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To cite this article: E O H Soetoto 2018 *IOP Conf. Ser.: Earth Environ. Sci.* **131** 012026

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The impact of Indonesia's food law reform on the concept of food sovereignty in Indonesia

E O H Soetoto

Graduate Studies of Law, Universitas Bhayangkara Jakarta Raya, Indonesia

E-mail: erwin.hermansyah@gmail.com

Abstract. Food sovereignty, since first articulated in 1996, evaluations of the practice and potential of this emerging concept and its sub-elements got fast popularity, which first emerged from civil society publications. Indonesia experienced food law reform from Law number 7 of 1996 to Law number 18 of 2012. The purposes of the work were: (1) to understand the reform process from the old to the new Indonesia's food law, (2) to investigate the impact of Indonesia's food law reform on the concept of food sovereignty in Indonesia. The approach was doctrinal research. The paper used secondary data with primary, secondary, and tertiary legal materials. The scientific innovation of this paper is the use of legal systems to strengthen the food sovereignty in Indonesia, suggesting that the law is needed to ensure the food sovereignty in Indonesia. The results show that there is a paradigm shift in the Indonesia's food law from food security and food self-sufficiency towards food sovereignty and in the content materials of new Indonesia's food law which include the concept of food sovereignty. The present research concluded that there is a reform in Indonesia's food law and there is an impact - in term of legal substance, legal structure, and legal culture- of Indonesia's food law reform on the concept of food sovereignty in Indonesia.

1. Introduction

The food sovereignty approach can be distinguished as an “epistemic shift” in which value relations, approaches to rights, and a shift from an economic to an ecological calculus concurrently challenge the rules and relations of a corporate or neoliberal food regime. [1] One of the most salient shifts has been in the value relations, justification regimes, and frames around the concept of food security as it has been challenged by a new conceptualizations of food sovereignty. [2-6]

Food security—frames as a universal ideal to prevent world hunger—emerged as a post-World War II development principle enshrined in the 1948 Universal Declaration of Human Rights and the 1966 International Covenant of Economic, Social, and Cultural Rights. As defined by Food and Agriculture Organization [7], food security exists when “all people, at all times, have physical, social, and economic access to sufficient, safe, nutritious food that meets their dietary needs and food preferences for an active and healthy life.”

As critiqued by several authors writing from a food sovereignty perspective, this definition of food security treats food as a problem of insufficient trade rather than hunger by privileging access to food rather than control over systems of production and consumption. In this concept, food is a tradable commodity rather than a right, and hunger simply a problem of distribution [8,9]. Food sovereignty, since first articulated in 1996, evaluations of the practice and potential of this emerging concept and its sub-elements were quick in forthcoming, first emerging from civil society publications [10-12].

Before going into those definitions and contradictions, though, it is worth contrasting food sovereignty with the concept against which it has traditionally been ranged – food security. The Food and Agriculture Organization of the United Nations (FAO) has done a fine job of tracking the evolution of ‘food security’ [13], but it is useful to be reminded that the official definition in 1974 of



‘food security’ was the availability at all times of adequate world food supplies of basic foodstuffs to sustain a steady expansion of food consumption and to off-set fluctuations in production and prices. [14]

Via Campesina’s position was t a discussion of internal political arrangements and was a necessary part of the substance of food security. Indeed, food sovereignty is declared as a logical precondition for the existence of the food security: Long-term food security depends on those who produce food and care for the natural environment. As the stewards of food producing resources we hold the following principles as the necessary foundation for achieving food security. Food is basic human right. The right can only be realized in a system where food sovereignty is guaranteed. Food sovereignty is the right of each nation to maintain and develop its own capacity to produce its basic food respecting cultural and productive diversity. We have the right to produce our own food in our own territory. Food sovereignty is precondition to genuine food security. [15]

The term has changed over time, just like ‘food security’, but while it is possible to write an account of the evolution of ‘food security’ with reference to changing international politics, it is much harder to make coherent the changes with ‘food sovereignty’. From the core of the 1996 definition, consider this one, written six years later: Food sovereignty is the right of people to define their own food and agriculture; to protect and regulate domestic agricultural production and trade in order to achieve sustainable development objectives; to determine the extent to which they want to be self reliant; to restrict the dumping of product in their markets; and to provide local fishes-based communities the priority in managing the use of and the rights to aquatic resources.

Food sovereignty does not negate trade, but rather, it promotes the formulation of trade policies and practices that serve the right of the people to safe, healthy, and ecological sustainable production. [16] Law No. 18 of 2012 on Food is one of the products of legislation as a consequence of Indonesia’s membership in WTO. These conditions, poses certain problems for Indonesia as a sovereign state. On the one hand do not want ostracized internationally that participate in international association with a member of the WTO, on the other hand have to defend the sovereignty of the nation and the welfare of the whole society, including traditional farmers.

Indonesia experienced food law reform from Law number 7 of 1996 to Law number 18 of 2012. [17,18] The purposes of the present work were : (1) to understand the reform process from the old to the new Indonesia’s food law, (2) to investigate the impact of Indonesia’s food law reform on the concept of food sovereignty in Indonesia.

2. Materials and Methods

The approach which is used in this paper is doctrinal research. The model of this research is normative juridical or literature legal research. In a normative legal research, the collection of research materials is done in libraries, the official websites which can be a reference to the data.

The paper uses secondary data with primary, secondary, and tertiary legal materials. The secondary data which is used in this paper is the literature from the library. The primary legal materials are Regulation Legislation such as Indonesia’s Law number 7 of 1996 and Indonesia’s Law number 18 of 2012, both are on Food, while the secondary legal materials sourced from theory, research and scientific opinion, literature books related to the research topic and journals, and the third legal materials are dictionaries related to the topic of study such as law dictionary and the encyclopedia.

The data obtained were analyzed by using qualitative data analysis method where all the data that have been obtained were systematically compiled and analyzed from the perspective of researcher and then pulled towards a conclusion. Therefor, the nature of this research was an analytical perspective.

There are three aspects of legal system: substance, structure, and legal culture. [19] The legal system is used as a scientific innovation to increase the food sovereignty in Indonesia.

3. Results and Discussions

The results show that there are paradigm shifts in the Indonesia’s food law from food security and food self-sufficiency into food sovereignty and in the content materials of new Indonesia’s food law

have concluded the concept of food sovereignty. The doctrinal research, in this case the normative juridical research method is a research method concerning the legal system and the principles of law.

3.1. Legal Substance, Legal Structure, and Legal Culture

The first discussion is the analysis and evaluation regarding the compatibility with legal system, such as legal substance, legal structure, and legal culture to increase food sovereignty in Indonesia. The first analysis and evaluation is about legal substance regarding Article 53 Law No. 18 of 2012 on Food. This law is about prohibition of hoarding food, delegate government regulations to further regulate, and government regulations further stipulated in trade minister regulation, but that trade minister's regulation has not yet been issued, so that article 53 has not been implemented optimally. The mandate of article 151 Law No. 18 of 2012 on food to establish a food agency has been implemented at the latest November 2015, but at this time the institution is not yet established.

The second analysis and evaluation is about legal structure regarding the government agency that handles food has not been established, which is directly under and accountable to the president, as mandated by Article 126 of the Food Law. This institution is expected to reduce the inconsistent handling of food sovereignty issues among government sectors in agriculture, trade, and State-Owned Enterprises (SOEs). The third analysis and evaluation is about legal culture regarding increase in population, with a population of 252 million but the proportion of the poor is still large at around 11.4 per cent, the level of dependence on rice is still high, even increases in each region (where according to data 2014 per capita consumption of 114.8 kg). As I mentioned earlier, that in Indonesia the regulation on food has been stipulated in Law No. 18 of 2012 which was previously regulated in Law No. 7 of 1996.

We need to understand that food security and food sovereignty are not the same things. The emergence of the concept of food sovereignty is the answer to the failure of food security that has been applied so far. Referring to the previous law on food, Law No. 7 of 1996, the concept of food security implemented by the government is limited to "the condition of the fulfillment of food for the household which is reflected in the availability of adequate food, both quantity and quality, safe, even, and affordable." In the new law, the Law No. 18 of 2012 commands that food provision is carried out to meet basic human needs that provide benefits equitably, evenly and sustainably based on national food sovereignty, food self-sufficiency, and food security. In the law number 18 of 2012 on food explains that the organization of food aims to improve the ability of producing food independently, providing food diverse, and meet the requirements of security, quality, and nutrition for public consumption, increasing the level of food sufficiency, especially food with reasonable prices and affordable according to the needs of the community. Therefore there is a paradigm shift in the Indonesia's food law from food security and food self-sufficiency towards food sovereignty.

3.2. Legislation Principles

The second discussion is the analysis and evaluation regarding the compatibility with legislation principles. Evaluation is performed on Law No. 18/ 2012 concerning regulations on food. Food law consists of 154 articles and it applies entirely. Every article has complied with all principles which are: A. Clarity of formulation principle, that every legislation should fulfil legislation preparation technical requirement, the systematics, diction or terminology, and clear legal language, and easy to understand, so it does not generate any kind of interpretation, B. Content material principle, that every legislation should reflect content material principles as arranged in article 6 Law No. 12 of 2011 about formulation of legislation [20], those principles are: a. Protection: Legislation content material should function as the protector for public tranquility. b. Humanity: Every legislation content material should reflect protection and respect for human right and prestige and dignity of every citizen and population of Indonesia dan propotionately. c. Nationality: Every legislation content material should reflect the nature and character while maintaining the principle of the unitary state of the Republic of Indonesia or plural nation of Indonesia. d. Kinship: Every legislation content material should reflect deliberations for consensus in taking any decision. e. Archipelagic: Every legislation content material

always pays attention to the interests of the entire territory of Indonesia and material content of legislation made in the region is part of the national legal system based on *Pancasila* (Indonesia's basic principles and way of life) and the Constitution of the State of Indonesia Year 1945. f. *Bhineka Tunggal Ika* (Unity in Diversity principle of Indonesia): Every legislation content material should pay attention to the diversity of population, religion, ethnicity, and class, special condition of area, and culture in society, nation, and state life. g. Justice: Every legislation content material should reflect proportional justice for every citizen. h. Equal status in law and government: Every legislation content material should not contain things that are distinguishable based on background, including religion, ethnicity, race, class, gender, or social status. i. Order and legal certainty: and / or every legislation content material must be able to realize order in society through guarantee of legal certainty. j. Balance, Elegance, and Harmony: Every legislation content material should reflect balance, elegance, and harmony must reflect balance, elegance, harmony between the interests of individuals, society, the interests of the nation, and the state. Beside that, the concept of food sovereignty includes the regulation of food institutional, local food rules, and the rules of food insecurity. These concepts have been embodied in the new food law. Thus, the content materials of new Indonesia's food law have concluded the concept of food sovereignty.

4. Conclusions

Based on the purposes of the work and the foregoing discussion two conclusions can be settled as follows: First, that there is a reform in Indonesia's food law because there is a paradigm shift in the Indonesia's food law from food security, and food self-sufficiency into food sovereignty. Second, there is an impact – in term of legal substance, legal structure, and legal culture- of Indonesia's food law reform on the concept of food sovereignty in Indonesia because the content materials of the new Indonesia's food law have concluded the concept of food sovereignty. Some suggestions are given related to the discussion in this paper: first, because the paradigm has shift from food security into food sovereignty, so there must be a national food sovereignty council. Second, this council should have the authority to coordinate, organize and direct cross-ministries / sectors in various food-related policies, and this council should be directly under and accountable to the president.

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