁶ FX. Adji Samekto, Relation of Law with Power: Seeing Law in Reality Perspective, *Journal of Legal Dynamics* Vol. 13 No. January 1, 2013, p. 97.

⁷Philippe Nonet and Philip Selznick. (1978). *Responsive Law*, translation from: *Law and Society in Transition: Toward Responsive Law*, Harper & Row, 1978. Translated by Raisul Muttaqien, Nusamedia, Bandung, 2008,18.

⁸*Ibid.*,37.

- 2) The perpetuation of an authority is the most important matter in the administration of law.
- 3) Specialized control institutions, such as the police, became independent centers of power.
- 4) A “double law” regime institutes class-based justice by consolidating and legitimizing patterns of social subordination.
- 5) Criminal law reflects dominant values; legal moralism will prevail.

The characteristics of autonomous law can be summarized as follows:⁹

- 1) Law is separate from politics. Typically, this legal system asserts the independence of judicial power, and draws a clear line between legislative and judicial functions.
- 2) The rule of law supports the “regulatory model”. The focus on regulations helps set the benchmark for accountability of officials; at the same time, it limits the creativity of legal institutions as well as the risk of legal institutions' interference in the political sphere.
- 3) “Procedure is the heart of law”. Order and justice, rather than substantive justice, are the main aims and competencies of the legal order.
- 4) “Obedience to the law” is understood as perfect obedience to the rules of positive law. Criticism of the applicable law must be channeled through the political process.

Responsive law means showing a responsible adaptive capacity, and thus selective and not haphazard adaptation. A responsive institution strongly defends the things that are essential for its integrity while still paying attention to the presence of new forces in its environment. Responsive law reinforces the ways in which openness and integrity can support each other even when there are conflicts between the two. Responsive institutions regard social pressures as a source of knowledge and opportunities for self-correction.¹⁰

b. Regulatory Model of Food Sovereignty Based on Responsive Law

The agricultural sector is one of the important sectors as a provider of inputs for other sectors, so this sector is said to have an influence on the structure of the Indonesian economy. The agricultural sector itself is not limited to farming or plant cultivation (food crops, plantations, and horticulture), but includes the fisheries, livestock and forestry sectors, with cultivation activities in the upstream to distribution activities to consumers in the downstream, as well as changing inputs. into output in the form of clothing, food, shelter and a comfortable environment for living things. Agriculture is not just planting and gardening. The above shows how wide the agricultural sector is.¹¹

The development of the agricultural sector as an effort to fulfill food in

⁹*Ibid*, 60.

¹⁰*Ibid*, 87.

¹¹Drafting Team (2017) Academic Papers and Draft Law on Sustainable Agricultural Cultivation Systems, Commission IV DPRRI.

an era of high demand for food and food products is an indicator of the start of this environmentally friendly economic and industrial era based on various creations and innovations of inputs, processes and products of agriculture, fishery, livestock and forestry, both from the aspect of environmental management. , fairness of the value cycle (value cyclic) and fairness of supply cycle management.¹²Furthermore, this new era will develop in the midst of a sustainable modern community with creation, innovation, technology, and ecology. Furthermore, this is known as the concept of the green economy and blue economy. The era of the green economy and blue economy is a new economic era that not only prioritizes innovation, but also corrects inequality and the non-linear nature of the system (system-cyclic). The green economy and blue economy are also constructive for the realization of the 17 indicators of the Sustainable Development Goals (SDGs).

Therefore, the development of land requirements for each type of production activity will be determined by the development of the number of requests for each commodity. In general, food commodities are less elastic to income than the demand for non-agricultural commodities, the consequence is that economic development that leads to an increase in income tends to cause an increase in the demand for land for non-agricultural activities at a faster rate than the increase in land demand for agricultural activities.¹³ Land Function Transfer is a process of changing land use from certain forms of use to other uses, for example to non-agriculture, and usually in the transfer of functions it leads to things that are negative for the ecosystem of the natural environment of the rice fields themselves.¹⁴In addition to the transfer of functions, issues related to the protection of farmers and the implementation of irrigation are important to support food sovereignty.

Irrigation is all human efforts related to planning and making facilities to channel and distribute water to agricultural fields on a regular basis, as well as removing excess water that is no longer needed.¹⁵As a science, irrigation does not only discuss and explain methods and efforts related to taking water from various sources, storing it in a reservoir or raising its surface elevation, by channeling and distributing it to plots of land to be cultivated. , but also includes issues of river flood control and all efforts related to the maintenance and protection of rivers for agricultural purposes.

Irrigation is generally defined as the use of water in the soil for the purpose of providing the water needed for plant growth. However, a more general definition including irrigation is the application of water to the soil for each of the following eight uses:

¹²EH Khaeron. (2016) Food Diversification Development Model in Supporting National Food Security (A Case in West Java Province). Dissertation, Faculty of Agriculture, Padjadjaran University Bandung, Bandung.

¹³Syarif Imama Hidyat, (2008). Analysis of Rice Field Conversion in East Java Province" journal: Faculty of Agriculture UPN veterans East Java.

¹⁴I Made Mahadi Dwipradnyana, (2014). Factors Affecting Agricultural Land Conversion and Impact on Farmers' Welfare (case study in Subak Jadi, Kediri sub-district, Tabanan). Thesis: postgraduate program at Udayana University, Denpasar.

¹⁵Effendi Pasandaran (1991) Irrigation in Indonesia: Strategy and Development, Jakarta: Institute for Research, Education and Information, Economics and Social Affairs, 1991, 34.

- 1) Adding water to the soil to provide the necessary fluids for plant growth.
- 2) To provide guaranteed harvest during the short dry season.
- 3) To cool the soil and atmosphere, thus creating a favorable environment for plant growth.
- 4) To reduce the danger of freezing.
- 5) To wash or reduce salt in the soil.
- 6) To reduce the danger of soil erosion.
- 7) To soften the plowing and clod of earth.
- 8) To slow down the formation of shoots by cooling due to evaporation.¹⁶

Technically, irrigation is intended to reduce the transportation costs of agricultural products, so in the era of the 1970s to 1990s, the government was active in building irrigation networks to develop all agricultural land in Indonesia. Irrigation land development is carried out through the Provincial Irrigation Development Project.¹⁷ Thus irrigation is seen as a primary factor in development in agriculture, in addition to land and farmer factors. The development of the agricultural sector absolutely requires a good and integrated irrigation system.¹⁸ The relationship between irrigation systems and agriculture is ultimately related to farmers as water users. Irrigation activities always foster cooperation between farmers in the construction and maintenance of irrigation structures and canals. The distribution of water between rice fields and between rice fields in the same area requires well-organized cooperation among farmers in the irrigation network concerned.¹⁹ In connection with the above description, the responsive law-based regulatory model for food sovereignty districts is basically composed of three parts, each of which will be described as follows.

1) Agricultural Land Protection Section

The Section for the Protection of Sustainable Food Agricultural Lands covers regulatory matters relating to local government policies in agriculture related to the participation of the district community to maintain the quality and quantity of sustainable food agricultural land. This section will be divided into several regulatory chapters as a form of mapping content material in the theory of laws and regulations. The direction of regulation in the Sustainable Food Agricultural Land Protection Section is adjusted to the direction of the Regency's development policies as stated in the Regency Regional Medium

¹⁶Hansen, VE, et al, (1992). *Fundamentals and Practice of Irrigation*. Jakarta: Erlangga, 20

¹⁷Kedi Suradisastra, and Effendi P, *Highlighting the Dynamics of Agricultural Development in Eastern Indonesia: Workshop Proceedings*, Jakarta: Ministry of Agriculture, Agency for Agricultural Research and Development, 107.

¹⁸Kartasapoetra, AG, and Mulyani Sutedjo, (1994). *Water Technology*, Jakarta: Bumi Aksara.

¹⁹Siskel, SE and Hutapea, SR, (1995) *Irrigation in Indonesia The Role of Society and Research*. Jakarta : LP3ES, 21.

Term Development Plan and the Regent's Vision and Mission. Therefore, basically the regulation of the Protection of Sustainable Food Agricultural Land is directed at realizing food sovereignty in the Regency. The core regulatory basis of this section refers to Law Number 41 of 2009 concerning the Protection of Agricultural Land for Sustainable Food.

2) Farmer Protection and Empowerment Section

Part Farmer Protection and Empowerment covers regulatory matters which include: planning; farmer protection; farmer empowerment; financing; supervision; community participation. The Farmer Protection and Empowerment Section is basically a systematic, comprehensive, and sustainable activity in the context of protecting and empowering farmers in the Regency. The direction of regulation in this section is aimed at an effort to realize the concept of protection and empowerment of farmers supported by legal certainty, clarity of responsibility and authority of the district government. The core regulatory basis of this section refers to Law No. 19 of 2013 concerning the Protection and Empowerment of Farmers.

3) Irrigation Network Section

The Irrigation Section has the following arrangements: Planning for the management of the irrigation system; Irrigation system management institutions; irrigation system management; Guidance, supervision and empowerment, so as to ensure legal certainty in the implementation of irrigation management in the Regency starting from the planning process to accountability. The direction and scope of this Irrigation section is basically to carry out the authority of the Regency Government in the irrigation sector which has been outlined in the statutory regulations. The core regulatory basis of this section refers to Law No. 17 of 2019 concerning Water Resources.

IV. CONCLUSION

Based on the descriptions discussed in previous chapters, it will be concluded that a responsive legal model to empower farmers and create food sovereignty districts is needed because so far regional regulations in the agricultural sector are still partial so that they have not fully supported the realization of the condition of food sovereignty. The targets to be realized, the scope of regulation, the scope, and direction of the regulation model of a responsive law-based food sovereignty district will contain three major parts, namely: the Agricultural Land Protection Division, the Farmer Protection and Empowerment Division, and the Irrigation Network Section, so that the realization of a sovereign district is realized. food can be achieved comprehensively.

ACKNOWLEDGMENTS

Appreciate the input and editorial direction in each section.

REFERENCE

- Budiyono, Saleh, A., & Firmansyah, A. A. (2019). Design of Regional Regulations for the Protection of Sustainable Food Agricultural Lands to Support Food Sovereignty Policy. *Research Report, LPPM Unila*.
- Drafting Team. (2017). Academic Papers and Draft Law on Sustainable Agricultural Cultivation Systems, Commission IV DPRRI.
- Dwipradnyana, I. M.M. (2014). *Factors Affecting Agricultural Land Conversion and Impact on Farmers' Welfare (case study in Subak Jadi, Kediri sub-district, Tabanan)*.
- Hansen, V.E, et al. (1992) *Fundamentals and Practice of Irrigation*. Erlangga: Jakarta.
- Hidayat, A. I. (2008). Analysis of Rice Field Conversion in East Java Province. *journal: Faculty of Agriculture UPN*.
<https://finance.detik.com/berita-ekonomi-bisnis/d-4270821/gunakan-method-baru-bps-catat-wide-baku-sawah-turun-jadi-71-juta-ha>, accessed January 31, 2020.
- Kartsapoetra, A. G., & Sutedjo, M. (1994). *Water Technology*. Bumi Aksara: Jakarta.
- Khaeron, E.H. (2016). Food Diversification Development Model in Supporting National Food Security (A Case in West Java Province). Dissertation, Faculty of Agriculture. *Padjadjaran University*. Bandung.
- Mahmud, P. (2005). *Legal Research*. Kencana Prenada: Jakarta.
- Mamam, U. (2013). Agricultural Land Conversion and Food Sovereignty Issues. *Journal of Agribusiness* 7(1).
- Nonet, P., & Selznick, P. (2008). Responsive Law, translation from: Law and Society in Transition: Toward Responsive Law, Harper & Row, 1978. Translated by Raisul Muttaqien. *Nusamedia*. Bandung.
- Pasandaran, E. (1991). *Irrigation in Indonesia: Strategy and Development*, Jakarta: Institute for Research, Education and Information, Economics and Social Affairs.
- Samekto, F. X. A. (2013). Relation of Law with Power: Seeing Law in Reality Perspective. *Journal of Legal Dynamics*, 13(1).
- Siskel, S.E., Hutape, S. R. (1995). *Irrigation in Indonesia The Role of Society and Research*. LP3ES: Jakarta.
- Suradisastra, K., & Pasandaran, E. *Highlighting the Dynamics of Agricultural Development in Eastern Indonesia: Workshop Proceedings, Jakarta: Ministry of Agriculture, Agency for Agricultural Research and Development*.