

Constitutional Responsibility for Regulating Food Sovereignty

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ABSTRACT

This study aims to analyze the constitutional responsibility for food sovereignty and self-reliance as regulated in Law Number 6 of 2023 concerning Job Creation. The type of research used is normative research with a statute approach and conceptual approach. Based on the results of the research, it shows that the enactment of Law No. 6 of 2023 concerning Job Creation, especially in terms of food, has implications for the goals of food sovereignty and self-reliance in Indonesia, which were previously stipulated in Law No. 18 of 2012 concerning Food. It is feared that this will affect the decline in farmers' welfare levels due to the absence of restrictions on food imports. The position of food imports parallel to domestic production and national food reserves no longer reflects the essence of food sovereignty. In this problem, the constitutional responsibility related to food sovereignty is to review Law No. 6 of 2023 on Job Creation to ensure the achievement of public welfare.

Keywords:

Constitutional
Responsibility, Food
Sovereignty, Job
Creation Law

INTRODUCTION

Indonesia is a rule of law with the government based on the 1945 Constitution of the Republic of Indonesia. According to the constitution, the state is responsible for the rights of citizens, one of which guarantees the welfare of the people. Affirmed in the Preamble of the 1945 Constitution of the Republic of Indonesia in Paragraph 4 which reads "Then than that to form a Government of the State of Indonesia which protects the entire Indonesian nation and the entire homeland of Indonesia and to advance the general welfare ...". The rules regarding welfare are also regulated in Law No. 11/2009 concerning Social Welfare in Article 4 which is "The state is responsible for the implementation of social welfare". The welfare referred to in this case is not only about the fulfillment of services and facilities, but also includes the formation of policies that favor the interests of the people.

The welfare of the people, which is the responsibility of the state, includes health, education and economic security, as well as the availability of food. Food is a basic need to fulfill human life. In meeting the food needs of the community, the state is responsible for ensuring daily food needs and how to meet these needs.

As an effort to fulfill food, the government implements the concept of food sovereignty and independence as stipulated in Law No. 18/2012 on Food. According to Law No. 18/2012 on Food, "Food sovereignty is the right of the state and nation to 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 in accordance with the potential of local resources." Meanwhile, in Law No. 18/2012 on Food, "Food self-sufficiency is the ability of the state and nation to produce diverse food from within the country that can ensure the fulfillment of adequate food needs up to the individual level by utilizing the potential of natural, human, social, economic resources and local wisdom with dignity". In other words, it can be interpreted that the implementation of food sovereignty can be done by prioritizing domestic food production. In addition, the state can independently determine food policies that

guarantee the right to food of the people and give the community the right to determine the food system in accordance with the potential of local resources.

One of the policies set by the government in this regard relates to food imports to meet food needs and national food reserves. Food imports are basically an option that can be carried out by the government if local food production and national food reserves do not meet the needs. In addition, imports can also be carried out if domestic rice prices experience price spikes resulting in price instability. The regulation of food imports is very important to be regulated wisely by the government because it will have an impact on the welfare of farmers as domestic food producers.

Previously, Article 36 Paragraph (1) of Law No. 18/2012 on Food reads "Food imports can only be carried out if domestic food production is insufficient and/or cannot be produced domestically". Furthermore, Article 36 Paragraph (2) reads "Import of staple food can only be carried out if domestic food production and national food reserves are insufficient". Rules regarding food import policies have been set by the government as a form of protection of domestic food production.

However, several articles of Law No. 18/2012 on Food were amended in Law No. 6/2023 on Job Creation. The changes affect food sovereignty and independence, especially in relation to food import policies. So that Article 64 of Law No. 6 of 2023 concerning Job Creation reads "Food imports are carried out to meet domestic needs". Meanwhile, the amendment to Article 36 Paragraph (2) of the Food Law reads "Import of staple food is carried out to meet consumption needs and national food reserves".

Apart from being seen from the legal side, the stipulation of Law No. 6 of 2023 concerning Job Creation is also not in accordance with the conditions on the ground. In 2023, the government imported 3.5 million tons of rice. Whereas the amount of domestic rice production reached 30.96 million tons of rice, based on the results of KSA-BPS in 2023. While the amount of national rice consumption in 2023 is 30.62 million tons, there is still a surplus of 342.38 thousand tons. This shows that the calculation of rice production can still meet the consumption of the national population. The increasing number of food imports into the domestic market will have an impact on changes in food selling prices, causing local farmers to find it difficult to compete with imported rice prices which tend to be cheaper, making it difficult for farmers to get a high enough selling price in accordance with production expenses.

Several experts have also expressed their opinions on the continued importation of rice. Where based on the opinion of IPB agricultural expert, Dwi Andreas Santosa regarding this act, it is stated that "if imports continue to be carried out and last until next year, it will have a bad impact on the welfare of Indonesian farmers and certainly the impact will be very bad on the price of grain and rice in the next harvest, it will fall again" (KBR, 2023). However, in 2023, the government imported the largest amount of rice instead, reaching 3.06 million tons (CNN Indonesia, 2024). Some of these things end up also causing the weakness of local food products because they are not able to compete with imported products that are relatively cheaper. He also said that "the decline in grain production in Indonesia every year reaches an average of 1% and is constant, because farmers are reluctant to continue to bear losses because the selling price is not comparable to the cost of production" (BBC News Indonesia, 2024).

In addition to this, the stipulation of Law No. 6 of 2023 on Job Creation is also considered incompatible and contrary to the 1945 Constitution of the Republic of Indonesia Article 33 Paragraph (4) which reads "The national economy is organized

based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental insight, independence, and by maintaining the balance of progress and national economic unity". The enactment of Law No. 6 of 2023 concerning Job Creation in the implementation of sustainable food imports, indirectly violates the contents of Article 33, especially in terms of the economic independence of the community which results in decreased economic growth and community welfare, which in this case refers to the economy of local farmers.

Overall, the Law No. 06 of 2023 on Job Creation is not in accordance with the government's principle to achieve food sovereignty which should be done by prioritizing the welfare of the people, especially farmers. As a rule of law, all laws and regulations stipulated must be in accordance with the 1945 Constitution of the Republic of Indonesia and in accordance with the ideals of the law itself. Therefore, this paper will further examine the responsibility of the constitution towards the regulation of food sovereignty and food self-sufficiency in achieving the goal of public welfare.

METHOD

The research method used in this journal is normative legal research, a process of finding legal rules, legal principles and legal doctrines as guidelines in resolving a legal issue (Marzuki, 2007). This type of research is oriented towards literature studies regarding rules or other legal materials that regulate the issues under study. While the legal approaches used are statutory approaches and conceptual approaches. The statutory approach is used to examine and review Law No. 06 of 2023 on Job Creation against the 1945 Constitution of the Republic of Indonesia and laws and regulations related to food sovereignty and food self-sufficiency. Meanwhile, the conceptual approach is used to build a concept by not departing from the principles and doctrines in legal science. This approach is carried out on Law No. 6 of 2023 concerning Job Creation regarding food and will be linked to legal thinking that refers to constitutional responsibility. In the process of obtaining legal materials, researchers collect sources through primary legal materials, secondary legal materials and tertiary legal materials.

RESULTS AND DISCUSSION

The enactment of Law No. 06 of 2023 on Job Creation is considered to have degraded the justice value itself. The Law is also considered to be incompatible with the government's principles in improving food sovereignty and food self-sufficiency. This has led to complex debates in society regarding the state's responsibility in creating policies that have a direct impact on food availability. Where food is a basic need for the people of Indonesia that must be fulfilled.

Law No. 18/2012 on Food explains that "Food is everything that comes from biological sources of agricultural, plantation, forestry, fishery, aquaculture, and water products, both processed and unprocessed, intended as food or drink for human consumption, including food additives, food raw materials, and other materials used in the process of preparing, processing, and/or making food or drink". Food fulfillment is guaranteed in the 1945 Constitution of the Republic of Indonesia as a basic component to realize quality human resources. Food fulfillment is not only limited to the availability of food for everyone but also about how the food system can support local food production.

In meeting these food needs, the state is obliged to guarantee food independence, resilience and sovereignty. Food sovereignty should be achieved through the establishment of various policies that support the performance of the citizen, especially farmers in increasing the amount of production. The existence of food sovereignty is an effort to provide access to production sources, sustainable agricultural practices, fair trade and local food consumption patterns. In other words, the existence of food sovereignty is a means to protect the farmers' or producers' right. Meanwhile, food independence will be an effort to fulfill national food needs based on the ability of domestic resources optimally which can improve consumer welfare and protect agricultural producers (Azahari, 2006).

Food fulfillment can be achieved with the existence of a system in food organization and production. Basically, food fulfillment must prioritize the utilization of local resources so as to focus on the goals of food sovereignty and self-reliance. From the physical and economic aspects, several things can be done by managing the stabilization of basic food supply and prices as well as managing basic reserves.

The rules regarding food imports were previously stipulated in Article 36 Paragraph (1) of Law No. 18/2012 on Food which reads "Food imports can only be carried out if domestic food production is insufficient and/or cannot be produced domestically". Furthermore, Article 36 Paragraph (2) reads: "Import of staple food can only be done if domestic food production and national food reserves are insufficient". In this article, it is clear that food imports can only be carried out if domestic production conditions are insufficient and/or cannot be produced domestically, which means that local production is a priority to fulfill food security. However, the content of the article has been replaced since the enactment of Law No. 6 of 2023 on Job Creation.

However, the enactment of Law No. 6 of 2023 on Job Creation, which changes the contents of several articles from Law No. 18 of 2012 on Food especially Article 36. The change refers to the implementation of food imports that can be carried out continuously. The position of domestic food production is no longer prioritized to meet national food needs. This policy affects domestic food production and is feared to have an impact on the decline in farmers' welfare. In this case, the rules regarding food imports become a problem that can harm farmers. The provisions of Article 36 are amended to read as follows:

- (1) Food imports are carried out to fulfill domestic needs.
- (2) Imports of staple food are carried out to meet consumption needs and national food reserves.
- (3) Food imports and staple food imports as referred to in paragraph (1) and paragraph (2) shall be stipulated by the Central Government by taking into account the interests of farmers, fishermen, fish farmers, and micro and small-scale food business actors.

In the provisions of the article, there is a change in the point of eliminating the conditions for the provision of food import policies. The existence of changes that a country can potentially lead to the interpretation that Article 64 of Law No. 6 of 2023 concerning Job Creation has a negative impact on food sovereignty and independence in Indonesia.

The amendment of Law No. 18/2012 on Food in Law No. 6/2023 on Job Creation, regarding food fulfillment, has shifted from its original goal of realizing food sovereignty and independence by prioritizing the welfare of farmers. This is also contrary to the objectives of food administration, one of which is to improve the welfare

of farmers and food business actors. Food sovereignty, which is supposed to be a form of protection for the rights of farmers or producers, actually brings down the welfare of farmers because they are unable to compete with imported products whose selling prices are relatively more affordable.

This is also in accordance with the results of Eko Edy Prayitno's research in his thesis entitled "Legal Politics of Strengthening National Food Sovereignty in Anticipating the Impact of the Global Food Crisis". Prayitno, explained that from the massive importation of rice carried out by the government and the food security index which is still relatively low, food sovereignty and independence have not been running. (Prayitno, 2024). In line with the research conducted by the author, Azza Indah also stated in her research that the absence of policies regarding continuous import activities will result in the welfare of local farmers. The relatively cheap price of imported rice will affect the selling price in the market so that it can make it difficult for local farmers to sell their crops. (Kusumastuti, 2024).

In addition to Article 36 of Law No. 18/2012 on Food, there are also several articles regarding food imports that are amended in Article 64 of Law No. 6/2003 on Job Creation. The article includes:

Article 14 of Law No. 18/2012 on Food regulates the source of food supply, which reads:

- (1) Sources of food supply come from domestic food production and national food reserves.
- (2) In the event that the source of food supply as referred to in paragraph 91) is insufficient, food can be fulfilled by importing food in accordance with the needs.

The *regulation* changes in the contents of Law No. 6 of 2023 concerning Job Creation article 64 which reads:

- (1) Food supply sources are prioritized from:
 - a. Domestic Food Production;
 - b. National Food Reserves; and/or
 - c. Food Imports.

This is emphasized in Law No. 6 of 2023 in article 36 which reads:

- (1) Food imports are carried out to fulfill domestic needs.
- (2) Imports of staple food are carried out to meet consumption needs and national food reserves.
- (3) Food imports and staple food imports as referred to in paragraph (1) and paragraph (2) shall be stipulated by the Central Government by taking into account the interests of farmers, fishermen, aquaculturists, and micro and small-scale food business actors.

In addition, there are also changes to Law No. 18/2012 on Food Article 39 which reads:

"The government establishes policies and regulations on food imports that do not have a negative impact on the sustainability of farming businesses, increased production, the welfare of farmers, fishermen, aquaculturists, and micro and small food business actors."

After the amendment to Law No. 6 of 2023 concerning Job Creation Article 64 which reads:

"The Central Government establishes food import policies and regulations in the context of sustainability of farming businesses, improving the welfare of farmers, fishermen, aqua culturists, and micro and small food business actors."

In this case, the content of the Job Creation Law is contradictory with the 1945 Constitution as the fundamental law of Indonesia regarding the principle of independence which regulates the value of justice to improve the national economy. The existence of this policy has implications for the welfare of farmers, making it difficult to compete with imported products that are relatively cheaper. The government who has the authority to make and enact a law should also be able to prioritize the needs of the community as the main priority to the regulation.

Changes to the provisions of the article that regulates food production to meet food production, no longer prioritize local food production. The looser food import policy is clear that it does not pay the slightest attention to the interests of the people as the holder of sovereignty as stated in the 1945 Constitution of the Republic of Indonesia.

The constitution should be the backbone in achieving progress and success of state goals reflected in the constitutionalism system, which is a concept that includes the main thoughts, views, attitudes and patterns of behavior in state life. Constitutionalism shows that there are restrictions on power and power itself is limited by the constitution as the highest legal norm, namely the 1945 Constitution. The presence of Law No. 6 of 2023 on Job Creation can potentially harm aspects of food independence.

In line with the enforcement of legal principles, a lower regulation hierarchy wise must be in accordance with the hierarchy of applicable laws and regulations. This principle is *Lex superior derogat legi inferiori*, which means that if there is a conflict between laws and regulations, the higher regulations take precedence in accordance with the hierarchical arrangement. The 1945 Constitution of the Republic of Indonesia Article 33 Paragraph (4) reads "The national economy is organized based on economic democracy with the principles of togetherness, equitable efficiency, sustainability, environmental perspective, independence, and by maintaining a balance of progress and national economic unity". The content of the article mandates the state to manage natural and economic resources in an equitable and responsible manner, becoming an important highlight in this context.

The implementation of the law raises questions about the extent to which the state is responsible for ensuring food security, which is the main foundation of a nation's sovereignty. The position of food imports, which is equal to local production and national food reserves, actually undermines the essence of food self-sufficiency itself. The amendment to the article also contradicts the content of the 1945 Constitution of the Republic of Indonesia in article 34 which explicitly states that there is an obligation for state administrators to promote general welfare, and provide basic needs for every citizen.

Referring to these problems, food sovereignty should be achieved in four ways, namely agrarian reform with the freedom of food producers to produce; sustainable agriculture carried out with freedom of production according to the conditions of each cultural environment by not destroying nature; fair trade by giving equal rights to farming business actors to have the right to transparency in the price of food commodities traded, get equal profits, and form fair partnerships; and develop diverse local food consumption (Hariadi, 2019).

The existence of food sovereignty guarantees the rights of every citizen, including farmers, especially in determining policies regarding food systems (Azahari, 2006). Where the food system must be in accordance with the potential of existing

local resources and the benchmark is local resources managed by the people. Similarly, food sovereignty does not only mean the ability to achieve the goal of meeting the food needs of the community but also on independence in producing local production.

The duty and authority of the state to prosper the people should be manifested in the legislation of policies that favor the fulfillment of the interests of all its citizens, this is a form of the state's seriousness in implementing the concept of a welfare state. In a welfare state, the role of the state not only includes how to obtain and manage welfare but also emphasizes that everyone gets social services as a citizen's right. The state is required to be able to extend its responsibility to the socio-economic problems faced by the people. This concept of the state is universal, encompassing all orders of society and is institutionalized on a social policy basis. The welfare ideals that are used as the ultimate goal of the Indonesian state must be realized by aligning a policy with economic inputs in a society that is oriented towards justice and prosperity.

Ideally, the state is responsible for protecting the fulfillment of people's welfare. In addition, the state must be actively involved in implementing and succeeding in every public policy that has been made. The concept of the Welfare State actually has a very fundamental characteristic, namely the involvement of the state in the welfare of its people through every policy that has been made. Basically, a welfare state must guarantee the economic life of its people. The policy on food imports in Law No. 6 of 2023 concerning Job Creation has actually taken away the welfare of the people. A welfare state that should provide comfort to the people, especially farmers, in increasing domestic food production.

In this issue, constitutional responsibility can be carried out by conducting a reassessment on the Law No. 6 of 2023 Concerning Job Creation. The passing of Law No. 6 of 2023, especially Article 64, has implications for the decline in the welfare of farmers because there are no restrictions on food imports. Prioritizing food imports at the same level as domestic production and national food reserves undermines the essence of food sovereignty. Even in this case, the Job Creation Law contradicts the objectives of food administration as outlined in Law No. 18 of 2012, which aims to improve the welfare of farmers by prioritizing domestic production.

The state's responsibility to ensure that public interests in food provision are met must be achieved through progressive and sustainable policies. In addition, the issue of justice serves as a reminder that no policy should overlook the aspect of food distribution. People's welfare is the benchmark for a fair and sustainable economic system. The state's responsibility in regulating the food market should be an integral part of achieving the overall goal of public welfare. Thus, a review of regulations related to food sovereignty is necessary. This is important to ensure that the state truly fulfills its responsibility as the stakeholder overseeing the availability of adequate and nutritious food for all levels of society. Food imports should be a top priority in policy directions that support food sovereignty.

By prioritizing the welfare of its citizens, the state can achieve its goal of enhancing overall well-being of its people. The concept of a welfare state is rooted in the notion of prosperity, which includes a state of well-being, health and peace. When a society achieves food sovereignty, it paves the way for prosperity, particularly benefiting farmers who can earn income by selling their agricultural products. As the highest authority responsible for policy-making, the government must consistently

ensure that the community's food needs and production are met. Local production plays a crucial role in meeting these needs, directly improving farmers' economic welfare and securing sufficient food supplies as national food reserves.

CONCLUSION

In meeting these food needs, the state should ensure food independence, security and sovereignty in line with the constitution's mandate. One of the responsibilities the state can do is to review the Law No. 6 of 2023 concerning Job Creation, in which the rules regarding food policy and meeting national food needs are considered not in accordance with the objectives of achieving food sovereignty. In line with this, the role of the state must also be able to guarantee that the laws and regulations enacted are not doing any harms and aim to ensure the welfare of its people. In addition, a law must always be drafted in accordance with the norms in the constitution based on the theory of hierarchy of legal norms so that there is no overlapping legislation and to assess and ensure that there are no regulations that conflict with the constitution.

Rules regarding food imports will indirectly harm the welfare of local farmers. Therefore, it is necessary to review Law No. 6 of 2023 on Job Creation, especially on regulations related to food sovereignty. This is important so that the state truly carries out its responsibility as the holder of control over the welfare of the community by optimizing and utilizing local resources. Food sovereignty should be realized through the establishment of various policies that support the performance of the community in efforts to increase production.

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